Terms and Conditions - Cloud Deployment

This software subscription agreement is made up of these Terms and Conditions together with the Annexes, Appendices and any Order Forms ("Agreement") and is made between Customer ("Customer" or "you") and the OneTrust entity identified on the Order Form ("OneTrust") (each a "Party", collectively, the "Parties") and governs Customer’s use of the Software and related services set out in the Order Form.

If you enter into this Agreement on behalf of a company or other legal entity including any Affiliates, you represent that you have the authority to bind such entity and Affiliates. If you do not have such authority, or if you do not unconditionally agree to all the terms and conditions of this Agreement, you, the company, and its Affiliates have no right to use the Software.

1. DEFINITIONS.

"Affiliate" means, with respect to a Party, any corporation or other business entity Controlled by, Controlling or under common Control with that Party, whereby Control means (i) the direct or indirect ownership of more than 50% (fifty percent) of the equity interest in such corporation or business entity, or (ii) the ability in fact to control the management decisions of such corporation or business entity.

“API" means any application programming interface made available by OneTrust to Customer in connection with this Agreement.

"Authorized Users" means Customer, its Affiliates, and their respective employees, contractors or consultants provided that they use the Software for Customer's and its Affiliates' internal business purposes only and no other purpose, and Customer is responsible for such Authorized Users’ use of the Software in accordance with the Agreement.

"Customer Content" means any and all Customer owned data, applications, files, information or materials and other data input into the Software by Customer or its Authorized Users.

"Deployment" means one software installation with a unique database (not including User Acceptance Testing ("UAT") and preproduction environments) in a logically separated tenant environment including unlimited users and groups within the organizational hierarchies.

"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"OneTrust Competitor" means any entity that licenses or provides any software, product, or service that is competitive with the Software.

"OneTrust Support Portal" means www.support.onetrust.com (or any successor support website provided by OneTrust).

"Professional Services" means any services relating to the Subscription Services as set out in the Order Form.
"Software" means the online software applications set out in the Order Form (and further described in the OneTrust User Guide) provided by OneTrust as part of the Subscription Services including Upgrades thereto and any related documentation, APIs, software tools, UAT or trial environments.

"SOW" means any statement of work agreed by the parties and which is subject to or incorporates the terms of this Agreement.

"Subscription Services" means the subscription services provided by OneTrust to Customer under this Agreement.

2. USE OF SUBSCRIPTION SERVICES AND TERM LICENSE; RESTRICTIONS.

2.1. Subject to the terms of this Agreement and payment of all applicable fees set out in the applicable quote or order form signed by both OneTrust and Customer ("Order Form"), OneTrust grants to Customer and its Affiliates a non-sublicensable, non-transferable, non-exclusive right to access and use the Software during the Term and in accordance with this Agreement, and solely for Customer's and its Affiliates' internal business purposes. Customer will not be provided with and shall have no right to any software code and OneTrust reserves the right to suspend Customer's access to the Subscription Services for scheduled or emergency maintenance. Notwithstanding anything to the contrary herein, no OneTrust Competitor will be considered an Authorized User.

2.2. Unless otherwise expressly set out in the Order Form, the Customer's right to use the Subscription Services under Section 2.1 shall be limited to one Deployment of the Software. Each Deployment shall require a separate Order Form. All pricing is on a per Deployment basis. Installation services relating to any Customer requested UAT environments may be subject to OneTrust's standard Professional Services fees for installation.

2.3. Customer shall not and shall not allow any third party to: (a) use (via direct user interactions, scripts or APIs) or access the Software in any manner which harms, unduly burdens or impairs performance of the Software or OneTrust systems, (b) provide access to the Software to any third party (except Authorized Users) or otherwise permit a third party (except Authorized Users) to use or benefit from the Software, (c) copy, modify or reverse engineer the Software or otherwise attempt to discover any source code or underlying technical information (except to the limited extent that applicable law prohibits reverse engineering restrictions), (d) disclose to any third party the results of any benchmarking or comparative study or analysis involving the Software, (e) use, export, or re-export (directly or indirectly) the Software or a portion thereof: (i) in breach of any applicable laws, regulations, sanctions, embargoes, restrictive state lists or restrictive measures; or (ii) to any country for which the United States or any other government, or any agency thereof, at the time of export requires an export license or other governmental approval, without first obtaining such license or approval, (f) access, store, or transmit any viruses, spam, malware, bulk mail, or duplicative messages, or any material during the course of its use of the Software that is unlawful or harmful, (g) for data in the United States, input any Protected Health Information (as the term is defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (as amended, superseded or replaced)) in the Software, or (h) use the Software: (i) to try to gain unauthorized access to or disrupt any service, device, data, account or network, (ii) post, transmit, upload, link to, send or store any content that is unlawful, abusive, obscene, or discriminatory or (iii) to store or transmit content that infringes any person's Intellectual Property Rights. Customer shall be responsible for any Authorized Users' use or misuse of third party software or systems that are accessed from the Software using an API, integration or by any other means.

2.4. Except to the extent caused by a breach of this Agreement by OneTrust, Customer is responsible for (i) all activity occurring under Customer's user accounts (including, without limitation, administrators, employees, contractors and/or any other third party users) and their compliance with the terms and conditions of this Agreement; (ii) taking all reasonable precautions to keep user credentials secure; (iii) complying with any applicable laws which might impact Customer's right to use the Subscription Services and documentation; and (iv) Customer Content and shall hold OneTrust and its Affiliates harmless and indemnify them for all claims, losses, damages, liabilities, costs (including legal fees) and expenses arising out of or relating to Customer Content. Customer shall maintain the copyright notices that appear on any materials relating to the Subscription Services.
3. **SUPPORT AND UPGRADES.**

3.1. Support

OneTrust shall provide the level of support set out in the Order Form, as described in the OneTrust support offering as amended from time to time by OneTrust and posted on the OneTrust website (currently found at https://onetrust.com/support/supportoffering.pdf). OneTrust warrants that such support shall not materially degrade.

3.2. Upgrades

OneTrust may, from time to time and in its sole discretion, issue new releases for the Software including, but not limited to, upgrades, new features, patches, enhancements, or fixes ("Upgrades") which will be included in the fees for Customer’s subscription set out in the Order Form and will be immediately and automatically available as of the release date.

4. **FEES AND PAYMENT.**

Fees and payments will be invoiced according to the Order Form. All payment obligations are non-cancelable and all amounts paid are non-refundable (unless expressly stated otherwise in the Agreement). All payments shall be made in the currency indicated in the Order Form in full and cleared funds without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law) within thirty (30) days after the applicable invoice date, unless otherwise specified in the Order Form ("Payment Due Date"). All sums payable under this Agreement are exclusive of value added tax chargeable from time to time (VAT) or any other relevant local sales taxes, for which Customer shall be responsible. If payment has not occurred by the Payment Due Date, then without limiting any other right or remedy available to OneTrust, OneTrust reserves the right to charge a late fee ("Late Fee") of 1.5% of the invoice amount excluding the applicable one-time fee for the Software Deployment, prorated to one calendar month. Prior to charging Late Fees, OneTrust will contact Customer regarding the delinquency and verify receipt of the applicable invoice. Customer shall pay the Late Fee together with the overdue amount. Customer agrees to provide OneTrust with complete and accurate billing and contact information. All pricing terms are Confidential Information, and Customer agrees not to disclose them to any third party. Customer acknowledges and agrees that the right to use to the Software is not subject to or contingent upon the delivery of any future modules, features, functionalities, upgrades or enhancements ("Future Products") or contingent on any comments by OneTrust, whether oral or written, regarding Future Products.

5. **LIMITATION OF COMPLIANCE, NO LEGAL ADVICE.**

5.1. Customer acknowledges that it shall at all times remain responsible for its compliance with any and all applicable laws and regulations. The Subscription Services, Professional Services, materials or information provided by OneTrust are not intended, and should not be taken, as legal advice. Customer acknowledges that it has the best knowledge of its own practices and information and that OneTrust does not and cannot be expected to have equal knowledge of Customer’s practices or information. Customer shall be responsible for ensuring that any information provided to OneTrust in connection with the Professional Services is accurate and complete.

5.2. OneTrust shall perform its obligations under this Agreement in accordance with applicable law and regulations.

6. **LIMITED WARRANTY AND DISCLAIMERS.**

6.1. OneTrust warrants that (i) the Subscription Services and Software will conform to the applicable portions of the OneTrust User Guide available in the Software Service Portal (the "Specification") and (ii) OneTrust shall use industry standard measures to prevent viruses from being released in the Software. If, during the Term, Customer notifies OneTrust in writing of any defect or fault in the Subscription Services resulting in a failure to materially conform to the Specification, OneTrust shall, at its option and expense (i) repair, (ii) replace, or (iii) if unable to repair or replace, terminate this Agreement and, upon cessation of use by Customer, cause a prorata refund of the subscription fees
paid for any non-conforming Subscription Services. This remedy is conditioned upon Customer providing all the information that may be necessary to assist OneTrust in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable OneTrust to re-create the defect or fault. This Section 6.1 is Customer's sole and exclusive remedy under the warranty.

6.2. If Professional Services are set forth on the Order Form, OneTrust warrants that it shall use reasonable commercial endeavors to provide Professional Services to Customer in a workmanlike and professional manner pursuant to the terms of this Agreement.

6.3. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ONETRUST DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, CONDITIONS, REPRESENTATIONS OR OTHER TERMS RELATING TO THE SOFTWARE, SUBSCRIPTION SERVICES, OR PROFESSIONAL SERVICES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR OTHER TERMS OF SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PURPOSE OR A PARTICULAR PURPOSE. ANY INFORMATION BASED ON CUSTOMER'S OR A THIRD PARTY'S INFORMATION, INPUT AND/OR RECORDS IS PROVIDED "AS IS" AND WITHOUT WARRANTY AS TO ACCURACY OR COMPLETENESS. ONETRUST DOES NOT WARRANT THAT THE USE OF THE SOFTWARE OR SUBSCRIPTION SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

6.4. OneTrust is not responsible for any delays, delivery failures, or other loss or damage resulting from the transfer of data over communications networks and facilities which are not owned by OneTrust or under its direct control, including the internet, and Customer acknowledges that the Subscription Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.5. In the event of any loss or damage to Customer Content, Customer's sole and exclusive remedy shall be for OneTrust to use reasonable commercial endeavors to restore the lost or damaged Customer Content from the latest back-up of such Customer Content maintained by OneTrust in accordance with its archiving procedure.

7. **ONETRUST INDEMNITY.**

7.1. OneTrust, at its sole expense, agrees to defend Customer, its Affiliates, and their respective officers, directors, employees, and representatives (each, including Customer, a “Customer Indemnitee”) against any third party claim that Customer Indemnitee's use of the Subscription Services, as made available by OneTrust to Customer and used in accordance with this Agreement, directly infringes a third party's Intellectual Property Right (an “Infringement Claim”), and indemnify Customer Indemnitee from the resulting costs and damages finally awarded against Customer Indemnitee to such third party by a court of competent jurisdiction or agreed to in settlement; provided that: (a) Customer promptly notifies OneTrust in writing of the Infringement Claim; (b) OneTrust has sole control of the defense and all related settlement negotiations; (c) Customer provides OneTrust with the information, assistance and authority to enable OneTrust to perform its obligations under this Section 7; and (d) Customer makes no admission of liability and does not act in any way which compromises the ability of OneTrust to defend the claim. Customer Indemnitee may not settle or compromise any Infringement Claim without the prior written consent of OneTrust.

7.2. In any action based on an Infringement Claim, OneTrust, at its option and its own expense, will either: (i) procure the right for Customer to continue using the Subscription Services in accordance with the provisions of this Agreement; (ii) make such alterations, modifications or adjustments to the Subscription Services so that the infringing Subscription Services become non-infringing without incurring a material diminution in performance or function; (iii) replace the Subscription Services with a non-infringing, substantially similar substitute; or (iv) terminate the right to use the Subscription Services and refund to Customer the unused remainder of any subscription fees prepaid by Customer and received by OneTrust. In connection with any termination pursuant to this Section 7, OneTrust and Customer shall comply with all post-termination requirements set out in this Agreement (including Section 10 Termination; Suspension). OneTrust shall have no liability or obligations for an Infringement Claim pursuant to this Section 7 to the extent that it results from: (A) modifications to the Subscription Services made by a party other than OneTrust or a party under the direct control of OneTrust; (B) the combination, operation or use of the Subscription Services with non-OneTrust products; (C) use of the Subscription Services outside the scope of this Agreement; (D)
OneTrust's use of any materials provided by Customer, if any; or (E) use of third party software, technology or any derivatives or other adaptations thereof not embedded by OneTrust into the Subscription Services. This Section 7 sets out Customer and Customer Indemnitees' sole and exclusive remedies and OneTrust's entire liability with respect to claims subject to indemnification under this Section, including claims for infringement or violation of third party Intellectual Property Rights by the Subscription Services.

8. **LIMITATION OF LIABILITY AND DAMAGES.**

8.1. SUBJECT TO SECTIONS 8.2, 8.3 AND 8.4, EACH PARTY'S TOTAL AGGREGATE LIABILITY WITH RESPECT TO ALL SUBJECT MATTER RELATING TO OR ARISING OUT OF THIS AGREEMENT AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BREACH OF STATUTORY DUTY, STRICT LIABILITY OR OTHER THEORY SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID AND PAYABLE TO ONETRUST (WHETHER OR NOT INVOICED) UNDER THE AGREEMENT IN THE YEAR PRECEDING THE FIRST EVENT GIVING RISE TO A CLAIM.

8.2. SUBJECT TO SECTIONS 8.3 AND 8.4 AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE FOR ANY: (A) SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) LOSS OF REVENUES; (C) LOSS OF PROFITS; (D) LOSS OR INACCURACY OF DATA; OR (E) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, IN EACH CASE, REGARDLESS OF THE FORM OF ACTION (AND WHETHER (B) THROUGH (E) ARE DIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL), WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BREACH OF STATUTORY DUTY, STRICT LIABILITY OR OTHER THEORY.

8.3. THE LIMITATIONS AND EXCLUSIONS CONTAINED IN THIS SECTION 8 SHALL NOT APPLY TO BREACHES OF LICENSE RESTRICTIONS SET OUT IN SECTION 2, INDEMNIFICATION OBLIGATIONS, A BREACH OF SECTION 9 (CONFIDENTIALITY AND PROPRIETARY INFORMATION), CUSTOMER'S PAYMENT OBLIGATIONS AND WILLFUL MISCONDUCT.

8.4. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY LAW.

9. **CONFIDENTIALITY AND PROPRIETARY INFORMATION.**

A Party (the “Receiving Party”) may receive Confidential Information of the other Party or its Affiliates (the “Disclosing Party”) and the Receiving Party shall keep all such Confidential Information confidential and protect it by using the same level of care and discretion that the Receiving Party uses with respect to its own confidential information, which will be in no case less than reasonable care and discretion. The Receiving Party shall not use the Confidential Information for its own purposes (other than implementation of this Agreement) nor disclose Confidential Information to any person other than such Party's employees or Authorized Users who have a need to know that Confidential Information provided to Receiving Party by or on behalf of Disclosing Party pursuant to this Agreement; provided, however, that Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; (iii) is lawfully
disclosed to the Receiving Party by a third party without restriction on disclosure; (iv) is independently developed by the Receiving Party; or (v) is input into the Software by (or on behalf of) Customer or Authorized Users. This Section shall apply during the Term of this Agreement, and for three (3) years after the termination or expiry.

10. TERMINATION; SUSPENSION.

10.1. Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if the other Party breaches a material obligation under this Agreement that has not been cured (if curable) within thirty (30) business days of the effective date of such written notice (pursuant to Section 15 herein) requiring the remedy of such breach or either Party (a) announces a cessation of its entire business or becomes insolvent; (b) elects to dissolve and wind-up its business; (c) makes a general assignment for the benefit of creditors; or (d) petitions for or appoints (or a third party causes to be appointed for itself) a receiver, custodian or trustee to take possession of all or substantially all of that Party's property. OneTrust may also terminate this Agreement with immediate effect if Customer fails to pay any amount due to OneTrust on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment provided that OneTrust has verified that the applicable invoice was sent to a correct and current address. This Agreement will also terminate automatically upon the expiry of any applicable subscription period specified in the Order Form or such other subscription period as have been expressly agreed to by OneTrust unless automatically renewed pursuant to Section 17.1.

10.2. Upon termination of this Agreement by any means, the rights granted under Section 2 will terminate and (a) Customer shall promptly destroy any and all OneTrust Confidential Information (including any physical copies), and, upon OneTrust's request, have an officer of Customer confirm the same in writing; provided however that, upon Customer's request, OneTrust shall retrieve and deliver to Customer a copy of the data Customer has input in the Software (and that resides in the Software at the time of termination) in a structured, commonly used and machine-readable format, and (b) OneTrust shall promptly destroy any and all Customer Confidential Information (including any physical copies made of it), and an officer of OneTrust shall confirm the same to Customer in writing on Customer's request; otherwise, the terms of this Agreement will remain in effect; and (c) OneTrust will remove access to the Subscription Services.

10.3. Without limiting the foregoing, OneTrust may upon fifteen (15) days' prior written notice (except in the event of an emergency under subsection (b)) suspend or limit Customer's access to or use of the Software without liability if (a) Customer's account is more than sixty (60) days past due, or (b) Customer's use of the Software breaches section 2; provided that OneTrust will promptly end such suspension when Customer cures the foregoing (without prejudice to OneTrust's other remedies in respect of the applicable breach).

10.4. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

11. DATA PROTECTION.

The Parties agree to comply with Annex 1 (Data Processing Addendum) with respect to the processing of any personal data under this Agreement.

12. INTELLECTUAL PROPERTY.

12.1. OneTrust or its third party licensors (as applicable) own all Intellectual Property Rights embodied in the Subscription Services, Software and/or any Professional Services provided by OneTrust or its Affiliates under this Agreement and all derivatives thereof. Rights in the Software are licensed (not sold) to Customer for the Term unless earlier terminated, and Customer shall have no Intellectual Property Rights in, or to, the Software other than the right to use the Software in accordance with the terms of this Agreement. OneTrust does not convey any Intellectual
Property Rights other than those expressly provided herein. Nothing contained in this Agreement shall prevent OneTrust from independently developing its own content.

12.2. OneTrust shall be the sole owner of any newly-developed Intellectual Property Rights related in any way to the Subscription Services, Software, or the Professional Services including but not limited to (a) newly-developed, revised, or modified source code; and (b) inventions, whether such are developed, revised, or modified in response to Customer's requests, suggestions, or ideas, even if performed as Software related services paid for by Customer. If OneTrust creates custom templates for Customer in connection with Professional Services performed hereunder or in a related SOW, Customer may retain copies of such templates after any termination or expiry of this Agreement and OneTrust shall grant Customer a non-exclusive, non-transferable, non-sublicensable, royalty-free perpetual license to use such templates for its internal business or compliance purposes only.

12.3. Customer Content (including Customer Content contained in any output from the Subscription Services or Software) shall remain the property of Customer. To the extent materials developed by OneTrust in connection with this Agreement contain any Customer Content, OneTrust shall not own the Customer Content therein, and OneTrust shall have no right to exploit or use any part of Customer Content for itself or for other of its customers. OneTrust shall not add any Customer Content to its Software template gallery.

13. THIRD PARTY SOFTWARE.

Customer acknowledges that the Subscription Services and Software may contain software which is obtained under a license from OneTrust's Affiliates and/or suppliers (collectively, "Third Party Software"). All third party licensors and suppliers retain all right, title and interest in and to such Third Party Software and all copies of it, including all Intellectual Property Rights. Customer's use of any Third Party Software shall be subject to, and Customer shall comply with, the terms and conditions of this Agreement.

14. SURVEYS.

OneTrust may conduct periodic surveys for the sole purposes of remotely verifying Customer's use of the Software and Subscription Services and compliance with the Agreement.

15. NOTICE.

15.1. Except as otherwise provided herein, all notices, consents and approvals under this Agreement shall be deemed properly given and effective (a) when personally delivered (to the person or department if one is designated in the Order Form); (b) when deposited in the United States certified mail, registered mail, postage prepaid or return receipt requested, or (c) when deposited with an internationally recognized overnight delivery service such as Federal Express with all fees and charges prepaid, and addressed in each such case as set out in the Order Form. When any notice under this Agreement is sent to OneTrust a copy shall be sent to legal@onetrust.com.

15.2. Any Party may change its address to another single address with ten (10) days prior written notice. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall constitute receipt.

16. NONASSIGNABILITY.

Except for an assignment by OneTrust to a wholly owned Affiliate neither the rights nor the obligations arising under this Agreement are assignable or transferable by either Party without the other Party's prior written consent (which will not be unreasonably withheld), and any such attempted assignment or transfer shall be void and without effect.
17. EFFECTIVE DATE; TERM; GOVERNING LAW AND JURISDICTION; SEVERABILITY.

17.1. This Agreement shall become effective on the date of the last signature on the Order Form (the “Effective Date”) and shall continue for a period of twelve (12) months (“Initial Term”) unless otherwise indicated on the Order Form. This Agreement shall automatically renew for an additional twelve (12) month term (each, a “Renewal Term,” together with the Initial Term, the “Term”) on OneTrust’s then-current terms and conditions unless either party provides notice of its intent not to renew at least thirty (30) days in advance of the end of the Initial Term or current Renewal Term. OneTrust will provide Customer with sixty (60) days’ notice of an upcoming Renewal Term. Any notice provided under this Section may be accomplished via emailed or electronically submitted invoice or notice.

17.2. This Agreement and any dispute or claim (including non-contractual disputes or claims) arising under or in connection with this Agreement, its subject matter, or formation shall be governed by and construed in accordance with the governing law identified in Section 17.5. All disputes or claims (including non-contractual disputes or claims) under this Agreement will be resolved in accordance with the jurisdiction identified in Section 17.5. The Parties consent to the exclusive jurisdiction of such court and waive any personal jurisdiction or venue defenses otherwise available. The United Nations Convention on Contracts for the International Sale of Goods is expressly and entirely excluded and will not apply to the Agreement. In any action to enforce this Agreement, the prevailing party will be entitled to reasonable costs and attorneys’ fees actually incurred.

17.3. Each provision of this Agreement shall be considered severable such that if any provision or clause conflicts with any existing or future law or regulation, or is held to be illegal, unenforceable or invalid by a court, the other provisions of this Agreement shall be limited or modified to the minimum extent necessary to make it valid, legal and enforceable and so that this Agreement shall otherwise remain in effect.

17.4. This Agreement and all related documentation is and will be in the English language and all disputes arising under this Agreement shall be resolved in the English language.

17.5. If the OneTrust contracting party is OneTrust LLC, the governing laws are the laws of Georgia, USA under the exclusive jurisdiction of the Courts of Atlanta, Georgia, USA. If the OneTrust contracting party is OneTrust Technology Limited, the governing laws are the laws of England and Wales under the exclusive jurisdiction of the Courts of England and Wales. If the OneTrust contracting party is OT Australia (Privacy) Limited, the governing laws are the laws of Victoria, Australia under the exclusive jurisdiction of the Courts of Victoria, Australia.

18. ENTIRE AGREEMENT; MODIFICATIONS; WAIVERS; THIRD PARTY RIGHTS.

18.1. This Agreement, together with any agreement, policy, documentation or guideline referenced in this Agreement, constitutes the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and the Software, superseding all prior or contemporaneous proposals, communications and understandings, oral or written relating to that subject matter. Each Party agrees that it 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. Subject to Section 8.4, each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement. To the extent there is any conflict or inconsistency between the Terms and Conditions of this Agreement and any Order Form signed by both Parties, the Order Form shall prevail to the extent of any such conflict or inconsistency. Any additional or different terms or conditions proposed by Customer (whether by order, purchase order, counter-offer, acknowledgement, electronic data interchange, vendor enrollment, or otherwise) are hereby expressly objected to and will not be in any way binding upon OneTrust.

18.2. Except as expressly provided in this Agreement, any modifications of this Agreement must be in writing and signed by both Parties (and in the case of OneTrust, signed by the Chief Executive Officer, Chief Financial Officer, Chief Operations Officer or a Director of OneTrust).
18.3. Any waiver of any provision of this Agreement must be in writing and will not be deemed a waiver of any other provision. Waiver by a Party of a breach of any provision of this Agreement by the other Party will not operate as a waiver of any other or subsequent breach by such breaching Party.

18.4. Subject to Section 18.5, this Agreement does not confer any right or benefit on any person who is not a Party to it and no one other than a Party to this Agreement, their successors and permitted assignees shall have any right to enforce any of the terms of this Agreement.

18.5 If applicable law prohibits a party from being indemnified on behalf of an Affiliate, such Affiliate shall be entitled to be indemnified directly pursuant to (and subject to the terms of this Agreement). Notwithstanding the foregoing, the consent of an Affiliate shall not be required to amend or terminate the Agreement.

19. GENERAL.

19.1. A delay by either Party in performing its obligations will not be a breach of this Agreement if caused by fire, flood or other event beyond the reasonable control of such Party. The affected Party will notify the other Party of such event and resume performance as soon as possible.

19.2. This Agreement may be executed in any number of counterparts, each of which is an original, but all the counterparts together constitute the same document. Delivery of an executed counterpart of a signature page to this Agreement by e-mail or other electronically delivered signatures of the Parties shall be as effective as delivery of a manually executed counterpart of this Agreement.

19.3. Nothing in this Agreement is intended to create a joint venture, partnership, agency or employment relationship between the Parties.

19.4. Sections 1, 2.3, 2.4, 4, 6, 7, 8, 9, 10, 11, 12, 17, 18, and 19, will survive the termination or expiry of this Agreement except that OneTrust shall not indemnify Customer under Section 7 for any third party claim arising as a result of Customer's use of the Software after termination or expiry of the license.

20. NON-PRODUCTION & PRE-PRODUCTION ENVIRONMENTS

With respect to Customer's use of any user acceptance testing or trial environment in relation to the Subscription Services or Software, whether or not specifically listed on an Order Form, the following shall apply, notwithstanding anything to the contrary herein. These environments: (i) are not intended to contain production level data and OneTrust shall not be responsible for any data input into such environments; and (ii) may contain forward looking code that is provided only for evaluation purposes and are not subject to the warranties herein. THESE ENVIRONMENTS ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS.

21. GOVERNMENT USE.

If Customer is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software is restricted in accordance with the Federal Acquisition Regulations as applied to civilian agencies and the Defense Federal Acquisition Regulation Supplement as applied to military agencies. The Software is a "commercial item", "commercial computer software" and "commercial computer software documentation." In accordance with such provisions, any use of the Software by the Government shall be governed solely by the terms of this Agreement.
Annex 1 Data Processing Addendum

OneTrust
Data Processor Clauses (GDPR version)

1. Data Protection

1.1. Definitions: In this Clause, the following terms shall have the following meanings:

(a) "controller", "processor", "data subject", "personal data", "processing" (and "process") and "special categories of personal data" shall have the meanings given in Applicable Data Protection Law; and

(b) "Applicable Data Protection Law" shall mean any and all applicable data protection and privacy laws including, where applicable, EU data protection law.

(c) "EU Data Protection Law" means: (i) the EU General Data Protection Regulation (Regulation 2016/679); (ii) the EU e-Privacy Directive (Directive 2002/58/EC); and (iii) any and all EU Member State laws made under or pursuant to any of the foregoing; in each case as amended or superseded from time to time.

1.2. Relationship of the parties: Customer (the controller) appoints OneTrust as a processor to process the personal data described in the Agreement (the "Data") for the purposes described in the Agreement (or as otherwise agreed in writing by the parties) (the "Permitted Purpose"). Each party shall comply with the obligations that apply to it under Applicable Data Protection Law, and OneTrust shall promptly inform Customer if, in OneTrust’s opinion, the Customer’s processing instructions infringe Applicable Data Protection Law.

1.3. International transfers & data localization laws: If any Data originates from the European Economic Area ("EEA") under this Agreement, OneTrust shall not transfer the Data outside of the EEA unless it has taken such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Law. Such measures may include (without limitation) transferring the Data to a recipient (a) in a country that the European Commission has decided provides adequate protection for personal data, (b) that has achieved binding corporate rules authorisation in accordance with Applicable Data Protection Law, (c) in the United States that has certified its compliance with the EU-US Privacy Shield, or (d) that has executed standard contractual clauses adopted or approved by the European Commission.

For this purpose, Customer acknowledges that OneTrust shall provide adequate protection for such Customer Content by virtue of OneTrust LLC having self-certified its compliance with the EU-U.S. and Swiss-US Privacy Shield Frameworks. OneTrust’s certification page is currently available at: https://www.privacyshield.gov/participant?id=a2zt0000000GnPeAAK&status=Active.

Additionally, in the event the Privacy Shield Frameworks were to be invalidated, Customer and OneTrust shall enter into (i) the EU-Standard Contractual Clauses for this purpose of adequate protection, or (ii) any other valid transfer mechanism then in existence, and as mutually agreed between the Parties.

If any Customer Data originates from any country (other than an EEA country) with one or more laws imposing data transfer restrictions or prohibitions and Customer has informed OneTrust of such data transfer restrictions or prohibitions, Customer and OneTrust shall ensure appropriate transfer mechanism (satisfying the country’s data transfer requirement(s)) is in place, as reasonably requested by Customer and mutually agreed upon by both Parties, before transferring or accessing Customer Data outside of such country. For the avoidance of doubt, this transfer restriction does not pertain to Customer or its Affiliates’ Authorized Users who have access to the Software and Customer Data, and OneTrust shall not be held...
1.4. **Confidentiality of processing**: OneTrust shall ensure that any person it authorises to process the Data (an "Authorised Person") shall protect the Data in accordance with OneTrust's confidentiality obligations under the Agreement.

1.5. **Security**: Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, OneTrust shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk (as specified in Article 32 of the EU General Data Protection Regulation) to protect the Data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorised disclosure of, or access to the Data (a "Security Breach"). All penetration or other testing shall be done in a designated testing environment and pursuant to mutual agreement of the parties. OneTrust LLC's Information Security Management System (ISMS) is ISO/IEC 27001:2013 certified as reflected in the certificate found here: [http://www.coalfireiso.com/Certificates/OneTrust-ISO-27001-Certificate-Award_2-12-2019.pdf](http://www.coalfireiso.com/Certificates/OneTrust-ISO-27001-Certificate-Award_2-12-2019.pdf). OneTrust has completed a SOC 2 Type 1 report providing verification of the security, confidentiality, and availability controls maintained by OneTrust.

1.6. **Subprocessing**: Customer consents to OneTrust engaging subprocessors to process the Data for the Permitted Purpose provided that: (i) OneTrust maintains an up-to-date list of its subprocessors on the OneTrust Support Portal at support.onetrust.com (or any future support website used by OneTrust), which it shall update with details of any change in subprocessors at least 30 days' prior to any such change (except to the extent shorter notice is required due to an emergency) and notify Customer of such change via OneTrust's support e-mail notification process; (ii) OneTrust imposes data protection terms on any subprocessor it appoints that require it to protect the Data to the standard required by Applicable Data Protection Law; and (iii) OneTrust remains liable for any breach of this Clause that is caused by an act, error or omission of its subprocessor. Customer may object to OneTrust's appointment or replacement of a subprocessor prior to its appointment or replacement, provided such objection is based on reasonable grounds relating to data protection. In such event, Customer may suspend or terminate the Agreement (without prejudice to any fees incurred by Customer prior to suspension or termination). For the purposes of providing the Subscription Services and Software, Customer agrees to processing by OneTrust and its Affiliates and the use by OneTrust of the subprocessors identified herein.

<table>
<thead>
<tr>
<th>Sub-Processor</th>
<th>Purpose</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microsoft Azure</td>
<td>Hosting of platform.</td>
<td>OneTrust also offers an option for its customers to install the Software on premise. Should Customer no longer wish to use OneTrust's hosting subprocessor in the future, a request to move on premise can be made, and OneTrust will provide an updated Order Form and updated Terms and Conditions for on premise.</td>
</tr>
<tr>
<td>One Microsoft Way, Redmond, WA 98052-6399, U.S.A.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SendGrid</td>
<td>In-built email delivery system in connection with the Software.</td>
<td>Customer may chose, provided that Customer has the appropriate software infrastructure, to use its own e-mail servers instead.</td>
</tr>
<tr>
<td>Sub-Processor</td>
<td>Purpose</td>
<td>Other</td>
</tr>
<tr>
<td>--------------</td>
<td>---------</td>
<td>-------</td>
</tr>
<tr>
<td>Salesforce</td>
<td>Account administration, product feedback and support</td>
<td>OneTrust uses Salesforce in order to administer Customer’s account.</td>
</tr>
</tbody>
</table>

1.7. **Cooperation and data subjects’ rights:** OneTrust shall provide reasonable and timely assistance to Customer (at Customer’s expense) to enable Customer to respond to: (i) any request from a data subject to exercise any of its rights under Applicable Data Protection Law (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator or other third party in connection with the processing of the Data. In the event that any such request, correspondence, enquiry or complaint is made directly to OneTrust, OneTrust shall promptly inform Customer providing full details of the same.

1.8. **Data Protection Impact Assessment:** OneTrust shall provide Customer with reasonable cooperation (at Customer’s expense) to enable Customer to conduct any data protection impact assessment that it is required to undertake under Applicable Data Protection Law.

1.9. **Security breaches:** If it becomes aware of a Security Breach, OneTrust shall inform Customer without undue delay and shall provide reasonable information and cooperation to Customer so that Customer can fulfil any data breach reporting obligations it may have under (and in accordance with the timescales required by) Applicable Data Protection Law. OneTrust shall further take such reasonably necessary measures and actions to mitigate the effects of the Security Breach and shall keep Customer informed of all material developments in connection with the Security Breach.

1.10. **Deletion or return of Data:** Following termination or expiry of the Agreement, OneTrust shall (at Customer’s election) destroy or return to Customer all Data in its possession or control. This requirement shall not apply to the extent that: (i) OneTrust is required by applicable law to retain some or all of the Data; or (ii) or to Data it has archived on back-up and support systems, provided that OneTrust shall securely protect such Data.

1.11. **Audit:** OneTrust shall, upon reasonable notice (no less than thirty (30) days) and not more than once a year (unless there is a material Security Breach), allow its procedures and documentation to be inspected or audited by Customer (or its designee, excluding any OneTrust Competitor) during business hours in order to ascertain compliance with the obligations set forth in this Data Processing Addendum. For the avoidance of doubt, the scope of such audit shall be limited to documents and records allowing the verification of OneTrust’s compliance with the obligations set forth in this Data Processing Addendum and shall not include financial documents or records of OneTrust or any documents or records concerning other customers of OneTrust.

1.12. **Liability:** Each party’s liability for one or more breaches of this Data Processing Addendum shall be subject to the limitations and exclusions of liability set out in the Agreement. In no event shall either party’s liability for a breach of this Data Processing Addendum exceed the liability cap set out in the Agreement. Neither party limits or excludes any liability that cannot be limited or excluded under applicable law (such as for fraud).
Appendix 1: OneTrust Information Security Controls

OneTrust technical and organizational measures for data protection have been organized and implemented according to ISO 27001 and include the following types of controls:

A.5: Information security policies
A.6: Organization of information security
A.7: Human resource security
A.8: Asset management
A.9: Access control
A.10: Cryptography
A.11: Physical and environmental security
A.12: Operations security
A.13: Communications security
A.14: System acquisition, development and maintenance
A.15: Supplier relationships
A.16: Information security incident management
A.17: Information security aspects of business continuity management
A.18: Compliance; with internal requirements, such as policies, and with external requirements, such as laws

OneTrust maintains the following policies and procedures in support of its privacy and security program:

Information Security Policies
To provide management direction and support for information security in accordance with business requirements, and relevant laws and regulations.

Organization of Information Security
To establish a framework for initiating and controlling information security implementation and operations at OneTrust.

Human Resource Security
To ensure that all workforce members are well suited for, and understand, their roles and responsibilities. To ensure that all workforce members are aware of, and that they fulfill, their information security responsibilities and obligations. To ensure that the organization's interests are protected throughout the employment process, from pre-employment to termination.

Asset Management
To identify OneTrust's information assets, and to define and assign appropriate responsibilities for ensuring their protection. To ensure an appropriate level of protection for information assets in accordance with their sensitivity level and importance to the organization. To prevent the unauthorized disclosure, modification, removal or destruction of information stored on media.

Access Control
Provides the framework for user, system and application access control and management, and user responsibilities. To limit access to information and information processing facilities. To ensure authorized user access and to prevent unauthorized access to systems and services. To make users accountable for safeguarding their authentication information. To prevent unauthorized access to systems and applications.

Cryptography
To ensure proper and effective use of cryptography to protect the confidentiality, authenticity and integrity of information.
**Physical and Environmental Security**
To prevent unauthorized physical access, damage and interference with OneTrust's information and information processing facilities. To prevent loss, damage, theft or compromise of OneTrust's assets, and interruption of its operations.

**Operations Security**
To ensure that information and information processing facilities are operated securely, protected from malware and loss of data. To ensure that security events are recorded appropriately. To ensure that operational system integrity is maintained, and exploitation of technical vulnerabilities is avoided.

**Communications Security**
To establish controls for the protection of information in networks and their associated facilities. To ensure the security of information being transferred within OneTrust and with external parties.

**System Acquisition, Development and Maintenance**
To establish information security as a vital part of information systems throughout the entire information lifecycle, including designing information security into the development of such systems. To ensure that sufficient controls are established to protect data used in testing.

**Supplier Relationships**
To ensure protection of OneTrust assets that are accessible by suppliers. To maintain an agreed-upon level of information security and service delivery in accordance with supplier agreements.

**Information Security Incident Management**
To ensure a consistent and effective approach to managing information security events, including incidents and weaknesses.

**Information Security Aspects of Business Continuity Management**
To embed information security continuity in OneTrust’s business continuity management systems. To ensure availability of information processing facilities.
Appendix 2: Details on the processing of Customer Data

Categories of Data subjects:

- Customer employees, contractors, agents, consultants, vendors and customers whose personal information is shared with OneTrust for the purpose of providing and using the privacy management software.
- [ ] Other [Customer may elect to include additional data subjects defined here]

Categories of personal data processed:

- The Personal Data processed is personal data provided by Customer and processed by OneTrust in the course of providing the Subscription Services.
- The personal data processed may concern the following categories of data:
  - Identification data
  - [ ] Personal characteristics
  - [ ] Physical details
  - [ ] Profession and employment
  - [ ] Other [To be defined by Customer] __________

Special categories of data (if appropriate)
The personal data processed will not include sensitive personal data including information about racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life, government issued identification numbers, health or medical records and criminal records.

Purpose of Processing operations
The personal data processed may be subject to the following basic processing activities: collect, record, organize, store, adapt, alter, retrieve, redact, consult, use, align or combine, block, erase or destruct, disclose by transmission, disseminate or otherwise make available Customer Data as described herein, as strictly necessary and required to provide the Software and Subscription Services and otherwise in accordance with Customer's instructions.

Specifically, processing operations include:
- Processing of name and e-mail addresses to provide login credentials, processing of name and e-mail address to provide support and help desk, storage of login credentials of users for authentication purposes.
- Hosting Customer environment which contains Customer Data.
- OneTrust shall not access the Customer Data unless Customer expressly grants OneTrust access. For example, for support purposes, Customer may create an external user in the Customer environment and set an expiration date, after which OneTrust's access will automatically expire.

Specifically, systems (hardware/software) used will include:
- OneTrust Privacy Management Software
- Microsoft Azure (hosting)
- Sendgrid (e-mail notifications)
- Salesforce (account administration)

Duration of Processing
The personal data may be processed during the Term of the Agreement and any additional period which it is retained pursuant to Section 1.10 of Annex 1 (Data Processing Addendum).