
ZEEON PLATFORM
GENERAL TERMS AND CONDITIONS

DRAFT

1. AGREEMENT

- 1.1. These general terms and conditions (the “**Agreement**”) apply to all use of the Zeeon platform (the “**Platform**”).
- 1.2. This Agreement is a legally binding contract between: (A) Zeeon Ltd a private limited company incorporated under the laws of England and Wales and having its registered place of business at Unit 3 Hawthorn Business Park, Drybrook, Gloucestershire, United Kingdom, GL17 9HP (the “**Zeeon**”); and (B) the corporate entity that has, through its authorised representative, subscribed to use the Platform (the “**Customer**”).
- 1.3. The Agreement has been designed for electronic execution by the Customer acting through its authorised representative.
- 1.4. By scrolling through this Agreement and clicking “Accept” (and completing such other affirming acts required by the registration process) (the “**Electronic Signature**”), the Customer unconditionally confirms to Zeeon that such authorised representative has all necessary authority to accept the terms of this Agreement for and on behalf of the Customer.
- 1.5. The parties agree that the Electronic Signature shall have equivalent standing in applicable law to a physical signature.

2. COMMENCEMENT AND DURATION

- 2.1. **Definitions:** For the purpose of this clause 2 (**COMMENCEMENT AND DURATION**) and where used elsewhere in this Agreement:
 - 2.1.1. “**Effective Date**” means the date that the Electronic Signature is created;
 - 2.1.2. “**Initial Term**” means 1 months from the Effective Date;
 - 2.1.3. “**Renewal Period**” means a period of 1 month; and
 - 2.1.4. “**Subscription Period**” means the Initial Term and each Renewal Period.
- 2.2. **Subscription Period:** This Agreement is effective from the Effective Date and shall continue, subject to clause 13 (**TERMINATION**), for the Subscription Period.
- 2.3. **Automatic Renewal:** The Agreement shall be automatically extended beyond the Initial Term for a Renewal Period unless and until one party gives written notice to the other of its intention not to renew the Agreement at the end of: (a) the Initial Term; or (b) the relevant Renewal Period (as the case may be) and provided that such notice is received by the other party at least 7 days before the expiry of the Initial Term or the then current Renewal Period as the case may be.

3. SUBSCRIPTION TO USE THE PLATFORM

- 3.1. **Definitions:** For the purpose of this clause 3 (**SUBSCRIPTION TO USE THE PLATFORM**) and where used elsewhere in this Agreement:
 - 3.1.1. “**Affiliate**” means, in relation to the Customer, any subsidiary or holding company of the Customer or any subsidiary of any such holding company (as defined in sections 1159 and 1162 of the UK Companies Act 2006);

- 3.1.2. “**Authorised User**” means the employee of the Customer or an Affiliate provided with access and use of the Portal under this Agreement;
 - 3.1.3. “**Portal**” means the web application located at [PortalURL];
 - 3.1.4. “**Platform**” has the meaning given in clause 1.1 (AGREEMENT) and
- 3.2. **Licence:** Zeeon grants the Customer a non-exclusive and non-transferable right to permit the Authorised Users to access and use the Platform through the Portal during the Subscription Period solely for the permitted purposes described in clause 3.3.
- 3.3. **Permitted Purposes:** The Customer shall use the Platform in accordance with the conditions of use described in clause 3.4 and for its business use only.
- 3.4. **Conditions of Use:** The Customer shall not:
- 3.4.1. authorise more Authorised Users to access the Platform than the number of Authorised Users that the Customer has purchased from time to time;
 - 3.4.2. permit anyone to access the Platform who is not an Authorised User;
 - 3.4.3. access, store, distribute or transmit any software, code, file or programme which may prevent, impair or otherwise adversely affect the operation of the Platform (including without limitation worms, Trojan horses, viruses and other similar things or devices) or submit any material to the Platform that:
 - 3.4.3.1. is harmful, discriminatory, threatening, defamatory, obscene, infringing, harassing, or offensive;
 - 3.4.3.2. is submitted unlawfully (including in breach of the Data Protection Legislation) or facilitates illegal activity;
 - 3.4.3.3. is incomplete, inaccurate, or intended to deceive; or
 - 3.4.3.4. could cause damage or injury to any person or property.
 - 3.4.4. use the Platform in any way that may breach the Zeeon Terms of Acceptable Use [URL Link to Terms of Acceptable Use].
 - 3.4.5. have any right to copy, adapt, reverse engineer, de-compile, disassemble, modify, adapt or make error corrections to the Platform except, with respect to de-compilation of the Platform, to the extent such de-compilation is necessary for the exclusive purpose of obtaining the information necessary to create an independent program which can be operated with the Platform or with another program and the Customer’s right to de-compile the Platform shall not apply if:
 - 3.4.5.1. the Customer is in breach of the de-compilation conditions described in section 50B of the Copyright, Designs and Patents Act 1988; or
 - 3.4.5.2. Zeeon: (a) is prepared to carry out, and/or procure the carrying out of, such de-compilation in return for a reasonable fee; or (b) has provided the information necessary to achieve such inter-operation without such de-compilation within a reasonable period, and the Customer shall request that Zeeon carries out such action or provides such information (and shall meet Zeeon’s reasonable costs in providing that information) before undertaking any such de-compilation;

- 3.4.6. access the Platform in order to build a Platform or service which competes with the Platform or the business of Zeeon; or
- 3.4.7. use the Platform to provide services to third parties.

4. THE PLATFORM

- 4.1. Zeeon makes the Platform available with reasonable skill and care and shall ensure that the Platform performs (in technical and functional respects) substantially in accordance with the description of the Platform located at the following URL: [URL for Platform description].
- 4.2. Zeeon has sole discretion and control over, and may modify at any time (with or without notice to the Customer), the functionality, performance, configuration, appearance and content of the Platform provided that, in each case such modifications do not result in a material reduction to, or loss of, the functionality, performance, transmission speeds, content, latency and/or accuracy of the Platform.
- 4.3. Zeeon shall perform secure back-ups of Customer Data (as defined in clause 5.4 (DISCLAIMERS)) held in Zeeon's own or external systems [not less than once in every period of twenty-four (24) hours.]

5. DISCLAIMERS

- 5.1. Subject to clause 14.1 (LIABILITY) and except to the extent expressly set out in clause 4 (THE PLATFORM), Zeeon gives no warranties, representations or other commitments to the Customer as to the functionality, performance, availability, transmission speeds, content, latency and/or accuracy of the Platform.
- 5.2. Zeeon does not warrant or represent that use of the Platform will be uninterrupted or error-free or that information obtained by the Customer through the Platform will meet the Customer's specific requirements.
- 5.3. Subject to clause 5.1 (DISCLAIMERS), all warranties, conditions, representations, and terms (whether written or oral, express or implied by statute, common law, custom, trade usage, course of dealing or otherwise, including as to satisfactory quality, fitness for a particular purpose or use, accuracy, adequacy, completeness or timeliness) are hereby excluded to the fullest extent permitted by applicable law.
- 5.4. In the event of any loss or damage to any data or information submitted to the Platform by or on behalf of the Customer (including by Zeeon) (the "Customer Data"), the Customer's sole and exclusive remedy shall be for Zeeon to use its reasonable commercial endeavours to restore the lost or damaged Customer Data from the last available back-up of such Customer Data maintained by Zeeon (if any).
- 5.5. Zeeon shall have no liability for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that use of the Platform may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6. CONFIDENTIALITY

- 6.1. In this clause 6 (CONFIDENTIALITY) and where used elsewhere in this Agreement, “**Confidential Information**” means any and all information that is proprietary and/or confidential in nature and is either clearly labelled as such or would, by its nature, be considered by a reasonable business person to be confidential.
- 6.2. The obligations contained in this clause 6 (CONFIDENTIALITY) shall not apply to Confidential Information that:
- 6.2.1. is or becomes publicly known other than through any act or omission of the receiving party;
 - 6.2.2. was in the other party's lawful possession before the disclosure;
 - 6.2.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 6.2.4. is independently developed by the receiving party without use or reference to the other party's Confidential Information.
- 6.3. Each party shall:
- 6.3.1. use commercially reasonable endeavours to hold the other party's Confidential Information in confidence (including by using the same care and discretion to avoid disclosure, publication or dissemination as it uses to protect its own similar information); and
 - 6.3.2. subject to clause 6.4, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than in connection with the provision or receipt of the Platform (as the case may be).
- 6.4. Either party may disclose the other party's Confidential Information if and to the extent required by applicable law or by any regulatory body or securities exchange, provided that the disclosing party shall as soon as reasonably practicable and to the extent permitted by applicable law notify the other party in writing of the circumstances of such disclosure and the Confidential Information to which such disclosure applies.
- 6.5. The Customer warrants and represents to Zeeon that it has the right to disclose the Confidential Information and to authorise Zeeon to use such Confidential Information in connection with the Platform.

7. CUSTOMER PERSONAL DATA

- 7.1. Each party shall comply with their respective obligations set out in the Data Protection Addendum located at Schedule 1 of this agreement.

8. USE OF AGGREGATED DATA

- 8.1. Zeeon may collect, group, anonymise and aggregate data and information submitted to the Platform (the “**Aggregated Data**”) for the purposes of calculating the percentage of users using, accessing or viewing a specific feature, piece of content or advertisement on our Platform or otherwise improving the Platform and the Customer hereby gives its consent to the same.

- 8.2. Zeeon shall ensure that Aggregated Data is not attributable to any particular Customer and does not reveal data about a Customer that would have a negative commercial impact on such Customer without its consent.

9. CUSTOMER'S OBLIGATIONS

- 9.1. The Customer shall:
- 9.1.1. comply with all applicable laws, regulations and binding codes of practice with respect to its activities under and in connection with this Agreement;
 - 9.1.2. comply with the Zeeon Terms of Acceptable Use found at the following URL: [\[Terms of Acceptable Use\]](#);
 - 9.1.3. comply with the terms of the trademark licence attached at Schedule 2 to this Agreement;
 - 9.1.4. obtain and shall maintain all necessary licences, consents, and permissions necessary for it to: (i) provide and/or make available the Customer Data and Customer Personal Data (as defined in the Data Protection Addendum) under this Agreement; and (ii) connect its computing environment to the Platform;
 - 9.1.5. ensure that its network and systems comply with the relevant specifications provided by Zeeon from time to time; and
 - 9.1.6. be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Zeeon's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
- 9.2. The Customer is responsible for all acts and omissions of Authorised Users as if such acts or omissions were its own.
- 9.3. An obligation of the Customer contained in this Agreement (unless the context reasonably requires otherwise) includes an obligation on the Customer to ensure that an Authorised User does not act, or omit to act, in breach of that obligation.

10. FEES AND PAYMENT

- 10.1. The "Fees" payable under and in connection with this Agreement are described at [\[URL Link to the Subscription Information Page\]](#) during the Platform's on-boarding and registration process.
- 10.2. The Fees shall be confirmed to the Customer in a confirmation of registration e-mail.
- 10.3. The Customer shall on the Effective Date provide to Zeeon valid, up-to-date and complete credit card details or approved purchase order information acceptable to Zeeon and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:
- (a) its credit card details to Zeeon, the Customer hereby authorises Zeeon to bill such credit card:
 - (i) on the Effective Date for the Fees payable in respect of the Initial Term; and

- (ii) subject to Clause 13.1, on the first day of the month the Fees payable in respect of the next Renewal Period;
- (b) its approved purchase order information to the Zeeon, Zeeon shall invoice the Customer:
- (i) on the Effective Date for the Fees payable in respect of the Initial Subscription Term; and
 - (ii) subject to Clause 13.1, at least 7 days prior to each monthly anniversary of the Effective Date for the Fees payable in respect of the next Renewal Period,
- and the Customer shall pay each invoice within 14 days after the date of such invoice. The Customer shall pay each invoice for the Fees on or before the expiry of fourteen (14) days from the date of an invoice (the “**Due Date**”).
- 10.4. If Zeeon has not received payment in full of the Fees by the Due Date, then without prejudice to any other rights and remedies of Zeeon:
- 10.4.1. Zeeon may, without liability to the Customer, disable the Customer’s password, account and access to all or part of the Platform and Zeeon shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 10.4.2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of the Bank of England, commencing on the Due Date and continuing until fully paid, whether before or after judgment.
- 10.5. All amounts and Fees stated or referred to in this Agreement are exclusive of all sales taxes (including any value added tax).
- 10.6. If the Customer is required by applicable law to make any deduction or withholding from any payment to Zeeon then the sum due in respect of such payment shall be increased so that, after the making of such deduction or withholding, Zeeon receives a net sum equal to the sum it would have received had no such deduction or withholding been made.
- 10.7. Value added tax shall be added to the Fees at the appropriate rate (if applicable).
- 10.8. Zeeon shall be entitled to adjust the Fees at any time by providing notice to the Customer (which notice may be given through the functionality of the Platform) provided that any such adjustment to the Fee shall not take effect until the commencement of the first or subsequent Renewal Period.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1. In this clause 11 (INTELLECTUAL PROPERTY RIGHTS) and where used elsewhere in the Agreement:
- 11.1.1. “**Intellectual Property Rights**” means:
 - (a) patents, any extensions of the exclusivity granted in connection with patents, petty patents, utility models, registered designs, plant variety rights, applications for any of the foregoing (including, but not limited to, continuations, continuations-in-part and divisional applications), the right to apply for and be granted any of the foregoing, rights in inventions;

- (b) copyrights, design rights, semiconductor topography rights, moral rights, publication rights, database rights;
 - (c) trade marks and service marks, applications for any of the foregoing, the right to apply for any of the foregoing, rights in trade names, business names, brand names, get-up, logos, domain names and URLs;
 - (d) rights in know-how, trade secrets and confidential information, data exclusivity rights; and
 - (e) all other forms of intellectual property right having equivalent or similar effect to any of the foregoing which may exist anywhere in the world; and
- 11.1.2. **“Customer Materials”** means the Customer Data together with all other content, materials, logos, and/or other creative, graphic and/or design assets provided and/or made available to Zeeon by the Customer under this Agreement **“Customer Data”** has the meaning given in clause 5.4.
- 11.2. The Customer acknowledges and agrees that Zeeon and/or its licensors own all Intellectual Property Rights in:
- 11.2.1. the Platform (excluding the Customer Materials and the Customer Data);
 - 11.2.2. all materials provided and/or made available as part of providing the Platform; and
 - 11.2.3. any/all adaptations, add-ons, modifications, updates, and/or enhancements to the Platform and such materials (including at the request and/or suggestion of the Customer or an Authorised User),
- (“Zeeon’s IPR”).**
- 11.3. Zeeon may freely incorporate into Zeeon’s IPR any feedback and/or suggested improvements to Zeeon’s IPR given by the Customer or an Authorised User.
- 11.4. Except as expressly stated in this Agreement, the Customer shall have no right or interest in Zeeon’s IPR.
- 11.5. The Customer and/or its licensors own all Intellectual Property Rights in and to all of the Customer Materials and the Customer Data and shall have sole responsibility for the legality, non-infringement, reliability, integrity, accuracy and quality of the Customer Materials and Customer Data.
- 11.6. Zeeon grants to the Customer a non-exclusive, non-transferrable licence to use Zeeon trademarks in accordance with Schedule 2 of this Agreement.
- 11.7. The Customer hereby grants to Zeeon (and its representatives and sub-contractors) a non-exclusive, non-transferrable right to use the Customer Materials and the Customer Data strictly to the extent necessary for Zeeon (or Zeeon’s representative or sub-contractor as the case may be) to provide and make available the Platform.

12. INDEMNITIES

- 12.1. In this clause 12 (INDEMNITIES) and where used elsewhere in this Agreement, **“Third Party Materials”** means the components of the Platform to which third party licence terms apply.

- 12.2. The Customer shall indemnify and hold harmless Zeeon, its affiliates, its and their officers, directors, sub-contractors, and employees against any Losses arising out of or in connection with any allegation or claim that: (a) the Customer Materials and/or Customer Data infringe any Intellectual Property Rights; and/or (b) Customer's use of the Third Party Materials is in breach of terms applicable to such Third Party Materials (the "**Customer Indemnity**").
- 12.3. Zeeon shall ensure that:
- 12.3.1. the Customer is given prompt notice of any allegation or claim to which the Customer Indemnity applies;
 - 12.3.2. it provides reasonable co-operation to the Customer in the defence and settlement of such claim; and
 - 12.3.3. the Customer is given sole authority to defend or settle the claim.
- 12.4. Subject to clauses 12.5 and 12.6, Zeeon shall indemnify and hold harmless the Customer against any claim made against it by a third party to the extent that such claim alleges that the Customer's use of the Platform (excluding any Third Party Material) in accordance with this Agreement infringes any Intellectual Property Rights belonging to that third party ("**Zeeon Indemnity**"), provided that Zeeon indemnity shall only apply if:
- 12.4.1. Zeeon is given prompt notice of any such claim (and in any event is given notice within five (5) days of the Customer becoming aware of, or being notified of, the claim);
 - 12.4.2. the Customer provides reasonable co-operation to Zeeon in the defence and settlement of such claim; and
 - 12.4.3. Zeeon is given sole authority to defend or settle the claim.
- 12.5. In the defence or settlement of any claim to which Zeeon Indemnity applies, Zeeon may procure the right for the Customer to continue using the Platform, replace or modify the Platform so that it becomes non-infringing or, if such remedies are not reasonably available, terminate or suspend this Agreement (and the Customer's access to the Platform) on notice to the Customer without any additional liability to the Customer.
- 12.6. In no event shall Zeeon, its employees, agents or sub-contractors be liable to the Customer to the extent that the claim to which Zeeon Indemnity applies is based on:
- 12.6.1. a modification of the Platform by anyone other than Zeeon or its representatives;
 - 12.6.2. an infringing Third Party Material;
 - 12.6.3. an infringing Customer Material; or
 - 12.6.4. the Customer's use of the Platform in a manner contrary to the instructions given to the Customer by Zeeon.
- 12.7. The Customer shall have no rights and remedies in respect of infringement of any third party Intellectual Property Rights except as expressly set out in clause 12.4.

13. TERMINATION

- 13.1. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if the other party

commits a Material breach (or a series of persistent breaches which together amount to a Material breach) of any term of this Agreement that:

- 13.1.1. is irremediable; or
 - 13.1.2. if such breach is remediable, is not so remedied within thirty (30) calendar days from written notice requiring remedy of the Material breach.
- 13.2. Without limiting Zeeon's rights to terminate under clause 13.1, Zeeon may terminate this Agreement if the Customer (or an Authorised User) commits any breach (Material or otherwise) of any one or more of the following clauses: 3 (SUBSCRIPTION TO USE THE PLATFORM); 6 (CONFIDENTIALITY); and/or 9.1.1 (CUSTOMER'S OBLIGATIONS).
- 13.3. On termination or expiry of this Agreement for any reason:
- 13.3.1. all rights and licences granted under this Agreement shall immediately terminate and the Customer must cease using the Platform;
 - 13.3.2. each party shall return, and make no further use of, any equipment, property, and other items (and all copies of them) belonging to the other party; and
 - 13.3.3. Zeeon may at its sole discretion destroy or otherwise dispose of any of the Customer Materials and/or Customer Data in its possession unless Zeeon receives, no later than seven (7) calendar days from the effective date of the termination or expiry of this Agreement, a written request for the delivery to the Customer of such Customer Materials Customer Data.
- 13.4. Termination or expiry of this Agreement (howsoever occurring) shall be without prejudice to any rights or liabilities which may have accrued up to the date of such termination or expiry and it shall not affect the coming into force or the continuance in force of any of its provisions which are expressly or by implication intended to come into or continue in force on or after such termination or expiry.
- 13.5. Zeeon may terminate this Agreement at any time for convenience (including in order to discontinue the Platform) provided that where Zeeon wishes to exercise its right to terminate for convenience it shall:
- 13.5.1. give the Customer as much advance notice of the termination as is reasonably practicable in the circumstances; and
 - 13.5.2. to the extent that any Fees have been paid in advance for access to the Platform that will not be supplied, promptly provide the Customer with a pro-rated refund of such.>

14. LIABILITY

- 14.1. Nothing in this Agreement shall limit or exclude either party's liability to the other to a greater extent than is permitted under applicable law for Losses resulting from:
- 14.1.1. death or personal injury caused by negligence;
 - 14.1.2. fraud or fraudulent misrepresentation; or
 - 14.1.3. any matter in respect of which Losses may not be limited or excluded under applicable laws.

- 14.2. Except as expressly provided otherwise in clause 14.3, nothing in this Agreement shall limit or exclude Losses that are subject to the Customer Indemnity or the Zeeon Indemnity.
- 14.3. Subject to clause 14.1 and clause 14.2, neither party shall be liable to the other (or any third party claiming under or through the other) under any and all causes of action (whether such causes of action arise in contract (including under any indemnity or warranty), in tort (including negligence or for breach of statutory duty) or otherwise) for Losses that comprise:
- 14.3.1. loss of profit or revenue (except for the Fees);
 - 14.3.2. loss of anticipated savings;
 - 14.3.3. loss of contract or business opportunity;
 - 14.3.4. depletion of goodwill;
 - 14.3.5. loss or corruption of data or information except as described in clause 5.4; or
 - 14.3.6. any special, indirect or consequential loss,
- in each case, whether arising directly or indirectly under or in connection with this Agreement and whether or not reasonably foreseeable, reasonably contemplatable, actually foreseen or actually contemplated by a party at the Effective Date.
- 14.4. Subject to clauses 14.1, 14.2 and 14.3, each party's total aggregate liability to the other (and to any third party claiming under or through the other) in each Contract Year and in respect of all causes of action (whether such causes of action arise in contract (including under any indemnity or warranty), in tort (including negligence or for breach of statutory duty) or otherwise) arising in that Contract Year (as determined at the date when the liability giving rise to the cause of action arose) shall not exceed the total Fees paid by the Customer to Zeeon in respect of the Contract Year in question.
- 14.5. The parties agree that the provisions of this clause 14 (LIMITATION OF LIABILITY) are considered by them to be reasonable in all the circumstances, having taken into account section 11 and the guidelines in schedule 2 of the Unfair Contract Terms Act 1977 and the nature of the services described in this Agreement and the Fees.

15. THIRD PARTY MATERIALS

- 15.1. The third party licence terms that apply to the Customer's and its Authorised Users' use of the Third Party Materials are described at [URL] and the Customer shall comply with the restrictions contained in such third party licence terms.

16. FORCE MAJEURE

- 16.1. Other than in respect of the Customer's obligation to pay the Fees or agreed expenses, neither party shall have any liability to the other under this Agreement if it is prevented from or delayed in performing its obligations, by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, epidemic or pandemic, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

17. GENERAL

- 17.1. **Survival:** The rights and obligations under provisions of this Agreement which expressly or by their nature survive termination shall remain in full force and effect.
- 17.2. **Sub-contracting:** Zeeon may sub-contract the performance of its obligations (or any part thereof) to any third party service-provider provided that Zeeon shall remain responsible for all acts and omissions of such third party service-providers that result in a breach of the Agreement.
- 17.3. **Variations:** No variation of this Agreement shall be effective unless it is in writing (which may be by e-mail) and agreed by the parties.
- 17.4. **No Waiver:** No failure or delay by a party to exercise any right or remedy provided under this Agreement or by applicable law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 17.5. **Severability:** If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 17.6. **Notices:**
- 17.6.1. Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be delivered by: (a) hand or pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or (b) except with respect to the service of legal proceedings, e-mail to the addresses referred to in sub-clause 17.6.2 (below).
- 17.6.2. Any notice or communication shall be deemed to have been received:
- 17.6.2.1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 17.6.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
- 17.6.2.3. if sent by e-mail to: (i) [EMAIL ADDRESS]; from an authorised representative of sufficient authority to give the notice, upon the generation of a receipt notice by the recipient's server or, if such notice is not generated, upon delivery to the recipient's server.
- 17.7. **Entire Agreement:** This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement. Each party

agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

- 17.8. **Assignment:** Except in respect of invoice financing or the recovery of a debt owed, neither party shall assign any of its rights under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.
- 17.9. **Third Party Rights:** This Agreement does not confer any rights on any person or party (other than the parties to this Agreement) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 17.10. **No Partnership:** Nothing in this Agreement or through use of the Platform is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of the other party, nor authorise a party to make or enter into any commitments for or on behalf of the other party.
- 17.11. **Governing Law & Jurisdiction:** This Agreement and any dispute or claim arising out of or in connection with it (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement (including non-contractual disputes or claims).

18. INTERPRETATION

- 18.1. In this Agreement:
- 18.1.1. the headings are for convenience only and shall not affect its interpretation;
- 18.1.2. any obligation on a party not to do something, includes an obligation not to agree, allow, permit or acquiesce to that thing being done;
- 18.1.3. any reference in this Agreement to any enactment or statutory provision or subordinate legislation will be construed as a reference to it as from time to time replaced, amended, consolidated or re-enacted (with or without modification) and includes all orders, rules or regulations made under such enactment;
- 18.1.4. references to a party shall be construed as the Customer or Zeeon and parties shall be construed as the Customer and Zeeon taken together;
- 18.1.5. any list, word, or phrase following the words including, include, in particular, for example, or any such similar expression shall be construed as having the phrase without limitation following them;
- 18.1.6. the rule known as *eiusdem generis* shall not apply and accordingly, words introduced by the word other shall not be given a restrictive meaning by reason of the fact that such words are preceded by words indicating a particular class of acts, matters or things;
- 18.1.7. a reference to the performance of an obligation from a given date shall include that date;
- 18.1.8. “**Contract Year**” means each successive period of twelve (12) calendar months from the Effective Date;

18.1.9. **“Losses”** means all losses, liabilities, damages, costs, charges, and reasonably incurred expenses (including management time, legal fees, other professional advisers’ fees, and costs and disbursements of investigation, litigation, settlement, judgment, interest, fines, penalties and remedial actions) howsoever arising in connection with a party’s breach of the Agreement; and

18.1.10. **“Material”** in the context of classifying the seriousness of a breach means that such breach is: (i) more than trivial but need not be repudiatory; and (ii) if not remedied (or if not capable of remedy), may or is likely to have, a serious impact on the benefit which the innocent party would otherwise derive from performance of the Agreement in accordance with its terms.

18.2. **Last Updated:** The terms of the Agreement were last updated on [24.08.2021]

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SCHEDULE 1 - DATA PROTECTION ADDENDUM

1. CUSTOMER PERSONAL DATA

1.1. In this paragraph 1 (CUSTOMER PERSONAL DATA):

- (a) **“Customer Personal Data”** means all Personal Data that is Controlled by the Customer and which is Processed by Zeeon in connection with the Customer’s use of the Platform and **“Control”**, **“Data Controller”**, **“Data Processor”**, **“Personal Data”**, and **“Process”** shall each have their respective meanings given in the GDPR; and
- (b) **“Data Protection Legislation”** means, as applicable, the Data Protection Act 2018, the EU General Data Protection Regulation (2016/679) (**“GDPR”**), and the Privacy and Electronic Communications (EC Directive) Regulations 2000 and any applicable replacement legislation governing the use and security of personal data.

1.2. The parties agree that:

- (a) the Customer is the Data Controller in respect of the Customer Personal Data; and
- (b) except as described in paragraph 1.3 below, Zeeon shall Process such Customer Personal Data as an independent Data Controller in accordance with this Agreement.

1.3. Zeeon shall Process the Customer Personal Data on the Customer’s behalf when performing the data processor activities described below (the **“Data Processor Activities”**):

- (a) **Subject matter, nature of Processing and Processing operations:** Zeeon shall be a Processor where, as part of the Services, it is Processing Customer Personal Data for the following purposes on the Customer’s behalf:
 - (i) support and maintenance with respect to Customer Personal Data hosted on the Platform;
 - (ii) hosting management with respect to Customer Personal Data on the Platform; and
 - (iii) such other purposes where Zeeon processes Customer Personal Data on behalf of the Customer as its data processor.
- (b) **Duration:** The Subscription Period.
- (c) **Data categories:**
 - (i) Identity Data;
 - (ii) Contact Data;
 - (iii) Financial Data;
 - (iv) Transaction Data;
 - (v) Technical Data Profile Data;
 - (vi) Usage Data;
 - (vii) Marketing and Communications Data;
 - (viii) Correspondence Data; and
 - (ix) Content Data

- (d) **Types of Personal Data:**
- (i) first name, last name, username or similar identifier, title, date of birth and gender
 - (ii) billing address, delivery address, email address and telephone numbers;
 - (iii) bank account and payment card details, details of your subscription package and any direct debits;
 - (iv) details about payments to and from you, other details of products and services you have purchased through the Platform
 - (v) your username and password, preferences, including any other personal information that may be uploaded to the Platform as a part of the Services, feedback and survey responses.
 - (vi) includes your preferences in receiving marketing from us and our third parties and your communication preferences
 - (vii) includes information, data, media and content that you upload or link to the Platform.
- 1.4. The Customer shall:
- (a) comply with the Data Protection Legislation; and
 - (b) ensure that all instructions that it gives to Zeeon in respect of the Customer Personal Data are lawful and in compliance with the Data Protection Legislation.
- 1.5. Zeeon shall (in respect of the Data Processor Activities):
- (a) only Process the Customer Personal Data in accordance with the Customer's documented instructions, including with regard to transfers, unless required to do otherwise by applicable laws. In which event, Zeeon shall inform the Customer of the legal requirement before Processing the Customer Personal Data otherwise than in accordance with the Customer's written instructions, unless legally prohibited from doing so. The Customer instructs Zeeon to Process the Customer Personal Data to the extent and in such manner as is reasonably necessary for the performance of Zeeon's obligations under this Agreement or as required by Data Protection Legislation;
 - (b) ensure that its representatives are subject to appropriate obligations of confidentiality;
 - (c) taking into account the nature of the Platform, provide reasonable assistance to the Customer, insofar as this is possible and at the Customer's cost, for the fulfilment of the Customer's obligations under the Data Protection Legislation in respect of data security; data breach notification; data protection impact assessments; prior consultation with supervisory authorities; and the fulfilment of data subject's rights; and
 - (d) upon termination or expiry of this Agreement and at the Customer's written request, return, delete, or put beyond use the Customer Personal Data and delete or put beyond use any existing copies of such Customer Personal Data in its possession unless required to retain such Customer Personal Data under applicable laws.
- 1.6. The Customer consents to Zeeon engaging sub-contractors to Process the Customer Personal Data on Zeeon's behalf (the "**Sub-processors**") and a list of such Sub-processors (the "**Sub-processor List**") is available upon request.

- 1.7. Zeeon shall ensure that Sub-processors are subject to contractual obligations which are, where possible, equivalent to those imposed on Zeeon under this Agreement. Zeeon shall be responsible for the performance of its Sub-processors.
- 1.8. Zeeon will notify (which notice may be by e-mail or through the Platform) the Customer prior to adding a new Sub-processor to the Sub-processor List (a “**New Sub-processor**”).
- 1.9. If the Customer objects to Zeeon’s use of a New Sub-processor on reasonable grounds that the New Sub-processor is unlikely to be able to comply with the terms of this Data Protection Addendum or the Agreement then the Customer shall notify Zeeon promptly in writing within ten (10) days from receipt of Zeeon’s notice. The Customer’s failure to object in writing within such time period shall constitute approval to use the New Sub-processor.
- 1.10. The Customer acknowledges and agrees that the inability of Zeeon to use a particular New Sub-processor may result in a delay or suspension in the performance of the Platform, inability to make the Platform available or increased fees.
- 1.11. The Customer acknowledges and agrees that Customer Personal Data may be processed outside the European Economic Area or the country where the Customer is located provided that Zeeon shall implement a data transfer solution to ensure any such transfers are compliant with the Data Protection Legislation.
- 1.12. Zeeon shall use technical and organisational measures to protect Customer Personal Data stored by Zeeon (to the extent such storage is within Zeeon’s own or sub-contracted infrastructure) against unauthorised and unlawful processing and against accidental loss, destruction, disclosure, damage or alteration.
- 1.13. Upon written request, Zeeon shall make available to the Customer such information as is reasonably necessary to demonstrate Zeeon’s compliance with its obligations under this Data Protection Addendum.
- 1.14. The Customer or the Customer’s representatives (bound by appropriate obligations of confidentiality) shall have the right to audit and inspect Zeeon’s premises (excluding the premises of third parties) to ascertain compliance with this Data Protection Addendum (a “**Data Privacy Audit**”) subject to paragraph 1.15.
- 1.15. In respect of a Data Privacy Audit, the parties agree that:
 - (a) to request a Data Privacy Audit, the Customer shall submit a detailed audit plan to Zeeon at least six (6) weeks in advance of the proposed date for the Data Privacy Audit;
 - (b) the Customer shall ensure that the audit plan describes the proposed scope, duration, and start date of the Data Privacy Audit (which scope shall not include an audit of Zeeon’s third party hosting provider’s premises, systems or environment);
 - (c) Zeeon will review the audit plan and shall inform the Customer of any concerns or questions (for example, a Data Privacy Audit shall not compromise: (i) Zeeon’s confidentiality obligations to third parties; or (ii) the security of the Platform);
 - (d) the parties shall use their respective reasonable endeavours to co-operate and agree a final audit plan for the Data Privacy Audit in question provided that all Data Privacy Audits must: (i) be conducted during Zeeon’s normal office hours; (ii) have reasonable consideration to Zeeon’s internal policies applicable to its premises (including with

respect to health and safety and on premise security); and (iii) not unreasonably interfere with Zeeon's business activities;

- (e) audit reports prepared during or as a result of the Data Privacy Audit shall constitute Confidential Information under the Agreement and shall only be used by the Customer for the purposes of meeting its audit requirements under the Data Protection Legislation;
 - (f) the Customer may only perform a Data Privacy Audit once in each Contract Year except:
 - (i) where an additional Data Privacy Audit is required by Data Protection Legislation applicable to Customer; or
 - (ii) in the event that Zeeon suffers a Personal Data breach;
 - (g) the Customer (or an independent third-party auditor (approved by Zeeon)) will comply with the confidentiality obligations set out in the Agreement;
 - (h) if the proposed scope of the Data Privacy Audit has been adequately addressed in an audit report: (i) commissioned by Zeeon in the twelve (12) months prior to the proposed Data Privacy Audit; and (ii) prepared by a qualified third-party auditor, and, in respect of such report, Zeeon confirms there are no known material changes in the controls audited, then the Customer shall accept the findings in Zeeon commissioned report in lieu of requesting a Data Privacy Audit of the controls covered by such report; and
 - (i) all Data Privacy Audits shall be conducted at the User's sole cost and expense.
- 1.16. Any request for Zeeon's assistance in connection with a Data Privacy Audit requiring the use of resources different from or in addition to those required for the provision of the Platform will be considered an additional service for which reasonable additional fees may be charged.

SCHEDULE 2 – TRADEMARK LICENCE

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