

## END-USER LICENSE AGREEMENT AND DPA FOR OPSAI.COM SERVICES

### The Agreement

- 1.1 Accepting this Agreement,** either by accessing or using a Service, or authorizing or permitting any Agent or End-User to access or use a Service, You agree to be bound by this Agreement. If You are entering into this Agreement on behalf of a company, organization or another legal entity ("Entity"), You are agreeing to this Agreement for that Entity and representing to Cloudeon that You have the authority to bind such Entity to this Agreement, in which case the terms "Subscriber," "You," "Your" or a related capitalized term herein shall refer to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not accept this Agreement and may not use any of the Services.
- 1.2 Definition of the Agreement.** This agreement ("Agreement"), governs Your access to, and use of, the OpsAI.com (the "Site"), services ("Services") and the software OpsAI ("Software" or "OpsAI Software") of Cloudeon A/S ("Cloudeon" or "We"). This Agreement does not alter in any way the terms of any written agreement signed by You and Cloudeon. This Agreement, together with the Data Processing Agreement (schedule 1), the licensing policy stated in Clauses 3.3, 5.1 and 5.2, Work Orders (if any) and additional supplemental terms (if any), constitute the complete and exclusive statement of the agreement between the parties with respect to the use of the Site and the Services. This Agreement does not govern the use of any consultancy services provided by Cloudeon.
- 1.3 Right to change terms and conditions.** Cloudeon reserves the right to change or modify this Agreement and any policy or guideline governing the scope of this Agreement at any time and in its sole discretion, upon thirty (30) days' notice. If You do not accept such change of terms, Your option is to cancel Your subscription.
- 1.4 Additional applicable terms.** We will notify You of additional applicable terms, when such an event occurs. Such an event is usually when ordering Consulting services and/or if You are ordering an additional feature in OpsAI Software.
- 1.5 Registration, Authorization and Identification.** You are required to register and follow all instruction on the OpsAI.com website. If You are using this Software and any related site, Services or Software on behalf of any entity, You represent and warrant that You are authorized to accept this Agreement on such entity's behalf and the term "You" shall refer to You personally and such entity. In any event You are only authorized to deploy OpsAI or any related Services to related companies fully owned by Your mother-, sister- or daughter companies.

You warrant and represent that any such information You provide is accurate, complete and updated. Failure to do so constitutes a breach to this Agreement and may result in a termination of Your account and/or access to the Services and the Software. You are responsible for maintaining the security and confidentiality of Your account password. You are also solely responsible for all activities that occur through Your User

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ID and password. You agree to immediately notify Cloudeon of any unauthorized use of Your User ID or password.

## Payment terms

- 2.1 Pricing and Payment.** You agree to pay the amount listed by Cloudeon or its Reseller for the Service and licenses selected by You. During the Subscription Term, You have the limited right to access and use a Service consistent with the payment plan(s) that You subscribe to.
- 2.2 Payment form.** If You are making payment by credit card, PayPal or other non-cash method, You authorize Cloudeon or its Reseller to bill Your account for the amount payable for the selected Services and licenses. You represent and warrant that all account information that You provide to Cloudeon for such purposes shall be true and correct. You must promptly inform Cloudeon or the responsible Reseller of any changes in Your credit card information. You may make changes to Your account information on Your user profile webpage.
- 2.3 Changes in rates.** In the event that Cloudeon or its Reseller chooses to change rates, it shall provide You with an email notification of such increase at least thirty (30) days in advance. You may choose to terminate the Service by contacting Cloudeon prior to such increase becoming effective.
- 2.4 Sales taxes.** Cloudeon and its Reseller (if any) reserve the right to collect certain taxes or other assessments from You in order to comply with local, state, Federal, or international laws and regulations, as required now or later imposed. If You claim exemption from any taxes, You shall provide Cloudeon or the responsible Reseller (if any) with documentation required by the taxing authority to support an exemption. Cloudeon shall not issue any refunds except within its sole discretion.

## The service provided to You

- 3.1 Availability of the Service.** The Service rests upon the technical premises given at the OpsAI.com website. You are responsible for meeting these criteria. We will use commercially reasonable efforts to make the Services available to You uninterrupted except (i) during planned downtime, upgrades and maintenance, (ii) any unavailability caused by circumstances beyond our control, see Clause 5.14, including, for example, an act of government, flood, fire, earthquake, civil unrest, act of terror, strike or Internet service provider failure or delay, third party services, or acts undertaken by third parties, including without limitation, denial of service attack ("Force Majeure Event").
- 3.2 Modifying OpsAI and Services.** You acknowledge that Cloudeon may modify the features and functionality of the OpsAI and Services during Your Subscription Term.
- 3.3 Grant of End-user License.** As part of the Service provided under this Agreement, Cloudeon will transmit downloadable Software to You. Such Software is specially configured for restricted use and is provided under the following terms: (i) Cloudeon hereby grants You the non-exclusive revocable non-assignable non-sublicensable right to load the Software onto and run such Software on one or multiple devices and/or net-

works owned and controlled by You for use on Microsoft Windows devices running on the requirements set forth on the OpsAli.com website and to create output files whereby You may forward its information in encrypted form to Your account at the OpsAI.com website. (ii) The Software is licensed, not sold. All rights not expressly granted herein are reserved by Cloudeon. (iii) You may not disclose, sell, transfer or convey the Software to any third party without Cloudeon's prior written consent. (iv) All title and copyrights in and to the Software are owned by Cloudeon or its suppliers. You may print one copy of any documentation provided by Cloudeon. (v) You may not alter, duplicate, modify, rent, lease, loan, sublicense, make copies of, create derivative works from, distribute or provide others with the Software, in whole or in part. (vi) You may not export, ship, transmit or re-export the Software in violation of any applicable law or regulation, including, but not limited to, Export Administration Regulations issued by the U.S. Department of Commerce. (vii) You may not use the Services to provide an outsourced Service of any kind or in any format. (viii) You may not access the Services if You are a direct competitor of Cloudeon or OpsAI, except with Cloudeon's prior written consent. You may not access the Services for any competitive purposes.

**3.4 Trial Version.** If You register for a free trial for any of the Services, Cloudeon will make such Services available to You on a trial basis free of charge until the earlier of (i) the end of the free trial period for which You registered to use the applicable Service(s), (ii) the start date of any subscription to such Service purchased by You for such Service(s), (iii) termination of the trial by Us at Our sole discretion. Trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. (iv) Any data entered into the Service, and any configurations or customizations made to a Service by or for You, during Your free trial will be permanently lost unless You purchase a subscription to the same service as covered by the trial.

## **Confidentiality, Security and Privacy**

**4.1 You own Your data.** You have full ownership to any data manually entered by You or collected about Your servers by OpsAI and stored in Your account on OpsAI.com. Your data is only stored online at Your account and is inaccessible to all other, except for Clause 4.2.

### **4.2 Anonymous aggregated data.**

Cloudeon and/or OpsAI may obtain and aggregate technical and other data about Your use of the Services, specifically excluding any personally or company identifiable data. Cloudeon and/or OpsAI may use the aggregated anonymous data to analyze, improve, support and operate the Services and otherwise for any business purpose, during and after the term of this Agreement, including without limitation to generate industry bench-marks or best practices guidance, recommendations or similar reports for distribution to and consumption by Customer and other OpsAI customers and prospects.

**4.3 GDPR compliance & security.** We will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your data. Those safeguards will include, but are not limited to, measures for preventing access, use, modification or disclosure of Your data, except to provide the Services and prevent or address service, support or technical problems or as compelled by law.

We will process your personal data in accordance with Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC ("GDPR") and the Danish Data Protection Act (no. 502 of 23 May 2018).

Furthermore, we will process personal data on Your behalf when You have uploaded personal data to Your account or when we deliver support to you. We will process Your personal data in accordance with the Data Processing Agreement (schedule 1) between you as the Data Controller and Cloudeon as the Data Processor.

Whenever You interact with our Services, We automatically receive and record information on Our server logs from the browser or device, which may include IP address, "cookie" information, and the type of browser and/or device being used to access the Services, see further the cookie policy for the Site. "Cookies" are identifiers We transfer to the browser or device of Your End-Users allowing Us to recognize the End-User and their browser or device along with how Our Services are being utilized. When We collect this information, We only use this data in aggregated form, and not in a manner that would identify Your End-Users personally. We receive and store any information that You as customer knowingly provide to Us in accordance with our privacy policy for the Site. For example, through the registration process for Our Services and/or through Your Account settings, we may collect Personal Data such as Your name, email address, phone number, credit card information and third-party account.

## Other clauses

- 5.1 Intellectual property right.** Except for information gathered from You, the Site and Services, including, without limitation, Cloudeon and Cloudeon logos, OpsAI and OpsAI logos and all designs, text, graphics, images, information, data, software, sound files, other files and the selection and arrangement thereof (collectively, the "Materials") are the property of Cloudeon and its licensors and are protected by applicable Danish, EU, U.S. and international copyright laws. You are granted a limited, non-sublicensable license as specified in this Agreement, especially in Clause 3.3, to access and use the Site and Services. Such license is subject to this Agreement and does not – unless otherwise follows from mandatory applicable legislation – include or authorize: (i) any resale of the Site, Services, Materials, or any portion thereof; (ii) the distribution, public performance or public display of any Materials; (iii) modifying or otherwise making any derivative uses of the Site, Services, Materials, or any portion thereof except that You may freely modify and make derivative uses of deliverables created for Your use by Cloudeon; (iv) use of automated means, including spiders, robots, crawlers, data mining tools, or the like to download data from the Site or Services; (v) downloading (other than page caching) of any portion of the Site, Services or Materials or any information contained therein, except that You may freely download Your own information and deliverables created for Your use by Cloudeon; (vi) any attempt to gain unauthorized access to Cloudeon computer systems or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of the Site or Services; or (vii) use of any portion of the Site, Services or the Materials as a destination linked from any unsolicited bulk messages or unsolicited commercial messages; (viii) copying, modifying, creating a derivative work of, reverse engineering, decompiling or otherwise attempting to extract the source code of any Cloudeon Services, Software or any part thereof; (ix) accessing the Services or the Software for the purpose of developing, or assisting in the development of, a competitive product or service; related to Copyright and Limited License Unless explicitly stated herein, nothing in this Agreement shall be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise.
- 5.2 Updates and consent to receive notices from Cloudeon.** Update means any modification, correction or alteration to the Software that provides an enhancement to functionality and is designated by an increase in the version number. Updates serve to improve the efficiency and functionality of the Software through new features as well as bugfixing, so installing the updates is in Your interest. Cloudeon will advise You about such updates in due time, and You must undertake to download and install the updates, unless otherwise specified in the Work Order. As long as You maintain a subscription, You may not "opt out" of receiving account-related emails from Cloudeon or Your Reseller (if any). The parties hereto may give legal notice by means of electronic mail, which electronic mail shall be considered delivered when sent. By signing this Agreement You acknowledge that in case of Your failure to download and install updates may result in that You lose the entitlement for warranty and support.
- 5.3 Confidentiality.** Cloudeon shall not disclose any of the information You or any third party provide except to You, the party that provided the information and any third party designated by the information provider, except as may be required by law, regulation, judicial or administrative process. You grant Cloudeon the right to use anonymized aggregated information gathered from You and Cloudeon other customers to create normative anonymous aggregated data for purposes of providing additional services to its customers. This

grant shall not authorize Cloudeon to provide third parties information from which Your information might be derived. The Services and the Software are delivered to You on a confidential basis and You are responsible for employing reasonable measures to prevent the unauthorized disclosure or use thereof, which measures shall not be less than those measures employed by You in protecting Your own confidential information.

- 5.4 Indemnification.** You agree to defend, indemnify and hold harmless Cloudeon, its Reseller, and their corporate affiliates, independent contractors, service providers and consultants, and each of their respective directors, employees and agents, from and against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys' fees) arising out of Your or Your personnel's breach of the terms of this Agreement, Your alleged breach of the rights of any third party and claims that information that You provide to Cloudeon or its Reseller is wrongfully possessed by Cloudeon or Reseller, including without limitation any actual or threatened suit, demand or claim arising therefrom.
- 5.5 Term and Termination.** This Agreement shall continue until such time as either party terminates. You may terminate without cause by requesting deactivation of the account. No refund of fees shall be made except at Cloudeon's sole discretion. Cloudeon has the right to terminate the Services and Your right to use the Software without cause only by providing thirty (30) days' prior notice to the e-mail account listed by You in Your account information. In such event, Cloudeon shall make a pro rata refund. In the event that this Agreement is terminated, Cloudeon will make available to You a file of the data You submitted to the Service for download for a period of thirty (30) days after termination unless otherwise stated in Schedule 1. You agree and acknowledge that neither Cloudeon nor its Resellers have any obligation to retain the information that you provide, and may delete same, thirty (30) days after termination unless otherwise stated in Schedule 1. Cloudeon may immediately terminate this Agreement in the event You materially breach this Agreement. Any breach of Your payment obligations or unauthorized use of Your account will be deemed a material breach of this Agreement.
- 5.6 Assignment.** This Agreement may not be assigned by You without the prior written approval of Cloudeon but may be assigned without Your consent by Cloudeon onto (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger.
- 5.7 Disclaimers.** Disclaimers and acknowledgements regarding use of Site information except as otherwise explicitly provided herein, the Site, the Software, the Services and the materials are provided on an "as is" and "as available" basis without warranties of any kind, either express or implied. Cloudeon and its Resellers disclaim all warranties, express or implied, including, without limitation, implied warranties of merchantability and fitness for a particular purpose. Neither Cloudeon nor its Reseller represent or warrant that the Site, Software, Services or materials, including the information available in or on the Site or through the Services are accurate, complete, reliable, current or error-free. While Cloudeon attempts to make Your access and use of the Site and the Services safe, Cloudeon and its Resellers cannot and do not represent or warrant that the Site and the Services or its server(s), or any content or materials are free of viruses or other harmful components; therefore, You should use industry-recognized software to detect and neutralize viruses, spyware, malware, and other harmful or otherwise undesirable components from any download.
- 5.8 Limitation of liability.** In no event shall Cloudeon or any of its corporate affiliates, independent contractors, Resellers, service providers or consultants, or any of their respective directors, employees and

agents, be liable for any special, indirect or consequential damages, including but not limited to, loss of use, loss of profits or loss of data, whether in an action in contract, tort (including but not limited to negligence) or otherwise, arising out of or in any way related to or connected with any use of the Site, the Services, the Software or the materials, including without limitation any damages, loss or injury caused by or resulting from reliance on any information obtained from Cloudeon or its Reseller, or that result from mistakes, omissions, interruptions, deletion of files or email, errors, defects, viruses, delays in operation or transmission or any failure of performance, whether or not resulting from acts of God, communications failure, theft, destruction or unauthorized access to Cloudeon records, programs or Services. The aggregate liability of Cloudeon and its Resellers, whether in contract, warranty, tort (including negligence, whether active, passive or imputed), product liability, strict liability or other theory, arising out of or relating in any manner to the use of the Site, the Services, the Software or the materials shall not exceed any compensation/payment You pay in the Subscription Term, if any, to Cloudeon or its Reseller for access to or use of the Site or the Services.

**5.9 Dispute resolution.** Except for the right of a party to apply to a court for a temporary restraining order, preliminary injunction or other equitable relief, any controversy or claim arising out of or relating to this Agreement that cannot be resolved through negotiation will be resolved by binding arbitration before a single arbitrator in accordance with the Arbitration Rules of the Danish Court of Arbitration in Copenhagen. The parties agree that any dispute resolution proceeding will be conducted on an individual basis and not as a class or representation action. Neither You nor Cloudeon shall be a member of a class, consolidated or representative action or proceeding. The award of the arbitrator shall be binding and may be entered as a judgment in any court of competent jurisdiction. The cost of the arbitration shall be borne equally by the parties. Neither party nor the arbitrator may disclose the existence or results of any arbitration. The authority of the arbitrator to award damages in any event is and shall be limited by this Agreement.

**5.10 Application of law and Venue.** This Agreement and Your use of the Site and the Services shall be governed by and construed in accordance with the laws of Denmark. You agree that with respect to any disputes or claims not subject to arbitration (as set forth above), any action at law or in equity arising out of or relating to the Site and the Services or this Agreement shall be filed only in Copenhagen, Denmark.

**5.11 Survival of provisions.** If any of this Agreement should be determined to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction then such term shall be enforced only to the extent it is enforceable and the remaining terms shall survive and remain in full force and effect and continue to be binding and enforceable.

**5.12 Feedback.** You may choose to, or we may invite You to submit comments or ideas about the Service, including without limitation about how to improve the Service or our products ("Feedback"). By submitting Feedback to Cloudeon or its Reseller, You agree that Your disclosure is gratuitous, unsolicited and without restriction and will not place Cloudeon or its Reseller under any fiduciary or other obligation, that Cloudeon is free to disclose the Feedback on a non-confidential basis to anyone or otherwise use the Feedback without any additional compensation to You. You acknowledge that, by acceptance of Your submission, Cloudeon does not waive any rights to use similar or related ideas previously known to Cloudeon, or developed by its employees, or obtained from sources other than You.

**5.13 Waiver.** No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other term, provision or condition hereof, whether or not similar, nor shall such waiver constitute a continuing waiver of any such term, provision or condition hereof. No waiver shall be binding unless executed in writing by the party making the waiver.

**5.14 Force Majeure.** If the performance of any part of this Agreement by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, earthquake, civil unrest, act of terror, riot, fire, judicial or governmental action, labour disputes, act of God or any other causes beyond the control of either party, that party shall be excused from such to the extent that it is prevented, hindered or delayed by such causes.

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#### **Schedule 1: Data Processing Agreement**

BETWEEN                      The Customer  
                                      (the "**Data Controller**")

AND                            Cloudeon A/S  
                                      (Business registration no. 37 19 61 69)  
                                      Vandtårnsvej 62  
                                      2860 Søborg  
                                      Denmark  
                                      (the "**Data Processor**")

(the Data Controller and the Data Processor each referred to as a "**Party**" and jointly as the "**Parties**")



## 1. BACKGROUND

- 1.1 The Data Controller and the Data Processor have entered into an end-user license agreement for OpsAI.com services (the "Agreement") regarding the Data Processor's supply to the Data Controller of Software and Services as specified in the Agreement
- 1.2 The Data Processor's performance of the Services pursuant the Agreement will imply certain processing by the Data Processor on behalf of the Data Controller of personal data (the "**Personal Data**") which the Data Controller will make accessible to the Data Processor by way of the Services licensed by the Data Controller under the Client Agreement.
- 1.3 This data processing agreement (the "**Data Processing Agreement**") has been designed to ensure the Parties' compliance, in relation to the processing mentioned in Clause 1.2 above, with Article 28(3) of Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (the "**GDPR**"), which sets out specific requirements for the content of data processing agreements, as well as any national data protection legislation as applicable to the Data Controller and/or the Data Processor (the GDPR and any such national data protection legislation collectively referred to herein as the "**Data Protection Regulation**").
- 1.4 The Data Processing Agreement shall constitute a schedule to, and thus an integral part of, the Agreement. Thus, any general terms and conditions in the Agreement – including any exclusions and limitations of liability set forth therein, provisions on governing law, dispute resolution, etc. – will also apply in relation to the Data Processing Agreement, including in connection with any breach of the terms of the Data Processing Agreement. In case of conflict between any terms on processing of Personal Data in the Data Processing Agreement and the other parts of the Agreement, the terms of the Data Processing Agreement shall prevail.
- 1.5 Unless otherwise indicated herein, any definitions used in the Agreement shall apply similarly for purposes of the Data Processing Agreement. Furthermore, unless otherwise indicated herein, any terminology used herein shall be interpreted in accordance with the terminology used in the GDPR.

## 2. THE GENERAL RIGHTS AND OBLIGATIONS OF THE PARTIES

- 2.1 The Data Controller is the controller in relation to the Personal Data. Thus, the Data Controller shall have the responsibilities incumbent on a controller pursuant to the Data Protection Regulation. Accordingly, the Data Controller shall have both the right and obligation to make decisions about the purposes and means of the processing of the Personal Data, and is responsible for ensuring that the processing of Personal Data that the Data Processor is instructed to perform is authorized under the Data Protection Regulation.
- 2.2 The Data Processor is a processor in relation to the Personal Data. In this regard, the Data Processor has the rights and obligations of a processor pursuant to the Data Protection Regulation.

**3. THE NATURE AND PURPOSE OF THE PROCESSING; THE TYPE OF PERSONAL DATA AND CATEGORIES OF DATA SUBJECTS**

3.1 The nature and purpose of the processing are set out in Appendix A hereto, which also specifies the type of Personal Data and the categories of data subjects.

**4. THE DATA CONTROLLER'S INSTRUCTIONS TO THE DATA PROCESSOR**

4.1 The Data Processor shall solely be permitted to process Personal Data on documented instructions from the Data Controller unless processing is required under EU or Member State law to which the Data Processor is subject; in this case, the Data Processor shall inform the Data Controller of this legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28(3)(a) of the GDPR.

4.2 The Data Processor shall immediately inform the Data Controller if instructions in the opinion of the Data Processor contravene the GDPR or data protection provisions contained in other EU or Member State law.

4.3 The Agreement as well as any changes thereto as well as Appendix C to this Data Processing Agreement shall constitute a documented instruction from the Data Controller to the Data Processor. Thus, the Data Processor may carry out such processing of the Personal Data as is necessary for the Data Processor's performance of its obligations pursuant to the Agreement, including for the performance of the Services.

**5. SECURITY OF PROCESSING AND ASSISTANCE TO THE DATA CONTROLLER**

5.1 The Data Processor shall ensure that persons authorized to process Personal Data on behalf of the Data Controller have undertaken to observe confidentiality or are subject to suitable statutory obligation of confidentiality.

5.2 The Data Processor shall take all the measures required pursuant to Article 32 of the GDPR, see in this regard further Appendix C hereto.

5.3 Appendix C hereto contains a list of the locations where the processing of the Personal Data will take place.

5.4 The Data Processor, taking into account the nature of processing, shall as far as possible assist the Data Controller with appropriate technical and organizational measures in the fulfilment of the Data Controller's obligations to respond to requests for the exercise of the data subjects' rights pursuant to Chapter III of the GDPR.

5.5 The Data Processor shall assist the Data Controller in ensuring compliance with the Data Controller's obligations pursuant to Articles 32-36 of the GDPR, taking into account the nature of the processing and the data made available to the Data Processor, cf. Article 28(3)(f) of the GDPR. This entails that

the Data Processor should, taking into account the nature of the processing, as far as possible assist the Data Controller in the Data Controller's compliance with:

- (a) the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk associated with the processing;
- (b) the obligation to report personal data breaches to the supervisory authority without undue delay and, if possible, within 72 hours of the Data Controller discovering such breach unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons;
- (c) the obligation – without undue delay – to communicate the personal data breach to the data subject when such breach is likely to result in a high risk to the rights and freedoms of natural persons;
- (d) the obligation to carry out a data protection impact assessment if a type of processing is likely to result in a high risk to the rights and freedoms of natural persons; and
- (e) the obligation to consult with the supervisory authority prior to processing if a data protection impact assessment shows that the processing will lead to high risk in the lack of measures taken by the Data Controller to limit risk.

5.6 At the request of the Data Controller, the Data Processor shall make available to the Data Controller all information necessary to demonstrate compliance with Article 28 of the GDPR and this Data Processing Agreement, and allow for and contribute to audits, including inspections performed by the Data Controller or another auditor mandated by the Data Controller.

5.7 The Data Processor is entitled to separate remuneration (i.e., in addition to the fees payable pursuant to the Agreement for provision of the Services) for the fulfilment of the Data Processors' obligations pursuant to Clauses 5.4-5.6 above. This remuneration shall be calculated based on the time spent and the Data Processor's at any time applicable standard hourly rates. Furthermore, the Data Processor may demand that the Data Controller covers the Data Processor's reasonable expenses incurred in connection with fulfilment of the said obligations.

## **6. USE OF SUB-PROCESSORS**

6.1 The Data Processor shall meet the requirements specified in Article 28(2) and (4) of the GDPR in order to engage another processor (sub-processor). This implies the following:

6.1.1 The Data Processor shall not engage a sub-processor for the fulfilment of this Data Processing Agreement without the prior specific or general written consent of the Data Controller, see in this regard Appendix B hereto. In the event of general written consent, the Data Processor shall inform

the Data Controller of any planned changes regarding additions to or replacement of sub-processors and thereby give the Data Controller the opportunity to object to such changes.

- 6.1.2 When the Data Processor has the Data Controller's authorization to use a sub-processor, the Data Processor shall ensure that the sub-processor is subject to the same data protection obligations as those specified in this Data Processing Agreement on the basis of a contract or other legal document under EU law or the national law of the Member States, in particular providing the necessary guarantees that the sub-processor will implement the appropriate technical and organizational measures in such a way that the processing meets the requirements of the GDPR. If the sub-processor does not fulfil his data protection obligations, the Data Processor shall remain fully liable to the Data Controller as regards the fulfilment of the obligations of the sub-processor.

## **7. TRANSFER OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS**

- 7.1 The Data Processor shall solely be permitted to process Personal Data on documented instructions from the Data Controller, including as regards transfer of Personal Data to third countries or international organizations, unless processing is required under EU or Member State law to which the Data Processor is subject; in such a case, the Data Processor shall inform the Data Controller of that legal requirement prior to processing unless that law prohibits such information on important grounds of public interest, cf. Article 28(3)(a) of the GDPR.
- 7.2 The Data Controller's instructions or approval of the transfer of Personal Data to a third country, if applicable, shall be set out in Appendix C to the Data Processing Agreement.

## **8. COMMENCEMENT, DURATION AND TERMINATION**

- 8.1 The Data Processing Agreement shall become effective on the date of the Data Controller's accept of the Agreement.
- 8.2 Both Parties shall be entitled to require the Data Processing Agreement renegotiated if changes to the law or inexpediency of the provisions contained herein should give rise to such renegotiation.
- 8.3 This Data Processing Agreement may be terminated according to the terms and conditions of termination, including notice of termination, that applies pursuant to the Agreement.
- 8.4 The Data Processing Agreement shall apply as long as the processing is performed. Thus, irrespective of the termination of the Agreement and/or the Data Processing Agreement, the Data Processing Agreement shall remain in force until the termination of the processing and the erasure of the data by the Data Processor and any sub-processors.
- 8.5 On termination of the processing services, the Data Processor shall be under obligation, at the Data Controller's discretion, to erase or return all the Personal Data to the Data Controller and to erase existing copies unless EU law or Member State law requires storage of the personal data.

## **APPENDIX A - INFORMATION ABOUT THE PROCESSING**

### **A.1 The purpose of the Data Processor's processing of personal data on behalf of the Data Controller is:**

To ensure that the Data Controller is able to use the Software and Services as specified in the Agreement.

### **A.2 The Data Processor's processing of personal data on behalf of the Data Controller shall mainly pertain to (the nature of the processing):**

If the Data Controller uploads Personal Data to the Data Processor's account, the Data Processor will store – and therefore process – Personal Data on behalf of the Data Controller. The Data Processor may also process Personal Data on behalf of the Data Controller when support is delivered.

### **A.3 The processing includes the following types of personal data about data subjects:**

IP address, information about server owner (if company is personally owned) and name of server, if this includes Personal Data (e.g. name, e-mail, and telephone number).

### **A.4 Processing includes the following categories of data subjects:**

Owner of server.

## **APPENDIX B – TERMS OF THE DATA PROCESSOR'S USE OF SUB-PROCESSORS AND LIST OF APPROVED SUB-PROCESSORS**

### **B.1 Terms of the Data Processor's use of sub-processors, if applicable**

The Data Processor has the Data Controller's general consent for the engagement of sub-processors. The Data Processor shall, however, inform the Data Controller of any planned changes regarding additions to or replacement of other data processors and thereby give the Data Controller the opportunity to object to such changes. Such notification shall be submitted to the Data Controller a minimum of 4 weeks prior to the engagement of sub-processors or amendments coming into force. If the Data Controller objects to the changes, the Data Controller shall notify the Data Processor of this within 1 week of receipt of the notification. The Data Controller shall only object if the Data Controller has reasonable and specific grounds for such refusal.

**B.2 Approved sub-processors**

Upon commencement of this Data Processing Agreement the Data Controller shall approve the engagement of the following sub-processors for the processing described:

Name	Address	Description of processing
Microsoft	- The processing takes place at Azure Data Centre, Germany	Hosting

**APPENDIX C – INSTRUCTION PERTAINING TO THE USE OF PERSONAL DATA**

**C.1 The subject of/instruction for the processing**

The Data Processor’s processing of Personal Data on behalf of the Data Controller shall be carried out by the Data Processor performing the following:

The Data Processor stores the Personal Data uploaded to the Data Processor's account. In relation to support the Data Processor can process Personal Data on behalf of the Data Controller depending on the support issue and method.

**C.2 Security of processing**

Based on the type of data processed and scope hereof the level of security shall reflect a medium to high level of security.

The Data Processor shall be entitled and under obligation to make decisions about the technical and organizational security measures that are to be applied to create the necessary (and agreed) level of data security, including the following measures.

The Data Processor shall however – in any event and at a minimum – implement the following technical and organizational measures that have been agreed with the Data Controller:

1. The pseudonymization and encryption of Personal Data where appropriate;
2. The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
3. The ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;

4. A process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing, and amending where necessary;
5. The ability to prevent Personal Data from being accessed or used, including read, copied, modified and deleted, without appropriate authorization.

The Data Processor shall implement, and if necessary update, technical and organizational measures according to all relevant Data Protection Legislation, including but not limited to, the GDPR article 28 and 32.

Security is enforced by a strict security policy and does not permit entities to be accessed or manipulated across organizations. Within the organization, security is role based and users can be given administrative roles on a unit/department level.

The system is always accessed over SSL, safeguarding the information being exchanged between the client and the server. OpsAI stores only a hash of the user's password, and when authenticating through the regular interface, salt, hashing, and a short-lived challenge is used to ensure that message replay cannot be used to wrongfully gain access.

External services are required to use the SSL enabled endpoints to ensure transport security. The system provides integrity by ensuring that users are not able to insert or edit entities they are not authorized for.

Actions are logged.

Safety measures and procedures against external attacks: We are partners with Microsoft and keep our technical staff updated on the current system and security solutions. Through Azure as a sub-processor, we ensure with Microsoft that our services are always up to date on security and latest security patches; always running the latest version of important software; logging of all attempts at login; performance of manual vulnerability tests.

### **C.3 Storage period/erasure procedures**

The Personal Data will be stored until the Data Processor deletes the Personal Data.

### **C.4 Processing locations**

The processing will take place on the following locations:

- Azure Data Centre, Germany.

**C.5 Instruction for or approval of the transfer of Personal Data to third countries**

If the Data Controller has not above or by subsequent written notification provided instructions or consent pertaining to the transfer of Personal Data to a third country, the Data Processor shall not be entitled within the framework of this Data Processing Agreement to perform such transfer.