Recyda GmbH

Master Service Agreement

V2.2.0

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Preamble

(A)   Against the background of the increasing complexity of international packaging laws in place, manufacturers of consumer goods, suppliers of packaging, retailers and other users of packaging are confronted with a large amount of data and reporting requirements in the context of packaging sustainability.

(B)   Recyda GmbH ("**Recyda**" or the "**Provider**") has collected relevant information regarding certain areas of packaging sustainability requirements, in particular the recyclability of packaging and extended producer responsibility (EPR) obligations and fees. Sources of information include, amongst others, international regulations, federal state-specific legal provisions, guidelines and industry standards, as well as the practical application thereof in respect of numerous different types of packaging. Recyda has processed the available information and based thereon built up a directory, (the "**Directory**") which includes the processed information (the "**Relevant Provisions**") and an internal collection of rulesets derived therefrom (the "**Serviced Rulesets**").

(C)   Recyda offers a software as a service solution that enables customers to effectively manage their packaging portfolio with a view to packaging sustainability. The customer can use the software to analyze the packaging designs in their portfolio against the Relevant Provisions and Serviced Rulesets. The analysis of packaging designs can also be utilized in customer's R&D activities by comparing different packaging designs developed by the customer and identifying the most suitable option based on the relevant rulesets.

In light of the above, **it is agreed** as follows:

1   Subject Matter and Conclusion of the Contract

1.1   Subject Matter of the Contract

1.1(a)   The Provider offers its Customers (Provider and Customer hereinafter also the "**Contracting Parties**") a web-based software (jointly the "**Software**") on the basis of a contract of use (the "**Contract**"). The Software provides the possibility to manage the Customer's packaging portfolio with a focus on Relevant Provisions and Serviced Rulesets in the context of packaging sustainability.

1.1(b)   Pursuant to the Contract, the Customer receives from the Provider the right for its employees and employees of its affiliates (*Verbundene Unternehmen*) (the "**Affiliates**") pursuant to § 15 of the German Stock Corporation Act (hereinafter collectively the "**Users**") to use the Software in accordance with the following provisions (the "**GTC**"), which shall form an integral part of the Contract. These GTC further contain provisions on the provision of certain additional services by Recyda to the Customer.

1.2   Conclusion of the Contract

1.2(a)   The Contract between the Provider and the respective customer (the "**Customer**") must be entered into in text form (*Textform*) (the "**Text Form**") pursuant to § 126b German Civil Code (the "**BGB**").

1.2(b)   The Provider can combine selected Features (as defined below) and services offered by the Provider (the Features and services, each a "**Component**") against payment of a certain Usage Fee (as defined below) to a package offering (each package offering, a "**Subscription Model**"). Regarding specific Variable Usage Criteria (as defined below), the Subscription Model can further provide for a defined budget of use (e.g. included number of Users) that is included in the offering. The Contracting Parties will agree on the applicable Subscription Model in the Contract.

1.2(c)   The conclusion of the Contract can be made in particular on the basis of an order form made available by the Provider (the "**Order Form**"). The order of the Software by the Customer by means of filling in and sending the Order Form in Text Form shall be deemed to be a binding contractual offer by the Customer. Unless otherwise stated in the Order Form, the Provider is entitled to accept this contractual offer within three weeks after receipt of the offer. If the Provider accepts the offer, the Contract is thereby concluded.

1.3   Scope of Application

1.3(a)   Personal Scope of Application

The Provider offers the conclusion of the Contract only to entrepreneurs, legal entities under public law and special funds under public law, and these GTC apply only to the Contracts concluded with these persons.

1.3(b)   Material Scope of Application

These GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall only become part of the Contract if and to the extent that the Provider has expressly consented to their application in writing; in this case, the GTC shall apply additionally. This requirement of consent shall apply in any case, for example even if the Provider provides the Customer with the Software without reservation in the knowledge of the terms and conditions (*Allgemeine Geschäftsbedingungen*) of the Customer.

2   Software Specification

2.1   Functionality; Input of Customer Data

2.1(a)   The Software offers the following main functionalities, which are available to the Customer to the extent as included in the Customer's Subscription Model:

(1)   The Software can be used for the modeling of packaging designs (each a "**Packaging Design**"). For this purpose, a number of attributes can be assigned to the respective Packaging Design, each of which describes a specific feature of the packaging. The attributes can then be assigned specific values by the Customer to define the Packaging Design in detail. The Customer can change existing attributes and add additional attributes of their own.

(2)   The Software allows the Customer to analyze its Packaging Designs against Rulesets selected by the Customer (the "**Analysis Module**"). including for, but not limited to, the purposes set out under (i) and (ii).

(i) The Analysis Module can be used to assess the recyclability of Packaging Designs by analyzing them against selected Rulesets (as defined below) and prepare a report detailing the level of compliance of the Packaging Design with the selected Ruleset. The Software can compare the level of compliance across those countries for which the selected Ruleset is available to the Customer under their Subscription Model.

(ii) The Analysis Module can be used to calculate Extended Producer Responsibility fees as well as plastic and other applicable taxes for the Customer's Packaging Designs by analyzing them against the relevant Ruleset. The calculation result is shown separately for each country or jurisdiction that is included in the selected Ruleset and that is available to the Customer under their Subscription Model.

(3) The Directory includes country reports regarding the Applicable Provisions and the recycling infrastructure in specific countries, which can be accessed and displayed in the Software ("**Country Reports**").

(4) The Software provides each Customer with a virtual environment separate from the other Customers in the form of a user interface (the "**Customer Environment**"). The Users assigned to the Customer have access to the Customer Environment by virtue of their User Account.

2.1(b) In order to be able to make use of certain functionalities of the Software, the Customer needs to enter its data into the Software as described in this clause 2.1(b).

(1) The Customer's packaging data can be transferred to the Software by using the Customer Environment.

(2) If included in the Subscription Model, the Software can also be connected with third party software of the Customer (the "**Existing System**") via an application programming interface included in the Software (the "**API**") in order to send to and receive data from the Software. The Customer is solely responsible for connecting the Customer's Existing System with the API. Upon request by the Customer, the Provider will provide such technical information as reasonably required by the Customer for the implementation. The Customer is obliged to use the API interface in accordance with the Provider's specifications.

(3) The Subscription Model can provide for additional channels for the data transfer to the Software. In such case the Provider will notify the Customer of the requirements regarding the format and structure of the data, as well as the technical aspects of the data transmission.

2.2   Software Functions

2.2(a) The Software consists of various modular main functions (each a "**Feature**"). An overview over the Features including a description of their respective functions is made available to the Customers in Text Form (the "**Software Description**") in the course of the conclusion of the Contract. The description of the Features in the Software Description is conclusive, and the Provider is not obliged to include further functions in the Software.

2.2(b)   The Provider ensures that the Software is suitable for fulfilling the Features included in the Subscription Model agreed upon in the Contract. The Contract does not constitute a warranty of characteristics (*Zusicherung von Eigenschaften*) within the meaning of § 536 (2) BGB.

2.3   Directory and Rulesets

2.3(a)   The Serviced Rulesets and the Country Reports serve as a starting point for the recyclability assessment by the Customer and include such information as is collected by the Provider from time to time. The Customer acknowledges that the Provider is not authorized or obliged to provide a legal assessment of Packaging Designs and that the Provider does not undertake that all Relevant Provisions are included accurately, completely and up to date in the Database. The Provider can create customized packaging guidelines and other rulesets (the "**Customized Rulesets**", jointly with the Serviced Rulesets also the "**Rulesets**") in the Software for the Customer, if so agreed upon in a Service Agreement (as defined below) between the Customer and the Provider.

2.3(b)   The Provider is not obliged to check whether the data is accurately provided by the Customer. The Customer acknowledges that inaccurate or incomplete data provided by the Customer can lead to incorrect analysis of the Packaging Data against the Rulesets. The Customer shall review and verify the analysis of the Packaging Data, prior to making use of it.

2.4   Test Software

2.4(a)   The Provider offers to the Customer the opportunity to test the Software before concluding a Contract (the software provided in this way, the "**Test Software**").

2.4(b)   By starting to use the Test Software, the Customer accepts the Provider's offer to conclude a contract for the use of the Test Software in accordance with the terms and conditions of these GTC (the "**Test Access Contract**"). The Test Access Contract has a term of one month, and terminates at the earlier of (i) the end of the term, and (ii) in case of the conclusion of a Contract at such Contract's Commencement Date (as defined below).

2.4(c)   The functions of the Test Software may differ from the functions available in the Software, in particular for the following reasons:

(1)   the Provider can decide to make only certain functions of the Software available in the Test Software of the respective Customer;

(2)   the use of the functions in the Test Software can be restricted to dummy data instead of data uploaded by the Customer; and

(3)   certain functions that are available in the Test Software may not be included in the Software depending on the Subscription Model agreed upon in the Contract.

2.4(d)   If the Customer has been provided with the Test Software within the meaning of clause 2.3, by concluding the Contract the Customer acknowledges that the Software, insofar as it corresponds to the Test Software, is suitable for fulfilling the functions listed in the Software Description.

2.4(e) Any deviations of the Test Software from the Software must be notified by the Customer to the Provider, at least in Text Form, within a preclusive period of two weeks from the Commencement Date or, if the deviations are not obvious, within two weeks from the date on which the Customer discovered or should have discovered the deviation; otherwise the deviation shall be deemed to be insignificant.

2.4(f) There is no Usage Fee (as defined below) for the use of the Test Software. In deviation from clause 8, the Provider is only liable for the use of the Test Software in accordance with §§ 599, 600 BGB for intent and gross negligence; other than that, the GTC apply mutatis mutandis to the use of the Test Software.

2.5 Further Software Development

2.5(a) The Provider intends to continuously further develop the Software. In this respect, the Provider has the right, but not the obligation, to adapt the Software at any time, in particular to carry out free software updates and software upgrades, provided that the change or deviation is reasonably acceptable for the Customer, taking into account the interests of the Provider.

    (1) An adaptation shall be deemed reasonable in any case if the Software continues to fulfill the Features and the Technical Requirements are not changed thereby.

    (2) In addition, a change is reasonable if and to the extent necessary to implement applicable law.

    (3) The Provider shall inform the Customer about the release of new Features or the significant change of existing Features, for example by means of a corresponding message or an updated technical specification schedule in the Software.

2.5(b) For the avoidance of doubt, the Customer is not entitled to receive any software updates, upgrades, additional Features, new Serviced Rulesets, Country Reports or other improvements free of charge, and the Provider can decide in its free discretion to make these only available for other Subscription Models.

2.6 Upgrade and Downgrade

2.6(a) By notice in Text Form to the Provider, the Customer can request

    (1) an upgrade from the chosen Subscription Model to a Subscription Model with more Components (the "**Upgrade**"); or

    (2) a downgrade from the chosen Subscription Model to a Subscription Model with less Components (the "**Downgrade**").

In case of an Upgrade, the Customer can set a date in their notice as of which they request the Upgrade to take effect.

2.6(b) An Upgrade or Downgrade constitutes an amendment to the Contract that requires the acceptance by the Provider to become effective; the Provider can decide at its own discretion whether to accept the Upgrade or Downgrade.

2.6(c) The acceptance of an Upgrade by the Provider shall be made either by notice in Text Form to the Customer and the Contract shall be amended accordingly with effect as of such date as set by the Provider in its acceptance notice. If the date set by the Provider is earlier than such date as requested by the Customer, the Upgrade takes effect as of the date requested by the Customer. If the date set by the Provider is more than one month after the date requested by the Customer, the Upgrade shall become effective only upon confirmation by the Customer in Text Form.

2.6(d) The acceptance of a Downgrade by the Provider shall be made by notice in Text Form by the Provider to the Customer, and the Contract is thereby amended with effect as of the end of the Contract Term (as defined below).

3 Right of Use of the Customer

3.1 Usage Right

The Customer receives a simple usage right to use the Software for its intended purpose. The Subscription Model agreed upon in the Contract determines and limits the scope of the Customer's usage right. The usage right is limited to the Contract Term and not transferable to third parties.

3.2 Provision of the Software

The Provider shall make the Subscription Models available for use as of the date of the commencement of the Contract as specified in the Contract (hereinafter the "**Commencement Date**") for the duration of the Contract Term.

3.3 Access to the Software by the Customer

3.3(a) The Software is executed on central data processing systems operated by the Provider or third parties engaged by the Provider for this purpose (the "**Servers**"). No physical transfer of the Software to the Customer shall take place.

3.3(b) Access to, and use of the Software by the Customer and its Users shall take place via the internet using the access channels technically enabled by the Provider, in particular by using an internet browser.

    (1) The technical requirements for access to the Software (the "**Technical Requirements**") are set forth in the Software Description.

    (2) If the Provider enables further access options for the Customer, or if the Technical Requirements change, the Provider shall notify the Customer of this in advance.

    (3) Prerequisite for the use of the Software by the Customer is an internet access of the Customer, which is not provided by the Provider.

3.3(c) The use of the Software by a User requires the creation of an user account for such User by the Customer, via which the User must authenticate itself in order to access the Software (the "**User Account**").

3.4 **Limited Reproduction Rights**

The Customer may only reproduce the Software to the extent that this is necessary for the use intended under the Contract. In particular, any loading of the Software into the main memory of the Servers and of the hardware used by the Users shall constitute a necessary reproduction.

4 Service Level Agreement

4.1 Transfer point

The availability of the Software is owed up to the transfer point. The transfer point to the internet is the router output of the Servers.

4.2 Core operating time and maintenance work

4.2(a) The Provider guarantees an availability of the Software (including maintenance work) up to the transfer point in the amount of 97.5% on a monthly average related to the respective calendar month, except if otherwise agreed in the Contract or in a service level agreement attached thereto (the "**Uptime**").

4.2(b) To the extent technically possible, the Provider shall carry out maintenance work regularly on such dates as communicated (specifying day and time) to the Customer in the Software or in Text Form. The Provider shall also inform the Customer in the aforementioned manner of any maintenance work that is to be carried out outside of these dates.

4.3 Support

4.3(a) The Provider is only obliged to provide support and establish a point of contact for the Customer (the "**Support**"), if expressly agreed so in the Contract or in a service level agreement attached thereto.

4.3(b) The Contract shall specify

(1) the communication channels that are available for the communication between the Customer and the Support;

(2) the business hours during which the Provider accepts requests;

(3) the topics on which support is provided; as well as

(4) any further specifications regarding the service level of the Support.

4.3(c) By notifying the Support in Text Form, the Customer may designate personnel with appropriate professional and technical qualifications to be assigned internally at the Customer to handle inquiries from the Users (the "**Contact Persons**"). The Customer is obliged to send any requests to the Support only via the Contact Persons. If the Provider provides forms for certain communication channels, these are to be used for the request.

5   Payment of Remuneration

5.1   Usage Fee

5.1(a)   The usage fee that the Customer shall pay to the Provider for the use of the Software (the "**Usage Fee**") can consists of either a fixed amount (the "**Fixed Fee**") or a variable amount (the "**Variable Fee**"), or both. All prices and fees stated in the Contract are exclusive of statutory VAT.

5.1(b)   The Fixed Fee and the Variable Fee shall be calculated as agreed in the Contract. The amount of the Variable Fee shall be determined by the cost agreed for the variable criteria in the Contract (the "**Variable Cost Factors**") and the actual use by the Customer (e.g. the actual number of User multiplied by the cost payable per User).

5.1(c)   If the Contracting Parties agree on an periodic price adjustment in the Contract, the following applies unless otherwise stipulated in the Contract.

    (1)   The Fixed Fee and the Variable Cost Factors (jointly the "**Price Element**") are automatically increased by the Price Increase Amount (as defined below) each time after a certain period of the Contract Period ("**Lapsed Contract Period**") has passed since the Commencement Date or respectively the last increase of such fee. As of the price increase, the respective Price Element is set to the result of the Price Element at the latest day of the Lapsed Contract Period (such amount the "**Previous Price**") plus the Price Increase Amount.

    (2)   For any Price Element, the Contract can either specify a certain amount in EUR ("**Fixed Amount**") or a percentage ("**Increase Factor**"), in order to calculate the Price Increase Amount.

    (3)   In case a Fixed Amount has been set with regard to a Price Element, the Price Increase Amount equals the respective Fixed Amount.

    (4)   In case an Increase Factor has been set with regard to a Price Element, the Price Increase Amount by which the Previous Price will be increased is the result of the Previous Price multiplied by the Increase Factor.

    (5)   If the Contract does not specify the Lapsed Contract Period, it shall equal a period of 12 months.

5.1(d)   In the event of an Upgrade, the new Usage Fee shall apply from the date of the contract amendment becoming effective ("**Upgrade Date**") or any later date communicated by the Provider in their notification of the Upgrade acceptance. To account for any higher Fixed Fee that is payable for the remaining Contract Period as a result of the Upgrade, the Customer is obliged to pay an adjustment amount (the "**Adjustment Amount**") to the Provider.

    (1)   The Adjustment Amount is calculated by multiplying (i) the difference between the new Daily Costs (i.e. calculated on the basis of the new Fixed Fee) and the previous Daily Costs (i.e. calculated on the basis of the Fixed Fee applicable immediately prior to the Upgrade) (ii) by the number of days remaining in the Contract Period from (and including) the date of the Upgrade.

(2) The "**Daily Costs**" correspond to the Fixed Fee for the Contract Period divided by the number of days that the Contract Period comprises, it being understood that for the purposes of this calculation a month should comprise 30 days and a year 360 days.

(3) The Adjustment Amount is due for payment in one amount within fourteen Calendar Days (as defined below) after receipt of the Upgrade acceptance notice by the Provider.

5.1(e) In the event of a Downgrade, the new Usage Fee shall apply from the next Contract Term.

5.2 Method of payment

The Usage Fee can be paid at the Customer's discretion either by SEPA direct debit, by bank transfer or by other payment methods offered by the Provider. In the case of the SEPA direct debit procedure, the Customer must ensure that the specified payment account is sufficiently funded. In the event that payment is not made due to circumstances for which the Customer is responsible, the Provider may charge the Customer for the additional costs incurred (e.g. costs of the return debit note) in the amount incurred in each case.

5.3 Invoicing

5.3(a) The invoice for the initial Contract Term can be issued at any time as of the date of the Contract.

5.3(b) In case of the extension of the Contract Term pursuant to clause 11.1(a), the invoice for the extended Contract Term can be issued at any time as of one month before the expiry of the Contract Term.

5.3(c) Invoices are provided to the Customer electronically in its customer account or by email. If the Customer requests invoices to be sent by post, the Provider may demand reimbursement of the costs incurred.

5.4 Due Date of the Usage Fee

5.4(a) The full Fixed Fee must be paid in advance within fourteen Calendar Days (or such other period as specified in the Contract) following the receipt of an invoice for the respective Contract Term (the "**Payment Date**").

5.4(b) The Variable Fee is due on the fifth working day of the month following the month to be invoiced, but not earlier than three working days after the Customer has received the invoice.

5.5 Default of Payment by the Customer

5.5(a) The timeliness of payment shall be determined by the date of receipt in the Provider's bank account.

5.5(b) In the event of late payment, the Provider is entitled to

(1) charge interest for the time of default in accordance with the statutory provisions;

(2)　　　　terminate the customer's access to the Software for the time of default after setting a reasonable grace period; and

(3)　　　　terminate the contract in accordance with clause 11.2.

6　　Duties and Obligations of the Customer

6.1　Use contrary to Contract

6.1(a)　The Customer undertakes not to grant third parties access to the Software and to prevent the use of the Software by unauthorized persons.

(1)　　　　In particular, the Customer undertakes to keep the access data and the respective password of the Users assigned to him secret and to prevent misuse of this data by third parties.

(2)　　　　The Customer shall inform the Provider without delay as soon as it becomes aware that unauthorized third parties are aware of the access data. In addition, he is obliged to immediately change access data if he has reason to suspect that third parties may have gained knowledge thereof.

(3)　　　　The Customer is obliged to ensure that its Users treat passwords and other access data to the Software confidential and, in particular, keep them secret from unauthorized third parties. The Customer is liable for any unauthorized or improper use of the Users' access data by an unauthorized third party if such use is attributable to the Customer, in particular if the third party was able to gain knowledge of the access data owing to inadequate barriers to access. The Customer also ensures that Users who assume that their access data have become known to a third party in an unauthorized manner, immediately change the password and inform the Provider about such.

6.1(b)　The Customer undertakes to use the Software only in accordance with the Contract and the GTC, and to comply in particular with the obligations under (1) through (4)

(1)　　　　The Customer is not entitled to "reverse engineer", modify, duplicate or use any part of the Software to create a separate application.

(2)　　　　The Customer undertakes not to circumvent, deactivate or thwart technical restrictions on use (in particular access restrictions) of the Software, provided that such protective mechanisms do not impair the contractual use of the Services more than insignificantly.

(3)　　　　The Customer undertakes not to use any technical aids or methods that impair the functionality of the Software (e.g. scripts, bots or other software with such effect).

(4)　　　　The Customer is not entitled to reproduce, sell, rent, lend or otherwise temporarily transfer the Software to third parties. The Customer is in particular prohibited to mass extract (e.g. by 'scraping' or automated database queries) the information displayed in the Software or stored in the Directory, in particular with regard to the Relevant Provisions and Serviced Rulesets, and to

re-use the information outside the Platform, except if and to the extent such information was provided by the Customer.

6.1(c)   The Customer is responsible for ensuring that its Users also comply with the obligations pursuant to this clause 6.1.

6.1(d)   A culpable violation of this clause 6.1 by the Customer entitles the Provider to extraordinary termination of the Contract. Claims for damages by the Provider and criminal liability remain unaffected by this provision.

6.2   **Duties with regard to User Data**

6.2(a)   To make comprehensive use of individual Features of the Software, Users might need to and have the option to upload data to the storage space provided by the Provider (the "**User Data**").

6.2(b)   The Customer undertakes not to store any content on the storage space whose provision, publication or use violates applicable law or agreements with third parties; the Customer shall ensure in particular that no third-party rights to the User Data are violated.

6.2(c)   The Customer must ensure that the User Data does not contain any viruses or other malware.

6.2(d)   The Provider has the right to check the User Data for compliance with this clause 6.2 and, in the event of a violation, to remove the violating User Data.

6.2(e)   The Customer and the respective User grants the Provider all necessary rights of use to the User Data to the extent required to enable the Provider to fulfill its contractual obligations with respect to the User Data and, in particular, to store, secure and keep them available for retrieval; the owner of the rights to the User Data shall otherwise remain the sole owner of the User Data.

6.2(f)   The Customer is obligated to indemnify the Provider from all claims of third parties due to infringements of rights resulting from a violation of this clause by the Customer.

6.2(g)   The Customer shall be obligated to regularly back up the User Data throughout the Contract Term and prior to the expiration of the Contract Term. The Customer may download the User Data until the end of the Contract Term. Upon expiration of the Contract Term, the provider may delete the User Data.

6.3   **Third-Party Scheme Configuration**

6.3(a)   While Recyda maintains an extensive database of EPR and Recyclability methodologies, certain Producer Responsibility Organizations (PROs) restrict access to reporting and eco-modulation criteria to registered members only. To the extent necessary to configure the Software for Customer's specific needs, Customer agrees to provide Recyda with access to such restricted materials (e.g., PDF downloads) or member portals. This ensures the Software reflects the most current requirements applicable to Customer's membership status.

7 Performance Deficiencies

7.1 Defect rights

In the event of a defect, the Customer shall be entitled to the statutory rights, except as otherwise provided for in clauses 7.2 to 7.5.

7.2 Notification of Defects by the Customer

The Customer is obligated to immediately notify the Provider of any recognizable malfunctions or other defects of the Software. The Customer shall provide the Provider with verifiable information about the type and occurrence of the defect of the Software, in particular describe the occurring problems and the underlying facts in detail, and cooperate in the delimitation and identification of errors and error sources.

7.3 Scope of the Right of Reduction

In the event of defects, the Customer may not reduce the current Usage Fee. Any existing right to reclaim a Usage Fee paid under reservation remains unaffected.

7.4 Insignificant Reduction of Suitability

In the event of only an insignificant reduction in the suitability of the functions regarding the use of the Software in accordance with the Contract, the Customer shall have no claims based on defects.

7.5 Exclusion of strict liability for initial material defects

The strict liability for initial material defects of the Software according to § 536a (1) Var. 1 BGB is excluded.

8 Scope of Liability of the Provider

8.1 The Provider is liable without limitation for damages to life, body and health for which the Provider is responsible negligently or intentionally. Furthermore, the Provider shall also be liable, insofar as it has warranted a characteristic with regard to the Software, within the scope of such warranty.

8.2 In addition, the Provider shall be liable for damages based on an intentional or grossly negligent breach of duty or fraudulent intent on the part of the Provider, its legal representatives or its vicarious agents (*Erfüllungsgehilfe*).

8.3 In addition, the Provider shall also be liable for damages caused by simple negligence, insofar as the negligence concerns the breach of such essential contractual obligations, the fulfillment of which makes the proper execution of the agreement possible in the first place and on the observance of which the Customer may regularly rely (*Kardinalpflichten*). In this case, however, the liability is limited to the foreseeable, typically occurring damage. In addition, such claims shall become time-barred within one year.

8.4   Any further contractual or statutory liability is excluded regardless of the legal nature of the asserted claim, unless mandatory law requires otherwise. Liability under the Product Liability Act (*Produkthaftungsgesetz*) remains unaffected.

8.5   As far as the liability of the Provider according to clause 8 is excluded or limited, this shall also apply to the personal liability of its employees, workers, staff, representatives and vicarious agents, as well as to its liability for their conduct.

9   Provision of Additional Services

9.1   the Provider may agree with the Customer in separate agreement (the "**Service Agreements**") that the Provider will provide certain services or work defined in each individual case in connection with the Software for the Customer.

9.2   In particular, the Provider and the Customer may agree that the Provider will set up the Software or enter certain information into the Software for the Customer in accordance with the Customer's instructions. If the Customer is requested to release this information in the Software, it is obliged to check the accuracy of the information beforehand.

9.3   Clause 8 shall apply accordingly to the liability of the Provider within the scope of the Service Agreements. Liability due to the incorrectness of information provided within the meaning of clause 9.2 is excluded if the Customer has previously released this information.

9.4   In addition to this clause 3.3, clauses 1.3, 9 and 12 of these GTC apply to the Service Agreements; otherwise, these GTC do not apply to the Service Agreements.

10   Confidentiality

10.1   The Customer shall treat any information on the terms of the Contract confidential.

10.2   The Provider shall treat any packaging data provided by the Customer as confidential.

10.3   Each Contracting Party is entitled to disclose the other Contractual Party's (the "**Protected Party**") confidential information with the approval of the Protected Party or to

10.3(a)   its own Affiliates;

10.3(b)   its own or its Affiliates' employees, advisors, shareholders, accountants, and auditors; and

10.3(c)   any official authority or institution.

10.4   Any disclosure of information under clause 10.3(a) and clause 10.3(b) shall be permitted only, if and to the extent the recipient is bound to a comparable confidentiality obligation, and, in relation to clause 10.3(c), if such disclosure is obligatory under applicable law.

10.5   Information shall not be deemed confidential if it (i) is or becomes generally known to the public without breach of any confidentiality obligation in favor of the Protected Party, (ii) was known to the other Contracting Party prior to its disclosure by the Protected Party without breach of any obligation in favor of the Protected Party, (iii) is received from a third party without knowledge of any breach of any obligation in favor of the Protected Party, or (iv) was independently developed by the other Contracting Party.

10.6 Notwithstanding any disclosure of confidential information, the Protected Party shall retain all ownership rights in and to such confidential information and the other Contracting Party shall not use the information for purposes outside the Contract and these GTC.

10.7 The Customer grants the Provider the right to store and analyze all data generated during the use of the Software and to use it exclusively for the operation and further development of the Software and for support purposes.

11 Contract Term and Termination

11.1 Contract Duration

11.1(a) The Contract is concluded for such period of time (the "**Duration Period**") as set out in the Order Form (the "**Contract Term**"). The Contract Term shall be extended by the Duration Period at a time if it is not terminated by the Customer or the Provider at the latest one month before the expiry of the (initial or extended, as the case may be) Contract Term in Text Form.

11.1(b) The receipt of the termination notice by the other Contractual Partner is decisive for the timeliness of the termination. In the event of a change of address, clause 13.2 shall apply.

11.2 Termination for Cause

In addition, each Contracting Party is entitled to terminate the Contract without notice period for good cause by notice at least in Text Form.

11.2(a) In particular, the Provider shall be entitled to terminate the Contract without notice for good cause if the Customer is in default of payment of the Usage Fee or a not insignificant part thereof for two months after the Payment Date.

11.2(b) In this case, the Customer shall owe the Provider the Usage Fee, as well as liquidated damages in the amount of the Usage Fee incurred until the next possible proper termination date. The Customer shall have the right to prove a lesser damage. Further rights of the Provider remain unaffected.

11.2(c) Apart from the reasons expressly stated in these GTC, good cause shall also exist in particular if the respective other Contracting Party commits a material breach of a provision of this Agreement and fails to remedy such breach within 30 days of receipt (at least in Text Form) of a notice to that effect. However, any ground for good cause shall be excluded if and to the extent the Contracting Party entitled to termination had knowledge of the circumstances for more than ten working days.

11.2(d) The Customer shall only be entitled to terminate the Agreement without notice period for good cause based on the existence of a defect in the Software or the unavailability of the Software if the defect or the unavailability is serious enough to constitute good cause and the Customer has set the Provider a reasonable cure period to remedy the defect or the unavailability, which has expired without success.

11.3   No use after termination

Upon termination of this Agreement, the Customer is obliged to cease using the Software.

12   Reference for Marketing Purposes

12.1   The Provider and the Customer are entitled use each other as references for promotional appearances, including, but not limited to, their websites, social media accounts, print materials, presentations, sales and sustainability talks, and trade fair appearances (the "**Reference Contact**").

12.2   The Reference Contact may include the following details:

(1)   Names of the Contracting Party and those of its brands (insofar as these are related to the service provided by the Provider for the Customer);

(2)   Logos of the Contracting Party and those of its brands (insofar as these are related to the service provided by the Provider for the Customer);

(3)   First name, last name, and role of the main responsible person; and

(4)   Testimonials by responsible persons.

12.3   Each Contracting Party can revoke its consent to be named as a Reference Contact by the other Contracting Party at any time in Text Form. Upon revocation, the other Contracting Party shall remove the Reference Contact within a reasonable period of time. Any materials already printed may be used until exhausted, and any media already published on third-party platforms may continue to be online.

13   Miscellaneous

13.1   Amendments of the GTC

13.1(a)   The Provider reserves the right to make changes or additions to these GTC. The Provider shall inform the Customer in Text Form of any changes to the GTC.

13.1(b)   The changes shall only be implemented after the expiry of a reasonable and proportionate period in view of the nature and scope of the planned changes and their consequences for the Customer, which shall be at least thirty days from the date on which the Provider has informed the Customer of the proposed changes. The deadline does not apply if the Provider (i) has to make changes to the GTC due to legal or regulatory obligations in a way that does not allow the deadline to be met or, in exceptional cases, has to change the GTC to avert an unforeseen and imminent danger in order to protect the Software, the Customer, users or end customers from fraud, malware, spam, data protection violations or cyber security risks.

13.1(c)   Insofar as the proposed changes do not (i) affect the service description for already agreed service components, the remuneration or other main service obligations, (ii) are reasonable for the Customer and (iii) do not put the Customer in a worse position overall, the Provider may choose the following procedure for amending the GTC:

(1) The changes shall be deemed approved if the Customer does not object in text form within the period specified in clause 13.1(b). If the Customer objects to the amendment, the Provider shall be free to make use of the option to terminate the SaaS contract for cause.

(2) The Customer has the right to terminate the SaaS contract for cause before the expiry of the period under clause 13.1(b). The termination shall take effect within one week of receipt of the notification in accordance with the period under clause 13.1(b).

(3) The Provider shall inform the Customer of the consequences of a failure to object and of the right to terminate without notice when informing the Customer of changes to the GTC.

(4) The Customer may waive compliance with the period under clause 13.1(b) and thus its right to object or right to terminate under clause 13.1(c) by means of a clear affirmative act. In particular, the conclusion of a Service Agreement or agreeing on an Upgrade or Downgrade shall be deemed to be a clear confirmatory act.

13.2 Address of the Contracting Parties and Notifications

13.2(a) The Customer shall notify the Provider of any change of address and e-mail address at least in Text Form. If a declaration by the Provider under this Agreement is not received by the Customer because the Customer has moved or changed its e-mail address, the declaration shall be deemed to have been received at the time of attempted delivery to the old address or e-mail address, unless the Customer has notified the Provider of its new address or e-mail address at least in text form no later than on the day of attempted delivery.

13.2(b) Declarations of the Customer addressed to the Provider under this Contract shall be delivered to the address or e-mail address specified in the imprint of the Provider's website. If a declaration of the Customer under this Agreement is not delivered to the Provider because the address or e-mail address has changed, the declaration shall be deemed to have been delivered at the time of attempted delivery to the address specified on the imprint of the website.

13.3 Assignment of Claims under this Contract

13.3(a) A transfer of rights and obligations of the Customer under the Contract requires the consent of the Provider at least in Text Form.

13.3(b) The Provider is entitled to transfer the rights and obligations under the contract to third parties; in this case, the Provider shall notify the Customer of the transfer of the Contract by the third party.

13.3(c) The Customer may only assign claims arising from the Contract against the Provider to third parties with the prior consent of the Provider, at least in Text Form, except in the area of § 354a HGB.

13.4   Governing Law, Jurisdiction and Place of Performance

This Contract shall be governed by German law, excluding the United Nations Convention on the Contract for the International Sale of Goods (*CISG*). To the extent that a choice of legal venue is permissible, the relevant court of Freiburg im Breisgau, Germany shall enjoy exclusive jurisdiction for any disputes between the Parties resulting from or in connection with this Contract. The place of performance shall be Freiburg im Breisgau, Germany.

13.5   Severability and Partial Invalidity

Should any provision of this Contract be or become invalid in whole or in part, the other provisions shall remain in force. The invalid provision shall be deemed substituted by a valid provision which accomplishes as far as legally possible the economic purposes of the invalid provision.

13.6   Interpretation

13.6(a)   Singular, Plural, Gender

References to one gender include all genders and references to the singular include the plural and vice versa.

13.6(b)   Non-Limiting Effect of Words

The words "including", "include", "in particular" and words of similar effect shall not be deemed to limit the general effect of the words which precede them.

13.6(c)   Time and Date

All references to a time of day are references to the time in Freiburg im Breisgau. If any date specified in this GTC as the only day, or the last day, for taking action falls on a day that is not a Business Day, then that action may be taken on the next Business Day. For the purpose of these GTC "Business Day" means any day (other than a day which is a Saturday, Sunday or legal or bank holiday in Freiburg im Breisgau) on which retail banks are open to the public for business or perform wire in Freiburg im Breisgau.

13.6(d)   Language

These GTC are in the English language only. The English language version of these GTC prevails over any translation of these GTC. However, where a German translation of a word or phrase appears in the text of these GTC, the German translation of such word or phrase prevails wherever such original English word or phrase translated by such German word or phrase appears in the text of these GTC. Wherever a German legal term or concept is used in these GTC such German legal term or concept (and not the English or other legal term or concept to which it relates) is authoritative for the construction. Where an English legal term or concept is used in these GTC, the related German legal term or concept is authoritative for the purpose of construction, unless specifically so provided.