



RUNMYPROCESS
DIGITAL PROBLEM SOLVERS

Terms Of Use

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Valid as of February 2023

These General Terms and Conditions apply to the access and use of the Platform Services (as defined below) and is an enforceable agreement between AK Digital LLC (“Licensor”) and the corporation, LLC, partnership, sole proprietorship, or other business that executed the AK Digital, LLC Platform-As-A-Service Order Form (“Client”). Customer’s use of and Licensor’s provision of Licensor’s Platform Services are governed by these Terms and Conditions, the Order Form and the Documentation.

After having read the characteristics and functionalities, Client wants to use and benefit from the Platform Services in accordance with the Contract. The Contract constitutes the entirety of the contractual relations between Client and AK Digital, LLC with respect to the provision, operation and the use of the Platform Services. AK Digital, LLC does not accept deviating general terms and conditions of Client, unless AK Digital, LLC explicitly agrees to their validity in written form.

1. Definitions

All capitalized terms not defined in this Section 1 have the meaning as defined in the Order Form.

1.1 **“Client Administrator”** means a distinguished User who is allowed to completely administrate Client’s access to the Platform Services including without limitation setting up and deleting User accounts. There must be at least one Client Administrator, but there may be also more than one.

1.2 **“Client Application”** means any computer program and/or software, which (a) is designed and developed by Client or by any other specially mandated third party on behalf of Client in the framework of the Platform Services; and (b) may possibly integrate Client specific external software services or applications.

1.3 **“Client Content”** means any data, information, images, trademarks, logos, brands and other elements, which Client and/or its Users submit to and make available within the scope of using the Platform Services, with the exception of Client Applications.

1.4 **“Client Data”** means personal data (Art. 4 no. 1 GDPR) of Client and its Users processed by AK Digital, LLC as data processor (Art. 4 no. 8 GDPR) in relation with the provision, operation and use of the Platform Services.

1.5 **“Confidential Information”** means confidential and proprietary information of the Parties, including (a) information of a confidential nature; (b) information, which was marked or designated as confidential, when disclosed or made available to the other Party; (c) non-publicly available specifications and the source code of the Platform and the Platform Services; as well as (d) the Contract, excluding content, which has been published on AK Digital, LLC website under <https://www.runmyprocess.com/>.

1.6 **“Contract”** means collectively the Order Form and these General Terms and Conditions, including any references to the Documentation.

1.7"**Documentation**" means any of AK Digital, LLC documentation, operation instructions and user manuals in electronic format specifying the characteristics and functionalities of the Platform Services.

1.8"**High Safety Required Use**" has the meaning as set out in Section 2.6

1.9"**Inappropriate Content**" means Client Content and/or Client Applications, which

(a) infringe the intellectual property rights of others (e.g. copyrights and ancillary copyrights, patents, trademarks, trade names, work titles or designs);(b) defame or denigrate persons, people, races, religions or religious groups;(c) contain malicious code, including viruses, trojans, worms, time bombs, cancel bots or other computer programs that may damage, interfere with, surreptitiously intercept or expropriate any system, program, data or personal information;(d) violate any privacy or personality rights;(e) are misleading or deceptive or through which fraudulent services, programs or promotions (inter alia phishing, anonymization, file exchange etc.) are offered and distributed; and/or(f) are obscene, pornographic, indecent, harassing, offensive, violent, discriminatory, menacing, abusive, inflammatory, seditious, dangerous, harassing or otherwise unacceptable or unlawful.

1.10"**Major Anomaly**" means an incident of the platform, where (a) the Platform Services are unavailable for more than five (5) minutes ("Outage"); or (b) access of Client respectively all its Users to the Platform Services is denied; or (c) a substantial component of the Platform Services fails and no workaround is available.

1.11"**Minor Anomaly**" means any other incident on the Platform Services which cannot be classified as Major Anomaly.

1.12"**Platform**" means the cloud hosting platform (including servers) provided and operated by a sub-contractor (data processor pursuant to Art. 4 no. 8 GDPR) of AK Digital, LLC on which the Platform Services, Client Content and Client Applications are hosted, as specified in the Order Form.

1.13"**Platform Services**" means the provision and operation of software services by AK Digital, LLC comprising a platform and applications for software development and operation, as specified in the Contract. Any service distinct from the Platform Services ordered by Client from AK Digital, LLC (in particular, the development of Client Applications and consulting services) is not part of the scope of the Platform Services and/or the Contract; rather, such order by Client is subject to a separate agreement between the Parties.

1.14"**Reseller**" means a legal entity, acting as AK Digital, LLC authorized agent, including without limitation selling the Platform Services, signing Contracts with Clients and invoicing Client's fees on behalf of AK Digital, LLC.

1.15"**Runtimes**" means the software, which is necessary to provide an environment for the execution of Client Applications. Client Applications cannot operate without Runtimes.

1.16"**Service(s)**" means any other service distinct from the Platform Service ordered by the Client from AK Digital, LLC in line with a prior estimate issued by AK Digital, LLC. These services are the object of Order Form.

1.17"**Third Party**" means any person or entity, which does not qualify as a User.

2. Subject Matter And Scope Of The Platform Services

2.1 In accordance with the Contract AK Digital, LLC provides and operates the Platform Services during the term of the Contract (a) to allow and enable Client and its Users to design, develop, operate and use Client Applications.

Any access and use of “early access”, “alpha” and/or “beta” versions, features and/or functionalities of the Platform Services are provided to Client in AK Digital, LLC sole discretion. For the avoidance of doubt, Client and its Users have no respective contractual claim to access and use such “early access”, “alpha” and/or “beta” versions, features and/or functionalities of the Platform Services under the Contract. AK Digital, LLC reserves the right to discontinue the provision and operation or make backwards incompatible changes of such “early access”, “alpha” and/or “beta” versions, features and/or functionalities of the Platform Services in its sole discretion.

In such instance where a contract is executed by Client with Reseller, Client signs Reseller’s purchase order and which will form the Order Form. Client will access the Service within twenty-four (24) working hours following receipt by AK Digital, LLC (i) of Reseller’s purchase order and (ii) of a signed copy, accepted without reservation by Client, of the General Terms and Conditions of service of the AK Digital, LLC service.

2.2 AK Digital, LLC shall provide the Platform Services to Client with due care and skill and in accordance with the provisions of the Contract.

2.3 AK Digital, LLC shall endeavour to provide appropriate protection (e.g. by using SSL or TLS encryption), but – due to the inherent nature of the Internet – cannot completely ensure the security of submission of Client Content to the Platform Services.

2.4 The provision and operation of the Platform Services shall take place on the Platform. The service provider of the Platform has implemented reasonable security measures, which comply with standards in force, against any harm to data integrity.

2.5 AK Digital, LLC shall provide daily backups of the Platform Services, Client Content, Client Data and Client Applications. AK Digital, LLC may recover accidentally deleted content upon request by Client through a support ticket. Upon Client’s request, the system and information protection security system of AK Digital, LLC shall be communicated to Client in written or text form.

2.6 High Risk Activity

(a) Client acknowledges and agrees that the Platform Services are designed, developed and operated as contemplated for general use, including without limitation, general office use. The Platform Services are not designed, developed and operated as contemplated for use accompanying fatal risks or dangers that, unless extremely high safety is secured, could lead directly to death, personal injury, severe physical damage or other loss (hereinafter “High Safety Required Use”), including without limitation nuclear reaction control in nuclear facilities, aircraft flight control, air traffic control, mass transport control, medical life support systems, missile launch control in weapon systems , or similar systems and industries.

(b) Client shall not use the Platform Services for the High Safety Required Use, unless (i) the extremely high safety requirements are fulfilled and – upon request – proven to AK Digital, LLC; and (ii) AK Digital, LLC has provided its explicit prior written approval for such High Safety Required Use within its sole discretion. In addition, AK Digital, LLC shall not be liable against the Client and/or any third party for any claims or damages arising of or in connection with the High Safety Required Use of the Platform Services by Client.

3. Usage Requirements As Well As Duty Of Cooperation And Care

3.1 Client shall be solely responsible for ensuring that it and its Users comply with the technical and system requirements for the use of the Platform Services during the term of the Contract. It is incumbent upon Client alone to ensure (a) its Users have a sufficient Internet connection to access and use the Platform Services; and (b) the compatibility of the Client's and its Users' computer environments with the Platform Services.

3.2 Client and its Users may log into the Platform Services via their respective User account credentials (i.e. Username and password).

3.3 Client shall support AK Digital, LLC in the framework of the provision and operation of the Platform Services within a reasonable scope.

3.4 AK Digital, LLC will take all reasonable measures to protect the Platform Services and its users. Nevertheless, Client itself shall also take reasonable precautions to ensure that the process by which Client and its Users access and use the Platform Services does not expose Client and its Users to the risk of viruses, malware or other impairments of Client's IT system. Client represents and warrants to require its Users to act accordingly. Client is solely responsible for the security of its own information security system and Internet access, in particular, the implementation of firewalls and antivirus programs to protect its system.

3.5 Client guarantees AK Digital, LLC that it and its Users

(a) use the Platform Services (or any parts thereof) solely in the framework of Client's business purposes;(b) use the Platform Services solely in accordance with the provisions of the Contract;(c) use solely professional content with respect to Client Content and Client Applications.

(d) not use the Platform Services (or any parts thereof) in a way that infringes applicable law and/or rights of other Users or Third Parties, in particular not to use Inappropriate Content;(e) not take any actions that compromise or disrupt the integrity or performance of the Platform Services (or any parts thereof);(f) not perform any test attempting to establish Client's own evaluation of service levels, security measures (including any performance measuring, penetration-, load-, stress- and endurance tests) and any other technical and organizational measures without prior express agreement with AK Digital, LLC.

3.6 AK Digital, LLC does not review Client Content for legality, accurateness and completeness, before it is made available in the framework of the Platform Services; rather this takes place completely by automatic means. This Section 3.6 applies mutatis mutandis to Client

Applications, except for Client Applications, which AK Digital, LLC has developed and validated for Client subject to a separate agreement between the Parties.

4. User Accounts And Duties Of Care

4.1 AK Digital, LLC provides Client with access to the Platform Services by creation of one (1) Client Administrator account, which enables Client to set up further User accounts within the limits of the metrics subscribed by Client and in accordance with the provisions of the Contract. All User accounts shall refer to a specific User. User accounts are not transferable, and Client shall manage and maintain User accounts, especially delete User accounts that are no longer used and then create new User accounts.

4.2 Client and its Users may only access the Platform Services within the limits of the metrics subscribed by Client during the term of the Contract, as specified in the Order Form.

4.3 Client shall carefully protect access to its User account credentials (in particular, the User account password). Client shall immediately notify AK Digital, LLC (in written or text form) of any loss, unauthorized disclosure or theft of the User account password, so that AK Digital, LLC can invalidate the affected User account and assign new User account credentials. Client represents and warrants to oblige its Users accordingly.

4.4 Client shall be responsible for all actions executed via its User accounts within the Platform Services, even if the action in question was not authorized or intended by Client. Client shall be solely liable for all damages caused by the use of its User accounts by Client, its Users or by Third Parties, unless Client is not responsible for the action causing the damage.

5. Blocking And Suspension Of User Accounts, Client Content And Client Applications

5.1 In the event that a User violates applicable law, other Client's User rights, Third-Party rights and/or the provisions of the Contract and AK Digital, LLC becomes aware of this, AK Digital, LLC shall be entitled to (a) warn Client and/or the respective User; (b) block individual Client Content or Client Applications; (c) block the corresponding User account temporarily or permanently; (d) provide information to any affected rights holders; (e) take other suitable counter-measures; or (f) interrupt the Service without reimbursement of license nor compensation. Furthermore, AK Digital, LLC will take necessary steps for any claims of infringement.

5.2 AK Digital, LLC shall also be entitled to permanently block the respective User account, if the respective User (a) has transferred its User account or granted access to another User or Third Party; (b) has made available Inappropriate Content within the Platform Services; (c) has caused considerable damage to other Users, AK Digital, LLC or Third Parties; (d) has severely or repeatedly violated the Contract; or (e) has committed an action, which qualifies as another important reason.

5.3 The temporarily or permanently blocked User may not use the Platform Services via another existing or newly created User account.

5.4 AK Digital, LLC reserves the right to temporarily suspend a Client Application in case that this Client Application (a) poses a security risk to the Platform Services or any third party; or (b) adversely impacts the Platform Services, the Platform or a Client Application or Client Content of any other AK Digital, LLC Client.

6. Intellectual Property And Rights Of Use Of Platform Services

6.1 Upon payment of all fees due as set out in the Contract, AK Digital, LLC grants to Client and its Users for the term of the Contract a non-exclusive, non-transferable, non-sublicensable worldwide right to use the Platform Services solely within Client's business purposes in accordance with the provisions of the Contract. This comprises the permanent or temporary, complete or partial copying by loading, displaying, running and transmitting the Platform Services for the purpose of its execution, including observation, analysis and testing.

6.2 With the exception of Client Content and Client Applications (excluding Runtimes), AK Digital, LLC is and remains the sole owner or licensee of all intellectual property rights to the Platform Services, including intellectual property rights to (a) the underlying software, systems, databases, tools, Runtimes, graphics, icons and sound recordings; (b) AK Digital trademarks, logos, company signs and work titles; as well as (c) tables and graphs within the underlying software.

6.3 AK Digital, LLC will retain the benefit of any improvement or enrichment of its own processes, expertise and skills acquired at the time of performance of the Contract and will remain sole proprietor of any parametrization or development of personalization undertaken for Client and its Users.

6.4 Client and its Users are not entitled and shall not be permitted without the prior explicit written approval of AK Digital, LLC to

(a) access and use the Platform Services in any way that runs contrary to the provisions of the Contract and/or contrary to Client's professional activities, nor to lend support to such a use in any way;(b) transfer and/or sublicense to Third Parties or within Client's group or affiliates any rights granted concerning the Platform Services (or any parts thereof) pursuant to this Section 6, including but not limited to intellectual property right.(c) translate, adapt, arrange or otherwise modify the Platform Services (or any parts thereof);(d) decompile, disassemble or reverse engineer the Platform Services (or any parts thereof);(e) circumvent any technical restrictions;(f) use the Platform Services commercially in a way that competes with AK Digital, LLC business model;(g) access or attempt to access the Platform Services' source code;(h) extract or re-use the Platform Services' databases;(i) rent, lease or otherwise commercially dispose the Platform Services to Third Parties.

6.5 Client shall maintain all proprietary notices being contained in the Platform Services, such as copyright and other legal notices without any changes.

7. Intellectual Property And Rights Of Use Of Client Content And Client Applications

7.1 Client shall retain all intellectual property rights to Client Content. The same applies to Client Applications, except for parts of Client Applications constituting Runtimes, which are the intellectual property of AK Digital, LLC.

Notwithstanding the foregoing, in order to use and benefit from the Platform Services, Client shall be required to grant AK Digital, LLC the limited rights of use to Client Content and Client Applications as set forth below:

7.2 By submitting to or making available Client Content and/or Client Applications within the Platform Services, Client grants AK Digital, LLC (including its sub-contractors engaged in the provision and operation of the Platform Services) for the term of the Contract a free, non-exclusive and worldwide right to use the Client Content and Client Applications as well as amendments thereof, exclusively for use in connection with the provision and operation of the Platform Services (or any parts thereof). This includes the right to reproduce and publicly make available Client Content and Client Applications in the online area in the framework of the Platform Services as well as the right to amend Client Content and Client Applications and use the amended Client Content and Client Applications to the same extent as the original Client Content and Client Applications.

8. Availability Of The Platform Services

8.1 Availability of the Platform Services is specified as a percentage subject to the following formula: Number of minutes of non-availability of the Platform Services during the same month resulting from an anomaly divided by the number of minutes included in this same month

Measurement method: AK Digital, LLC will implement all resources, which it holds in order to ensure accessibility to the Platform Services with an availability rate of ninety-nine point nine (99.9) percent per month, which is calculated by subtracting from one hundred (100) percent the monthly percentage of any interruption of the Platform Services lasting for more than five (5) consecutive minutes, with the exclusion of the following failures:

- (a) Planned program maintenance (hardware or software), whose operation will be notified to Client Administrator by email at least eight (8) calendar days in advance and which may not exceed a monthly total of more than two (2) hours.
- (b) case of force majeure or failure outside of the scope of responsibility of AK Digital, LLC (e.g. breakdown of the Internet, failure of Client's or its Users' Internet connection or IT system); and
- (c) preventive closure of the Platform Services in order to combat or defend a denial-of-service attack.

8.2 The Platform Services are deemed as non-available, when Client does not have any access to the Platform Services (i.e. total failure to connect) based on a problem specifically arising from the Platform Services (including Runtimes). Client acknowledges and agrees that it relinquishes all claims vis-à-vis AK Digital, LLC in the event of non-availability of the Platform

Services inherent to the design or operation of a Client Application, except where AK Digital, LLC has developed and validated the Client Application subject to a separate agreement between Parties.

8.3 In case of the following non-availability scenarios the following penalty credits and termination rights of Client shall apply

(a) If the monthly rate of availability is between ninety-nine (99) and ninety-nine-point nine (99.9) percent, AK Digital, LLC will credit Client with three (3) days of Platform Services free of charge (added on top of the current term of the Contract).

(b) If the monthly rate of availability is between ninety-five (95) and ninety-nine (99) percent, AK Digital, LLC will credit Client with ten (10) days of Platform Services free of charge (added on top of the current term of the Contract).

(c) If the monthly rate of availability is less than ninety-five (95) percent, AK Digital, LLC will credit Client with thirty (30) days of Platform Services free of charge (added on top of the current term of the Contract).

(d) After three (3) consecutive days of non-availability without re-establishment of the Platform Services, Client is entitled to terminate the Contract for cause and AK Digital, LLC will reimburse all fees collected from Client for access to and use of the Platform Services on a pro rata basis of the term of the Contract still to run.

9. SUPPORT SERVICE LEVELS AND DUTY OF COOPERATION

9.1 Client Administrator notifies AK Digital, LLC via its web portal under <https://desk.zoho.eu/portal/runmyprocess> of any anomaly affecting the Platform Services by (a) description of the specific circumstances surrounding the anomaly observed by Client and/or its Users; and (b) designation of the Contract number of Client. AK Digital, LLC will take note of this twenty-four/seven (24/7).

9.2 AK Digital, LLC will begin handling an anomaly subject to Client Administrator's notification within four (4) hours following its receipt.

9.3 Resolution of anomalies

(a) With respect to Major Anomalies, the objective is to eliminate the Major Anomaly within twenty-four (24) hours following the start of handling, using any means, including restoration of the Platform Services by installation or supply of a provisional solution or a provisional or permanent update of the Platform Services.

Should the elimination of the Major Anomaly not be possible within twenty-four (24) hours, AK Digital, LLC will provide a resolution action plan to Client Administrator within twenty-four (24) hours following the start of handling. AK Digital, LLC will provide status updates to Client Administrator at the latest every twenty-four (24) hours or as specified in the resolution action plan.

(b) With respect to Minor Anomalies, the objective is to eliminate the Minor Anomaly within seventy-two (72) hours following the start of handling, using any means, including restoration

of the Platform Services by installation or supply of a provisional solution or a provisional or permanent update of the Platform Services.

Should the elimination of the Minor Anomaly not be possible within seventy-two (72) hours, AK Digital, LLC will provide a statement regarding the resolution of the problem to Client Administrator within seventy-two (72) hours following the start of handling

9.4 To benefit from the quality of the Platform Services to the best extent possible, Client should

- (a) (through Client Administrator) immediately report any anomaly to AK Digital, LLC and immediately send all necessary and useful information to identify or reproduce the anomaly; and
- (b) allow AK Digital, LLC to contact any User mentioned in Client Administrator's report (if necessary) to enable AK Digital, LLC to receive further useful information about the reported anomaly.

9.5 AK Digital, LLC may not be held liable for any anomaly pertaining to:

- (a) a hardware or software malfunction of one or more elements of the information system or network of Client;
- (b) improper use of the Platform Services by Client or its Users or contrary to its intended use pursuant to the Contract;
- (c) a refusal by Client to provide AK Digital, LLC with necessary information with respect to the resolution of anomalies;
- (d) an incompatibility between the Platform Services and hardware of Client or software implemented by Client or its Users without prior validation by AK Digital, LLC;
- (e) a breach in the electronic communication networks, a slowdown or saturation of the Internet;
- (f) a contamination of the information system of Client by a computer virus or malware;
- (g) a fraudulent intrusion in the computer systems of Client;
- (h) any unauthorized intervention of a Third Party on the Platform Services through a User account of Client; and
- (i) any voluntary act of damage, maliciousness, sabotage or deterioration, due to a case of force majeure.

9.6 Client is solely and exclusively liable for maintenance of the Client Applications, unless it concludes a specific agreement for this purpose with AK Digital, LLC.

10. Service Evaluation Period

10.1 Upon request by Client, AK Digital, LLC may grant to Client – in its sole discretion – a right of use for test and evaluation of the Platform Services for a period defined and agreed between the Parties in the Order Form, which may not exceed thirty (30) days. Sections 2.5, 8 and 9 do

not apply to such free use of Client for test and evaluation purposes. This also applies if the free trial is selected through AWS Marketplace.

10.2 Following the test and evaluation period of the Platform Services, all Client Content as well as Client Applications developed by the testing Client or its Users, may no longer be used, unless the testing Client has concluded the Contract subject to charge and paid AK Digital, LLC the corresponding fees for the Platform Services subscribed.

11. Fees, Default Payment, Blocking Of Platform Services

11.1 As defined in the Order Form, Client shall pay AK Digital, LLC or Reseller acting as AK Digital, LLC authorized agent for the payment annual fees for the use of the Platform Services.

The fees are calculated in accordance with the metrics and the term of subscription to the Platform Services as described in the Order Form.

11.2 Unless otherwise stipulated in the Order Form, invoices are due and payable at the latest thirty (30) days from the date of invoice. All prices would be in either Euros (EUR) or US Dollars (USD), excluding VAT and without rebate.

11.3 AK Digital, LLC shall have the right to block Client's and/or its Users' access to the Platform Services, if (a) Client is in default with agreed annual payments for the provision of the Platform Services; and (b) Client has not settled the outstanding payment after a renewed payment reminder within a reasonable time period set therein. In such payment reminder, AK Digital, LLC (or Reseller on behalf of AK Digital, LLC) shall notify Client about the consequences of blocking access to the Platform Services, if Client should not comply with the payment request within the deadline set in the payment reminder. AK Digital, LLC shall unblock Client's and/or its Users' access to the Platform Services, as soon as the outstanding payment of Client has been settled.

For payments past due, Client shall pay AK Digital, LLC interest at lesser of 1.5% per month or the highest rate available under applicable law, due on the due date of the next invoice.

11.4 Offsetting by Client is excluded, unless its counterclaim is legally established, ready for decision or undisputed.

11.5 Rights of retention and/or rights to refuse performance on the part of Client are excluded with the exception of undisputed or legally established counter claims.

Note:

- Section 11.1 is also applicable for the purchase made from AWS Marketplace.
- Section 11.2 is not applicable for purchase made from AWS Marketplace as the AWS Marketplace may take Advance Payment.

12. Term And Termination

12.1 The Contract becomes effective as of the date of signature by the Parties of the Order Form. The minimum term of the Contract is set out in the Order Form and shall automatically renew for an extension term of twelve (12) months, until either Party terminates the Contract ninety (90) days before the expiration of the minimum term or applicable extension term.

12.2 Each Party's right to terminate the Contract for cause remains unaffected.

(a) Each Party may in particular terminate the Contract for cause at any time, if

(i) the other Party is merged, consolidated, sells all or substantially all of its assets or essential parts of its assets, respectively implements or suffers a significant change in its management or control and this course of events (with a reasonable approach) can have negative effects on the Contract;

(ii) insolvency proceedings are initiated against the other Party;

(iii) the other Party is liquidated or dissolved; or

(b) AK Digital, LLC may in particular terminate the Contract for cause at any time, if the requirements of Section 11.3 are given.

(c) Client may in particular terminate the Contract for cause at any time, if the requirements of Section 8.3(d) are triggered.

(d) are triggered.

12.3 The notice of termination requires written form in order to be effective.

Note: For the purchase made from AWS Marketplace, renewal will be handled directly by AWS Marketplace, which may include renewal reminder or autorenewal as per AWS policy at that point in time.

13. Reversibility

In the event of expiry or termination of the Contract for any reason, AK Digital, LLC shall maintain a limited access of Client to the Platform Services without any additional fees and for a maximum term of sixty (60) days for the sole purpose of allowing Client to reclaim all Client Content and Client Applications hosted within the Platform Services. Beyond the aforementioned maximum term, all Client Content and Client Applications will be destroyed. AK Digital, LLC will retain any document pertaining to the Service provided to the Client, including any copy of programs, documentation, data, etc. for a term of 30 calendar days from expiry or termination of the Contract for any reason whatsoever (including where applicable reversibility services).

After this period, and notwithstanding any counter-instruction from the Client, AK Digital, LLC will destroy all of this information and not retain any copy. Notwithstanding that which precedes, AK Digital, LLC may retain a copy of any document required to fulfil its legal obligations.

14. Confidentiality

14.1 Pursuant to the Contract, the Parties may disclose or otherwise make available to each other Confidential Information.

14.2 Except as otherwise expressly provided in the Contract, neither Party receiving Confidential Information of the other Party may disclose it to any Users and Third Parties without the prior explicit approval (in written or text form) of the disclosing Party, except to the receiving Party's own employees, directors, consultants, affiliates and service providers to the extent and to whom disclosure is necessary to fulfil the purposes set forth in the Contract and who agree to keep the Confidential Information of the disclosing Party confidential with an equal level of confidentiality as provided in this Section 14.

14.3 The Contract imposes no obligation on the receiving Party with respect to Confidential Information of the disclosing Party that the receiving Party can establish

(a) was in the possession of or was known by the receiving Party prior to its receipt from the disclosing Party without an obligation to maintain its confidentiality;

(b) is or becomes generally known to the public without violation of the Contract;

(c) is obtained by the receiving Party from a Third Party without an obligation to keep such information confidential;

(d) is independently developed or created by the receiving Party;

(e) has to be disclosed pursuant to legal proceedings or otherwise required by law.

14.4 This Section 14 shall continue to apply subsequent to the termination of the Contract for five (5) years.

14.5 Each Party must, without undue delay, destroy, erase or return to the other Party all Confidential Information (including any duplicates), if requested to do so by the other Party upon termination of the Contract.

15. Data Protection

AK Digital, LLC qualifies as data processor (Art. 4 no. 8 GDPR) and – in this capacity – processes Client Data on behalf of Client in accordance with Schedule DPA. As data controller (Art. 4 no. 7 GDPR) Client is and remains responsible for the legality of processing Client Data.

16. Liability

16.1 AK Digital, LLC liability for free-of-charge services is limited to any damages caused by wilful intent and gross negligence.

16.2 AK Digital, LLC liability for chargeable services is limited as follows:

(a) AK Digital, LLC is fully liable for any direct damage in the case of wilful intent or gross negligence. Any liability for indirect damages suffered by Client is excluded (such as: loss of

data, inaccuracy or corruption of data, economic prejudice, loss of clientele, loss of prospective clients, loss of commercial earnings, legal action by a third party against Client, loss of opportunity, loss of image, etc).

(b) AK Digital, LLC is liable for simple negligence only in case of any damage to life, body or health or in case of breach of a material contractual duty, the fulfilment of which is essential to proper performance of the Contract or the violation of which compromises attainment of the Contract's purpose and on compliance with which Client relies or may rely as a matter of course (so-called cardinal duty). In the case of a negligent breach of cardinal duties, liability of AK Digital, LLC shall be limited to foreseeable damages typical of the Contract.

In that context, AK Digital, LLC liability shall be limited to the double amount of Client's payments made for the provision, operation and use of the Platform Services for a period of twelve (12) months.

17. Indemnification

17.1 Client shall indemnify AK Digital, LLC from all Third Party and/or User claims (and the resulting reasonable attorney and court fees), which are based on one of the following infringements or contractual violations by Client and/or its Users:

(a) The violation of any provision of the Contract by Client and/or its Users; or

(b) the complaint of a User and/or Third Party that Client Content and/or Client Applications violate the intellectual property rights of others (e.g. copyrights and ancillary copyrights, patents, trademarks, company symbols, work titles or designs etc.), other rights (e.g. personal rights or rights to one's own image etc.) or applicable law and regulations.

This Section 17.1(b) does not apply, if subject of the complaint are (a) Client Applications developed by AK Digital, LLC for Client; or (b) Runtimes of Client Applications.

17.2 In the event of a User and/or Third Party claim pursuant to Section 17.1, Client shall – upon AK Digital, LLC request – immediately, truthfully and completely provide AK Digital, LLC with all information required for the examination of the claim and its legal defence.

17.3 AK Digital, LLC ensures that the Platform Services are free of User and Third-Party rights, which significantly impair or exclude the use of the Platform Services according to the extent stipulated in the Contract. This does not apply to open-source software components, which are integrated and used within the Platform Services.

17.4 Should the use of the Platform Services in accordance with the provisions of the Contract be impaired by User or Third-Party intellectual property rights, then AK Digital, LLC shall be entitled to (a) modify the Platform Services in a reasonable manner for Client, so that it falls outside the scope of protection of the affected User or Third-Party intellectual property right; (b) obtain an authorization, so that the Platform Services can be used in accordance with the provisions of the Contract without restriction and at no additional costs for Client; or (c) withdraw from the Contract.

17.5 In case of any assertion of such User or Third-Party claims pursuant to Section 17.4, AK Digital, LLC shall indemnify Client from unappealable costs and compensation claims, if Client does not withdraw from the Contract and under the proviso that Client:

- (a) has informed AK Digital, LLC immediately in writing of such claim;
- (b) gives AK Digital, LLC sole control over the defence and the associated actions (e.g. negotiations); and
- (c) provides AK Digital, LLC with the necessary support, information and authorization (e.g. power of attorney) to carry out the aforementioned actions.

18. Variation

18.1 Modification of provisions of the Contract

With respect to the technological progress and the optimization of the Platform Services, AK Digital, LLC reserves the right to amend the provisions of the Contract, provided that such amendments are reasonable and acceptable to Client. Client Administrator shall be notified in advance of any such amendments in written or text form. Unless Client objects to such amendments (in written or text form) within ninety (90) days from receipt of the relevant notification, the amendments shall be deemed accepted by Client. AK Digital, LLC will explicitly inform Client about this condition at the time of the relevant notification. In cases of amendments of the Contract, Client is also entitled to terminate the Contract with immediate effect.

18.2 Modification of the Platform Services

AK Digital, LLC may make commercially reasonable updates to the Platform Services regularly. If AK Digital, LLC makes a material change to the Platform Services, AK Digital, LLC will inform Client about such change in advance.

18.3 Deprecation of Platform Services functionality (“Deprecation Policy”)

AK Digital, LLC will announce, if it intends to discontinue or make backwards incompatible changes to the Platform Services. The time frame between the announcement and the implementation of the change depends on the magnitude of change. The announcements contain all relevant information to react to this change, such as the exact date when the change will be implemented and a description of the change.

Any versions, features, or functionality of the Products or Services labelled “Early Access”, “Alpha”, or “Beta” are excluded from this Deprecation Policy.

19. Links

Except for websites on which AK Digital, LLC provides the Platform Services, AK Digital, LLC is not liable for the content or privacy practices of any websites to which the websites of the Platform Services provide links. Any reference to such links cannot be interpreted as an

endorsement, authorization or recommendation by AK Digital, LLC with regard to the owners or operators of the linked websites or the content of the linked websites.

20. Final Provisions

20.1 Notwithstanding any prior written agreement, Client refrains from recruiting or employing, directly or indirectly, any employee or sub-contractor of AK Digital, LLC for the entire term of the Contract and for twenty-four (24) months following its end, with any breach of this provision resulting in full compensation of any claims to AK Digital, LLC.

20.2 Client expressly authorizes AK Digital, LLC to cite and publish its company name and logo in the framework of AK Digital, LLC promotion of the Platform Services in any promotional online and offline documentation.

20.3 The Contract and all claims arising out of or related to the Contract will be governed solely by the laws of the State of Texas, including without limitation applicable federal law, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The party's consent to the personal and exclusive jurisdiction of the federal and state courts of Dallas, Texas. This Section governs all claims arising out of or related to this Agreement, including without limitation tort claims.

20.4 All modifications to the Contract require written form. This shall also apply for any modifications of this written form requirement.

20.5 THE EXCLUSIVE VENUE AND JURISDICTION REGARDING ALL DISPUTES ARISING OUT OF OR ASSOCIATED WITH THE CONTRACT AND THE PLATFORM SERVICES ARE THE COURTS OF DALLAS, TEXAS.

20.6 Should any provision in the Contract be found invalid, unenforceable or unlawful, this will not affect the full validity of the remaining provisions herein.

20.7 In the case of any conflict or ambiguity between different provisions, the following shall apply:

(a) In case of a conflict or ambiguity between any provision of the Order Form and any provision of the General Terms and Conditions, the Order Form shall prevail.

(b) In case of a conflict or ambiguity between any provision contained in the body of Schedule DPA and any provision contained in its Annexes, the provision in the body of Schedule DPA shall prevail.

(c) In case of a conflict or ambiguity between any of the provision of Schedule DPA and the provisions of the Contract, the provision of Schedule DPA shall prevail to the extent that applicable data protection law is affected, if not the provision of the Contract shall prevail.

(d) In case of conflict between the Contract and other contract concluded for the good execution of the Service (e.g.: professional service agreement, MSA), the other contract shall prevail.