

## **STOK.LY'S TERMS AND CONDITIONS**

This agreement is made up of the following:

- (a) The Order Form
- (b) These Terms and Conditions
- (c) The Schedules

### **Document precedence**

If there is any conflict or ambiguity between the terms of the documents listed above, the following order of precedence shall apply:

- (a) any Schedule, but only in respect of the subject matter of that Schedule;
  - (b) these Terms and Conditions;
  - (c) the Order Form.
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### **Agreed terms**

The Customer's attention is particularly drawn to clauses 6.3 (Quality), 7.2 (Customer Data), 8.2 (Stok.ly's obligations), 13.5 (Customer Indemnity – AI Output), 14 (Limitation of Liability), and 18 (Entire Agreement).

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## **1 Interpretation**

1.1 The definitions and rules of interpretation in this clause apply in this agreement.

### **Ancillary Fees**

as defined in clause 10.4.

### **AI Functionality**

any artificial intelligence, machine learning, generative or automated decision-making features or tools made available by Stok.ly as part of the Services, including any conversational assistants, recommendations, forecasts or automation tools.

### **AI Output**

any text, images, recommendations, predictions, analyses, configurations, or other content or results generated by or with the assistance of the AI Functionality based on inputs provided by or on behalf of the Customer (including by Authorised Users).

### **Authorised Users**

those employees of the Customer from time to time.

### **Confidential Information**

information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information.

**Customer Data**

the data inputted by the Customer, Authorised Users, or Stok.ly on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

**Commercial Warranty**

as defined in clause 6.3.3.

**Commercial Warranty Period**

as detailed in the Order Form.

**Commercial Warranty Fees**

as detailed in the Order Form.

**Documentation**

the documentation made available to the Customer by Stok.ly via e-mail and/or online via a web address notified by Stok.ly to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

**Effective Date**

the date of this agreement as indicated in the Order Form.

**Hardware**

Terminals, cash drawers, printers, barcode scanners, PDAs etc. which the Customer may purchase from Stok.ly in accordance with clause 6.

**Hardware Fees**

the fees for the Hardware.

**Initial Subscription Term**

the initial term of this agreement as set out in the Order Form.

**Onboarding**

the period during which Stok.ly assists the Customer in preparing to use the Services, including data import, system configuration, and training.

**Implementation**

has the same meaning as Onboarding.

**Onboarding Scope**

the specific tasks, training sessions, and support provided by Stok.ly as detailed in the Order Form "onboarding scope" schedule or otherwise agreed in writing between the parties.

**Licence Keys**

the key that connects the Software to hardware used by the Customer and that allows the Customer to use the Services.

**Rollover Period**

as defined in clause 15.

**Services**

the subscription services provided by Stok.ly to the Customer under this agreement.

**Software**

the online software applications provided by Stok.ly as part of the Services.

**Subscription Fees**

the subscription fees payable by the Customer to Stok.ly as set out in the Order Form.

**Subscription Term**

the Initial Subscription Term and any Rollover Period (as defined in clause 15).

**Subscription Start Date**

the date on which the Customer's subscription to the Services begins, as specified in the Order Form.

**Support**

as detailed in the Order Form.

**Terminal**

a point-of-sale terminal sold by Stok.ly to the Customer or Handheld PDA sold by Stok.ly to the Customer.

**Third Party AI Provider**

any third party provider of artificial intelligence or machine learning technology that Stok.ly uses in connection with the AI Functionality from time to time.

**Terms and Conditions**

the terms and conditions set out in clause 1 to 22 (inclusive).

**Training**

as detailed in the Order Form (if applicable).

**Virus**

any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user-experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.3 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

1.4 A reference to writing or written includes e-mail but not fax.

## **2 Onboarding and Implementation**

2.1 During the Onboarding period, the parties shall carry out their respective tasks and responsibilities as set out in the Onboarding Scope.

2.2 The Customer shall provide Stok.ly with all required data in a format that matches the Stok.ly CSV import templates as provided by Stok.ly.

2.3 The Customer shall ensure that all data provided to Stok.ly for import into the Services (“Onboarding Data”) is complete, accurate, up to date and “clean”, including (without limitation) that it is free from:

2.3.1 conflicting records (for example, multiple records for the same product, customer or supplier with inconsistent attributes);

2.3.2 unnecessary redundancies or obsolete records which the Customer does not wish to migrate; and

2.3.3 unintended duplication, formatting errors, invalid codes or other quality issues that would affect the correct operation of the Services.

2.4 The Customer acknowledges that Stok.ly’s responsibility in respect of Onboarding Data is limited to importing such data into the Services in accordance with the Onboarding Scope and the agreed Stok.ly CSV import templates. Unless expressly stated otherwise in the Onboarding Scope or in a Schedule, Stok.ly shall not be responsible for:

2.4.1 cleaning, deduplicating, reconciling or otherwise improving the quality of Onboarding Data;

2.4.2 resolving data conflicts or inconsistencies between different source systems or files; or

2.4.3 restructuring, remapping or reformatting Onboarding Data beyond what is required to carry out the agreed import using the Stok.ly CSV import templates.

2.5 For the avoidance of doubt, unless specifically agreed in a Schedule and/or the Onboarding Scope:

2.5.1 any data cleansing, data manipulation, transformation, enrichment, deduplication, or conflict resolution services shall be outside the scope of the Services; and

2.5.2 if the Customer requests Stok.ly to perform any such services, they shall be

chargeable at Stok.ly's then-current professional services rates and agreed in writing between the parties.

2.6 The Customer shall ensure that Onboarding Data is provided in a timely manner when requested by Stok.ly and in accordance with any timelines set out in the Onboarding Scope.

2.7 The Customer acknowledges that delays in providing Onboarding Data, providing it in the required format, or resolving data quality issues may result in delays to the Onboarding process and any planned "go live" dates. Stok.ly shall not be liable for any such delays.

2.8 Stok.ly shall provide the Customer with a detailed training schedule as part of the Onboarding Scope.

2.9 The Customer is responsible for ensuring that all relevant team members are invited to and attend scheduled training sessions provided by Stok.ly.

2.10 Stok.ly shall provide the Customer with recordings of all scheduled training sessions.

2.11 Once the scheduled training sessions have been delivered and recordings provided to the Customer, no further training sessions shall be provided within the agreed Onboarding Scope.

2.12 Any additional or repeat training sessions requested by the Customer shall be chargeable at Stok.ly's then-current half-day or full-day training rates.

2.13 The Customer is responsible for inviting and ensuring the attendance of all relevant team members to scheduled training sessions provided by Stok.ly, whether online or in person. For the avoidance of any confusion, this responsibility lies solely with the Customer.

2.14 The Customer shall review and test any sample or trial imports of Onboarding Data provided by Stok.ly during Onboarding and shall promptly notify Stok.ly of any errors that it wishes Stok.ly to correct. The Customer's confirmation (whether in writing or via email) that it is satisfied with the imported data, or its decision to proceed to "go live", shall be deemed to be the Customer's acceptance that the imported Onboarding Data is suitable for its intended use.

2.15 Stok.ly shall not be liable for any loss, damage, errors in processing, reporting or decision-making, or other issues arising from or related to the quality, completeness, accuracy, conflicts, redundancies or duplication of Onboarding Data supplied by the Customer, whether identified before or after "go live".

2.16 Stok.ly will use reasonable skill and care when running its data import tools to import Onboarding Data in the agreed Stok.ly CSV import templates into the Services. The Customer acknowledges that:

2.16.1 the outcome of any data import is dependent on the structure, consistency and quality of the Onboarding Data provided by the Customer; and

2.16.2 Stok.ly does not warrant that every field or attribute within the Onboarding Data will be mapped in a manner identical to the Customer's legacy system or expectations where such mapping is not expressly documented in the Onboarding Scope or the Stok.ly CSV import templates.

2.17 If, and to the extent that, Stok.ly fails to follow the agreed Stok.ly CSV import templates or the Onboarding Scope and this causes an error in the imported data which is materially adverse to the Customer, Stok.ly's sole obligation and the Customer's exclusive remedy shall be for Stok.ly to, at its option: (a) re-perform the relevant import using corrected settings; or (b) correct the specific data records affected by such error. Stok.ly shall not be liable for any additional costs, loss of profits, loss of opportunity, or other consequential or indirect losses arising from any such import error.

### **3 Scope and Responsibilities of Onboarding / Implementation**

3.1 As part of the agreement between the parties, Stok.ly shall provide onboarding and implementation services as detailed in the agreed Onboarding Scope. The Onboarding Scope will include a breakdown of specific tasks required to prepare the Customer for live use of the Services, and each task will be assigned as the responsibility of either the Customer or Stok.ly.

3.2 The Onboarding Scope may include, but is not limited to, the following tasks:

- (a) Import and linking of products with relevant eCommerce Channels;
- (b) Configuration of Customers and associated pricing;
- (c) Configuration of B2B customers, pricing, and associated documents/emails;
- (d) Configuration of the Warehouse;
- (e) Configuration and testing of Stock Apps;
- (f) Creation and testing of Fulfilment Rules and Pick List Rules;
- (g) Configuration and testing of courier integrations and label printing;
- (h) Integration of custom reports and dashboards;
- (i) Development of custom reports and dashboards;
- (j) Writing and testing of Purchasing and Replenishment Rules;

- (k) Configuration and testing of Manufacturing features;
- (l) Configuration and testing of Custom Documents and Labels;
- (m) Configuration and testing of Accounting integrations.

(n) Configuration and training of the AI Functionality

3.3 Each task shall be allocated either to Stok.ly or to the Customer and responsibilities clearly communicated in writing. Both parties shall use reasonable endeavours to complete their assigned tasks in a timely manner to avoid delays to the Onboarding timeline and planned go-live dates.

3.4 Stok.ly shall not be liable for any delay to onboarding or go-live dates resulting from failure by the Customer to complete their assigned tasks in a timely and accurate manner, or to respond to requests for information, data or approvals.

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## **4 Services**

4.1 Stok.ly shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this agreement.

4.2 Stok.ly shall use commercially reasonable endeavours to make the Services available 24 hours a day, 7 days a week, except for planned maintenance carried out at times notified to the Customer in advance and emergency maintenance which is likely to be carried out at short notice.

4.3 Stok.ly will, if selected in the Order Form, provide the Customer with the Support and/or the Training in consideration of the Ancillary Fees (if applicable).

4.4 The Customer acknowledges that some parts of the Services may include or rely on AI Functionality provided by Stok.ly and/or one or more Third Party AI Providers. Stok.ly may change, suspend or discontinue any AI Functionality at any time without liability, provided that this does not materially reduce the overall functionality of the Services during the then-current Subscription Term.

4.5 The Customer understands and agrees that AI Output is generated automatically based on patterns in data and may be:

4.5.1 factually incorrect, incomplete, outdated, internally inconsistent or otherwise unreliable;

4.5.2 misleading or “hallucinatory” (including where the AI Output appears confident but is inaccurate or unrelated to the Customer’s prompt);

4.5.3 biased or reflective of societal or data-driven biases; and/or

4.5.4 offensive, inappropriate, profane, discriminatory, racist, sexist, homophobic or otherwise harmful, despite safeguards being in place.

4.6 The Customer acknowledges that AI Output:

4.6.1 is provided for general information and assistance only and does not constitute professional advice (including without limitation legal, tax, accounting, financial, medical, safety or HR/employment advice); and

4.6.2 must not be relied upon in any context where inaccurate or inappropriate content could cause serious harm without appropriate human review, verification and oversight by the Customer.

4.7 The Customer is solely responsible for:

4.7.1 reviewing, verifying and validating all AI Output before relying on it;

4.7.2 independently confirming any information that is important to the Customer or to any third party; and

4.7.3 determining whether and how to use, act on, store, modify or share any AI Output (including with the Customer's own customers, staff, suppliers or other third parties).

4.8 To the fullest extent permitted by law, Stok.ly shall have no liability for:

4.8.1 any inaccuracy, omission, hallucination, bias or error in AI Output;

4.8.2 any decision, action, omission or failure to act by the Customer or any third party in reliance on AI Output; or

4.8.3 any loss, damage, claim, cost or expense arising out of or in connection with the Customer's use of or reliance on AI Output,

in each case subject always to clause 14.2 and clause 14.6.

4.9 The Services may enable the Customer to connect to or integrate with third-party platforms, marketplaces, couriers, accounting systems, payment providers or other third-party services ("Third-Party Services"). Stok.ly does not control and is not responsible for any Third-Party Services.

4.10 The Customer is solely responsible for:

4.10.1 obtaining and maintaining any accounts, subscriptions, licences, approvals and credentials required to access any Third-Party Services;

4.10.2 ensuring that its use of any Third-Party Services complies with the applicable terms and conditions of the relevant third-party provider; and

4.10.3 the acts and omissions of any Third-Party Services and any data, content, settings, configurations or changes supplied by or through them.

4.11 Stok.ly does not warrant or guarantee the availability, performance or behaviour of any Third-Party Services, or that any integration with Third-Party Services will be

uninterrupted or error free. Third-Party Services may change, suspend or discontinue their APIs, features or terms at any time.

4.12 To the fullest extent permitted by law, Stok.ly shall have no liability for any unavailability, suspension, modification, malfunction, incorrect data, delay, error or loss arising from or in connection with any Third-Party Services, any integration with Third-Party Services, or any decision or action taken by the Customer in reliance on data originating from a Third-Party Service.

4.13 If a Third-Party Service, or its API, ceases to be available on reasonable commercial terms, Stok.ly shall be entitled to suspend or discontinue the relevant integration on reasonable notice (which may be short notice where the change is imposed by the third party), without liability to the Customer, provided that this does not materially frustrate the overall purpose of this agreement.

#### **4A Support**

4A.1 “Support” means the standard technical support services described in the Order Form and/or Documentation, which may include access to an online helpdesk, live chat, phone support, email or ticket-based support, and the provision of error corrections, workarounds and general usage guidance for the Services.

4A.2 Unless expressly stated otherwise in the Order Form or a Schedule, Support does not include:

4A.2.1 onsite services, bespoke training, or end-user training for the Customer’s staff;

4A.2.2 data cleansing, data migration, data import, or reconciliation activities;

4A.2.3 bespoke configuration, custom development, custom integrations, or report/dashboard building beyond any items expressly included in the Onboarding Scope;

4A.2.4 performance tuning, consultancy, solution design, or project management services; or

4A.2.5 support for any third-party products, services, hardware, networks, or software not supplied by Stok.ly.

4A.3 Any services requested by the Customer which fall outside the definition of Support in clause 4A.1 (or which are excluded under clause 4A.2) shall, if agreed to by

Stok.ly, be chargeable at Stok.ly's then-current professional services rates, unless otherwise agreed in writing.

4A.4 Stok.ly will use reasonable endeavours to respond to Support requests within the general response times (if any) described in the Order Form or Documentation, but unless expressly stated otherwise such response times are targets only and not guarantees. Stok.ly does not warrant any particular resolution time for Support issues.

4A.5 The Customer shall co-operate with Stok.ly in the provision of Support, including by:

4A.5.1 providing sufficient detail and information for Stok.ly to reproduce and investigate any reported issue;

4A.5.2 implementing any fixes, patches, updates or workarounds supplied by Stok.ly within a reasonable time; and

4A.5.3 ensuring that its systems, networks, hardware and third-party services meet any minimum requirements specified by Stok.ly from time to time.

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## **5 Licence Keys**

5.1 Subject to the Customer paying for the Licence Keys in accordance with clause 10, the restrictions set out in this clause 5 and the other terms and conditions of this agreement, Stok.ly hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.

5.2 The Customer may purchase additional Licence Keys during the Subscription Term providing the parties agree, in writing, an increase in the Subscription Fees due. The revised Subscription Fees shall be payable for the remainder of the Initial Subscription Term (if applicable) and in the Rollover Period thereafter (if applicable).

5.3 In relation to the Authorised Users, the Customer undertakes that each Authorised User shall keep a secure password for his use of the Services and Documentation and that each Authorised User shall keep his password confidential.

5.4 The Customer shall not, and shall not allow any Authorised user to, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, and Stok.ly reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

5.5 The Customer shall not, nor allow any Authorised User to:

5.5.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:

- (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
- (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

5.5.2 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

5.5.3 use the Services and/or Documentation to provide services to third parties; or

5.5.4 subject to clause 19.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or

5.5.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 5.

5.6 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Stok.ly.

5.7 The rights provided under this clause 5 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

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## **6 Hardware**

### **6.1 Orders**

6.1.1 The Customer may place a written order for Hardware at any time. Stok.ly may accept or decline orders at its absolute discretion.

6.1.2 If Stok.ly accepts an order, a binding agreement shall come into place for the sale of Hardware on the terms of this clause 6 and clauses 10 (Charges), 12 (Confidentiality), 14 (Limitation of Liability), 15.2 (Termination), 15.3 (Consequences of Termination), 15.4 (Consequences of Termination), 16 (Force Majeure), 17 (Variation), 18 (Entire Agreement), 19 (Assignment), 20 (Third Party Rights), 21 (Notices) and 22 (Governing Law and Jurisdiction).

### **6.2 Delivery**

6.2.1 Stok.ly shall endeavour to deliver the Hardware to the Customer's premises. Delivery is completed on the completion of unloading of the Hardware at the Customer's premises.

6.2.2 Delivery dates are approximate only, and the time of delivery is not of the essence. Stok.ly shall not be liable for any delay in delivery of any Hardware that is caused by the Customer's failure to provide Stok.ly with adequate delivery instructions or any other instructions that are relevant to the supply of the Hardware.

### **6.3 Quality and fitness for purpose**

6.3.1 Stok.ly warrants that at the date of delivery, the Hardware shall:

- (a) conform in all material respects with their description;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

6.3.2 Subject to clause 6.3.5, if the Customer gives notice in writing to Stok.ly within 7 days of delivery that some or all of the Hardware does not comply with the warranties set out in clause 6.3.1, Stok.ly shall at its option, repair or replace any Hardware that is evidenced found to be defective.

6.3.3 If there is a technical fault with a Terminal after the 7-day period mentioned in clause 6.3.2 and the Customer has opted for the Stok.ly Commercial Warranty in the Order Form, Stok.ly shall replace the Terminal within 24 hours of receiving the faulty Terminal back from the Customer providing:

- (a) the Customer returns the faulty Terminal in its original packaging; and
- (b) tests by Stok.ly on the faulty Terminal reveal a technical fault, rather than any of the issues referred to in 6.3.5.

6.3.4 The Customer shall be entitled to receive a maximum of two new Terminals under the Stok.ly Commercial Warranty during the Commercial Warranty Period. The Commercial Warranty shall expire after the end of the Commercial Warranty Period or the expiry or termination of the Subscription Term, whichever is sooner.

6.3.5 Stok.ly shall not be liable for any Hardware failing to comply with the warranties set out in clause 6.3.1 or the Commercial Warranty if the defect is due to the actions of the Customer that are not in line with written or verbal instructions of Stok.ly, the Customer's attempts to repair, or fair wear and tear.

6.3.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

6.3.7 The terms of this clause and the clauses listed in clause 6.1.2 shall apply to any repaired or replacement Hardware supplied by Stok.ly.

### **6.4 Title and risk**

6.4.1 Risk in Hardware shall pass to the Customer on completion of loading the Hardware at the Customer's premises.

6.4.2 Title to Hardware shall only pass to the Customer once Stok.ly receives payment in full (in cash or cleared funds) for them.

6.4.3 Until title to the Hardware has passed to the Customer, the Customer shall:

(a) store the Hardware in such a way that it remains readily identifiable as Stok.ly's property;

(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Hardware;

(c) maintain the Hardware in satisfactory condition and keep it insured against all risks for their full price from the date of delivery;

(d) notify Stok.ly immediately if it becomes subject to any of the events listed in clauses 15.2.3 and 15.2.4; and

(e) give Stok.ly such information relating to the Hardware as Stok.ly may require from time to time.

6.4.4 Stok.ly may recover Hardware in which title has not passed to the Customer. The Customer irrevocably licenses Stok.ly, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in clause 6.4.3, and to recover any Hardware in which property has not passed to the Customer.

## **6.5 Price and payment for Hardware**

6.5.1 If Hardware is ordered before the Subscription Start Date, the Customer acknowledges that the Hardware Fees, unless otherwise agreed between parties in the Order Form, shall be reflected in the agreed Subscription Fees applicable to the Initial Subscription Term only and payable in accordance with the Subscription Fee payment terms in clause 10. After the last payment of the Initial Subscription Term, title in the Hardware shall pass to the Customer.

6.5.2 If the Customer orders any Hardware after the Subscription Start Date, the parties shall agree separate payment terms for the Hardware (which may include, by way of example only, an increase to the Subscription Fees due for the remainder of the Initial Subscription Term, in which case title will not pass in the Hardware until the last payment of the Initial Subscription Term). For the avoidance of doubt, regardless of the payment terms agreed between the parties under this clause, clauses 10.6, 10.7, and 10.8 shall still apply.

## **7 Customer Data**

7.1 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

7.2 Stok.ly shall follow archiving procedures for Customer Data. Stok.ly shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Stok.ly to perform services related to Customer Data maintenance and back-up for which it shall remain responsible).

7.3 Both parties will comply with all applicable requirements of the Data Protection Laws (as defined in Schedule 1) and their obligations contained in Schedule 1. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Laws.

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## **8 Stok.ly's obligations**

8.1 Stok.ly undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care. Stok.ly employees may enter the customer's Stok.ly account at any time to perform the Services agreed to by the Customer.

8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Stok.ly's instructions, or modification or alteration of the Services by any party other than Stok.ly or Stok.ly's duly authorised contractors or agents. Notwithstanding the foregoing, Stok.ly:

8.2.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

8.2.2 is not responsible 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 the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.3 Stok.ly warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

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## 9 Customer's obligations

9.1 The Customer shall:

9.1.1 provide Stok.ly with all necessary co-operation in relation to this agreement in order to provide the Services, including but not limited to Customer Data, security access information, configuration services and access to the Customer's account;

9.1.2 without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement;

9.1.3 ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;

9.1.4 ensure that its network and systems comply with the relevant specifications provided by Stok.ly from time to time; and

9.1.5 be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Stok.ly'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.

9.1.6 ensure that any use of the AI Functionality by the Customer and Authorised Users is subject to appropriate human review and oversight, particularly in any context where errors or inappropriate content could give rise to legal, financial, operational, safety or reputational consequences;

9.1.7 not use (and shall ensure Authorised Users do not use) the AI Functionality to generate, upload, store, transmit or disseminate any content which is unlawful, infringing, defamatory, harassing, discriminatory, hateful, obscene, sexually explicit, threatening or otherwise in breach of applicable law or regulation;

9.1.8 not deliberately prompt or encourage the AI Functionality to produce offensive, racist, sexist, homophobic, hateful, violent or otherwise inappropriate content;

9.1.9 promptly cease using and, where reasonably practicable, delete or suppress any AI Output that the Customer considers offensive, inappropriate, discriminatory, harmful or otherwise unsuitable for its intended use, and promptly notify Stok.ly so that Stok.ly can investigate and, where appropriate, use such information to improve filters and safeguards.

9.1.10 use the Services, including the AI Functionality, only in accordance with the Documentation, Stok.ly's reasonable written or published instructions, and in a manner consistent with the intended purpose of the Services;

9.1.11 not attempt to circumvent, disable or otherwise interfere with any security, usage-limiting, content-filtering or safety mechanisms incorporated into the Services or the AI Functionality;

9.1.12 ensure that any configurations, business rules, thresholds, automation settings and other parameters which it selects or approves within the Services are appropriate for its business and are periodically reviewed by the Customer. The Customer acknowledges that Stok.ly is not responsible for any loss or damage arising from configurations or settings chosen by or on behalf of the Customer, except to the extent Stok.ly has expressly accepted responsibility for such configurations in the Onboarding Scope or a Schedule.

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## **10 Charges and payment**

10.1 The Customer shall pay the Subscription Fees to Stok.ly for the Licence Keys and, if applicable in accordance with clause 6.5, any Hardware in accordance with this clause 10.

10.2 In the event monthly billing is selected in the Order Form, the Customer shall on or before the Effective Date provide to Stok.ly valid, up-to-date and complete Direct Debit, credit or debit card details and the Customer authorises Stok.ly to bill such credit or debit card:

10.2.1 in advance on the Subscription Start Date for the Subscription Fees due that month; and

10.2.2 in advance for the Subscription Fees due monthly thereafter.

10.3 In the event lump sum is selected in the Order Form, the Customer shall on or before the Effective Date provide to Stok.ly valid, up-to-date and complete credit or debit card details and the Customer authorises Stok.ly to bill such credit or debit card:

10.3.1 in advance on the Subscription Start Date for the Subscription Fees due for the Initial Subscription Term; and

10.3.2 in the event the agreement enters a Rollover Period, monthly in advance for the Subscription Fees due.

10.4 The Customer shall pay the Installation, Training and Support fees (separately or together, Ancillary Fees) as per the Order Form:

10.4.1 if the 'lump sum' option for the Ancillary Fees is selected in the Order Form, Stok.ly shall bill the Customer's debit or credit card referred to in clauses 10.2 and 10.3 for the Ancillary Fees on the Subscription Start Date; or

10.4.2 if the 'built into Subscription Fees' option for the Ancillary Fees is selected in the Order Form, Stok.ly shall bill the Customer in accordance with clause 10.2.

10.5 If the Customer has opted for the benefit of the Commercial Warranty in the Order Form, Stok.ly shall bill the Customer's debit or credit card referred to in clauses 10.2 and 10.3 for the Commercial Warranty Fees on the Subscription Start Date.

10.6 If Stok.ly has not received payment of Subscription Fees, Ancillary Fees, Commercial Warranty Fees, Hardware Fees or any other fees due under this agreement within 14 days after the due date, and without prejudice to any other rights and remedies of Stok.ly:

10.6.1 Stok.ly may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and Stok.ly shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid;

10.6.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to the statutory rate referred to in the Late Payment of Commercial Debts (Interest) Act 1998, commencing on the day after the due date and continuing until fully paid, whether before or after judgment; and

10.6.3 Stok.ly may engage a third party debt collection agency to collect any of fees mentioned in this clause.

10.7 In the event of suspension of Services under clause 10.6.1, the Customer must pay Stok.ly an administration fee of £450 to cover Stok.ly's cost in unlocking the Services.

10.8 All amounts and fees stated or referred to in this agreement:

10.8.1 shall be payable in pounds sterling;

10.8.2 are, subject to express provisions in this agreement, non-cancellable and non-refundable;

10.8.3 are exclusive of value added tax, which shall be added to Stok.ly's invoice(s) at the appropriate rate.

10.9 At each renewal date as detailed in clause 14, the monthly licence fee may be increased by up to 8% of the licence fee applicable during the preceding 12-month period. Stok.ly shall provide the Customer with written notice of any such increase at least 90 days prior to the renewal date. In the absence of such notice, the licence fee for the forthcoming renewal period shall remain the same as the licence fee for the preceding 12-month period.

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## **11 Proprietary rights**

The Customer acknowledges and agrees that Stok.ly and/or its licensors own all intellectual property rights in the Services and the Documentation. Except as expressly

stated herein, this agreement does not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

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## **12 Confidentiality**

12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:

12.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

12.1.2 was in the other party's lawful possession before the disclosure; or

12.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure.

12.2 Subject to clause 12.3, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement or without the prior written consent of the other party.

12.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law or any regulatory authority.

12.4 The above provisions of this clause 12 shall survive termination of this agreement, however arising.

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## **13 Indemnity**

13.1 Stok.ly shall indemnify, defend and hold harmless the Customer, its officers, directors and employees against any claim that the Services or Documentation infringe any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

13.1.1 Stok.ly is given prompt notice of any such claim;

13.1.2 the Customer provides reasonable co-operation to Stok.ly in the defence and settlement of such claim, at Stok.ly's expense; and

13.1.3 Stok.ly is given sole authority to defend or settle the claim.

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13.2 In the defence or settlement of any claim, Stok.ly may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement on 10 working days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

13.3 In no event shall Stok.ly, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

13.3.1 a modification of the Services or Documentation by anyone other than Stok.ly; or

13.3.2 the Customer's or Authorised User's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Stok.ly; or

13.3.3 the Customer's or Authorised User's use of the Services or Documentation after notice of the alleged or actual infringement from Stok.ly or any appropriate authority.

13.4 The foregoing and clause 14.3.2 states the Customer's sole and exclusive rights and remedies, and Stok.ly's (including Stok.ly's employees, agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

13.5 The Customer shall indemnify, defend and hold harmless Stok.ly, its officers, directors, employees, agents and sub-contractors from and against any and all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:

13.5.1 any AI Output that the Customer or any Authorised User chooses to rely on, act upon, store, publish, share or otherwise use;

13.5.2 any prompts, inputs or other data provided to the AI Functionality by or on behalf of the Customer or any Authorised User;

13.5.3 any use of the AI Functionality or AI Output by or on behalf of the Customer or any Authorised User in breach of this agreement (including clauses 4, 5, 7 and 9); or

13.5.4 any allegation that content generated, uploaded or disseminated by the Customer or any Authorised User (including any AI Output) infringes the intellectual property or other rights of a third party, is defamatory or otherwise unlawful.

13.5.5 any use of the Services by or on behalf of the Customer which is (i) contrary to the Documentation, (ii) contrary to Stok.ly's reasonable written or published instructions, or (iii) otherwise outside the intended purpose of the Services.

13.6 This clause 13.5 is without prejudice to, and shall be read together with, the limitations and exclusions of liability in clause 14.

## **14 Limitation of liability**

14.1 Except as expressly and specifically provided in this agreement:

14.1.1 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and

14.1.2 the Services and the Documentation are provided to the Customer on an "as is" basis.

14.2 Nothing in this agreement excludes the liability of Stok.ly:

14.2.1 for death or personal injury caused by Stok.ly's negligence; or

14.2.2 for fraud or fraudulent misrepresentation.

14.3 Subject to clause 14.1 and clause 14.2:

14.3.1 Stok.ly shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:

(a) loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss; or

(b) special, indirect or consequential loss, costs, damages, charges or expenses however arising under this agreement.

14.3.2 Stok.ly's total aggregate liability in contract (including in respect of the indemnity at clause 13.1), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement shall be limited to the total Subscription Fees paid as at the date on which the claim arose.

14.4 Without prejudice to clause 14.3 and to the fullest extent permitted by applicable law, Stok.ly shall not be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, for:

14.4.1 any loss, damage, cost or expense arising from or relating to any AI Output (including inaccurate, incomplete, misleading, biased, hallucinatory, offensive, discriminatory, obscene or otherwise inappropriate AI Output); or

14.4.2 any decision, action, omission or failure to act by the Customer or any third party in reliance on AI Output.

14.5 The Customer irrevocably agrees that, to the fullest extent permitted by law, it shall not bring, participate in or assist any claim, action or proceeding (whether in contract, tort (including negligence), misrepresentation, restitution or otherwise) against Stok.ly which is based solely on the ground that:

14.5.1 AI Output was offensive, discriminatory, obscene, profane, hateful or otherwise inappropriate; or

14.5.2 Stok.ly failed to prevent or remove such AI Output,

and the Customer waives any right it may otherwise have to do so, except to the extent such waiver is prohibited by applicable law.

14.6 Nothing in this clause 14 shall limit or exclude any liability which cannot be limited or excluded under applicable law, including liability referred to in clause 14.2.

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## **15 Term and termination**

15.1 This agreement shall, unless otherwise terminated as provided in this clause 15, commence on the Effective Date and shall continue for the Installation Period, the Initial Subscription Term and shall automatically renew for a further 12-month period on the same terms and conditions, including the current licence fee. Thereafter, the agreement will continue to automatically renew for successive 12-month periods at the end of each renewal period unless either party provides written notice of its intention not to renew at least 90 days prior to the end of the then-current term, in accordance with this clause 15, unless:

15.1.1 either party notifies the other party of termination, in writing, at least 90 days before the end of the Current Subscription Term, in which case this agreement shall terminate upon the expiry of the Current Subscription Term;

15.1.2 otherwise terminated in accordance with the provisions of this agreement.

15.2 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:

15.2.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;

15.2.2 the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

15.2.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986; or

15.2.4 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15.3 On termination of this agreement for any reason:

15.3.1 all licences granted under this agreement shall immediately terminate and the Customer shall immediately cease all use of the Services and/or the Documentation;

15.3.2 each party shall return and make no further use of any equipment, property,

Documentation and other items (and all copies of them) belonging to the other party;  
15.3.3 Stok.ly may destroy or otherwise dispose of any of the Customer Data (excluding any Personal Data (as defined in Schedule 1), which shall be governed by the obligations in Schedule 1) in its possession, unless Stok.ly receives, no later than 10 days after the effective date of the termination of this agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data;  
and

15.3.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

15.4 On termination of this agreement before title has passed in any Hardware in accordance with clause 6, Stok.ly may recover that Hardware using the rights contained in clause 6.4.4.

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## **16 Force majeure**

Stok.ly shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Stok.ly or any other party), failure of a utility service or transport or telecommunications network, 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, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

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## **17 Variation**

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

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## **18 Entire agreement**

18.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

18.3 Nothing in this clause shall limit or exclude any liability for fraud.

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## **19 Assignment**

19.1 The Customer shall not, without the prior written consent of Stok.ly, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

19.2 Stok.ly may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

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## **20 Third party rights**

This agreement does not confer any rights on any person or party (other than the parties to this agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

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## **21 Notices**

21.1 Any notice required to be given under this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post, or e-mail to the other party at its address or e-mail address set out in this agreement, or such other address or e-mail address as may have been notified by that party for such purposes.

21.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9.00 am on the first working day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice delivered by email shall be deemed to have been received at 9.00 am on the next working day after transmission.

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## **22 Governing law and jurisdiction**

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and the parties

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irrevocably agree 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 or its subject matter or formation (including non-contractual disputes or claims).

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## **Schedule 1 – Data Protection**

### **1 Definitions**

#### **Data Controller**

has the meaning given to ‘Data Controller’, or ‘Controller’ as appropriate, in the Data Protection Laws.

#### **Data Breach**

means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

#### **Data Processor**

has the meaning given to ‘Data Processor’, or ‘Processor’ as appropriate, in the Data Protection Laws.

#### **Data Protection Laws**

means any and all laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data and privacy applicable to the performance of this agreement, including where applicable the Data Protection Act 1998, the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and the GDPR (Regulation (EU) 2016/679), as amended or superseded.

#### **GDPR**

means Regulation (EU) 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 as updated, superseded or repealed from time to time.

#### **Personal Data**

has the meaning given in the Data Protection Laws.

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## **2 Data Processing**

Where Stok.ly, pursuant to this agreement, processes Personal Data on behalf of the Customer, Stok.ly acknowledges that the Customer is the Data Controller and the owner of such Personal Data, and that Stok.ly is the Data Processor.

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### **3 Compliance with Data Protection Laws**

The Data Processor warrants that it has complied, and shall continue to comply, with the requirements of the applicable Data Protection Laws and all other data protection legislation in any jurisdiction relevant to the exercise of its rights or the performance of its obligations under this agreement.

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### **4 Data Processing Obligations**

4.1 In respect of any Personal Data to be processed by the Data Processor pursuant to this agreement for which the Customer is Data Controller, the Data Processor shall:

4.1.1 have in place and at all times maintain appropriate technical and organisational measures in such a manner as is designed to ensure the protection of the rights of the data subject and to ensure a level of security appropriate to the risk;

4.1.2 not engage any sub-processor without the prior specific or general written authorisation of the Customer (and in the case of general written authorisation, the Data Processor shall inform the Customer of any intended changes concerning the addition or replacement of other processors and the Customer shall have the right to object to such changes);

4.1.3 ensure that each of the Data Processor's employees, agents, consultants, subcontractors and sub-processors are made aware of the Data Processor's obligations under this Schedule and enter into binding obligations with the Data Processor to maintain the levels of security and protection required under this Schedule. The Data Processor shall ensure that the terms of this Schedule are incorporated into each agreement with any sub-processor, subcontractor, agent or consultant to the effect that the sub-processor, subcontractor, agent or consultant shall be obligated to act at all times in accordance with duties and obligations of the Data Processor under this Schedule;

4.1.4 process that Personal Data only on behalf of the Customer in accordance with the Customer's instructions and to perform its obligations under this agreement or other documented instructions and for no other purpose save to the limited extent required by law;

4.1.5 on termination or expiry of the agreement, the Data Processor shall either delete or return (at the request and cost of the Customer) all Personal Data to the Customer, unless storage by the Data Processor is required by law;

4.1.6 ensure that all persons authorised to access the Personal Data are subject to obligations of confidentiality and receive training to ensure compliance with this agreement and the Data Protection Laws;

4.1.7 make available to the Customer all information necessary to demonstrate compliance with the obligations laid out in Article 28 of GDPR and this Schedule and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer (at the cost of the Customer); provided that, in respect of this provision the Data Processor shall immediately inform the Customer if, in its opinion, an instruction infringes Data Protection Laws;

4.1.8 taking into account the nature of the processing, provide assistance to the Customer, within such timescales as the Customer may require from time to time, in connection with the fulfilment of the Customer's obligation as Data Controller to respond to requests for the exercise of data subjects' rights pursuant to Chapter III of the GDPR to the extent applicable;

4.1.9 provide the Customer with assistance in ensuring compliance with articles 32 to 36 (inclusive) of the GDPR (concerning security of processing, data breach notification, communication of a personal data breach to the data subject, data protection impact assessments, and prior consultation with supervisory authorities) to the extent applicable to the Customer, taking into account the nature of the processing and the information available to the Data Processor;

4.1.10 deal promptly and properly (at the cost of the Customer) with all enquiries or requests from the Customer relating to the Personal Data and the data processing activities, promptly provide to the Customer a copy of any Personal Data requested by the Customer;

4.1.11 assist the Customer (where requested by the Customer, and at its cost) in connection with any regulatory or law enforcement authority audit, investigation or enforcement action in respect of the Personal Data.

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## **5 International data transfers**

5.1 In respect of any Personal Data to be processed by a party acting as Data Processor pursuant to this agreement for which the other party is Data Controller, the Data Processor shall not transfer the Personal Data outside the EEA or to an international organisation without:

5.1.1 obtaining the written permission of the Data Controller;

5.1.2 ensuring appropriate levels of protection, including any appropriate safeguards if required, are in place for the Personal Data in accordance with the Data Protection Laws;

and documenting and evidencing the protections and appropriate safeguards in paragraph 5.1.2 above and allowing the Data Controller access to any relevant documents and evidence.

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If you'd like, I can also draft a short **cover email to your solicitor** explaining what changed (AI clauses + precedence rule) so they can review it faster.