

Terms & Conditions

Firmex International Ltd.

These Terms and Conditions set out the provisions pursuant to which the Subscriber is entitled to (and grant permission to its Guest Users) access and use the Technology and/or access the Services.

1 DEFINITIONS

1.1 For the purposes of this Agreement:

"Agreement" means the Order and the Terms and Conditions contained herein as they are updated from time to time;

"Committed Term" means, with respect to each applicable Service, Unique Host Users and/or Storage Allowance, the period set out in the Order beginning on the Effective Date and ending upon expiry or termination of the Agreement in accordance with the terms of the Agreement or Clause 5;

"Confidential Information" means any and all information contained in any form whatsoever that is not generally available to or used by the public, that is acquired or developed by or on behalf of either of the parties and that is disclosed or made available by a Disclosing Party to a Receiving Party in connection with this Agreement, and includes, but is not limited to, business information, Personal Information, all Materials and information in relation to Transactions, the Technology and in the case of Firmex, includes the intellectual property rights described in Clause 6.1;

"Default" means a default of the terms of the Agreement as set out in Clause 5;

"Disclosing Party" means a party to the Agreement that discloses, either directly or indirectly through a third party, Confidential Information to a Receiving Party;

"Effective Date" means the date of commencement of the provision of the Services as set out in the Order;

"Excess Storage Fee" means the amounts payable by the Subscriber to Firmex for exceeding the Storage Allowance set out in the Order;

"Fees" consist of the Service Fees, the Excess Storage Fees, and interest for overdue accounts as applicable;

"Firmex" means a company registered in England and Wales with company number 11001918 whose registered office is at 10 Finsbury Square, London EC2A 1AF, United Kingdom;

"Guest Users" mean those individuals authorised by the Subscriber to access the Website that are not a Representative, and do not count towards the total User Licenses, as specified in the Agreement;

"Materials" means the documents, images, video and any other material relating to Transactions placed on the Website by the Subscriber for access by Website Users;

"Order" means the written order for the Services from the Subscriber to Firmex in a format determined by Firmex from time to time;

"Personal Information" means information about an identifiable individual or other information that is subject to any Privacy Laws, including personal health information;

"Privacy Laws" means any current, amended or future federal, provincial or other applicable statute, law or regulation of any governmental or regulatory authority in Canada and England and Wales relating to the collection, use, storage and/or disclosure of information about an identifiable individual, including any:

- (a) statute, enactment, regulation, byelaw, ordinance and/or subordinate legislation;
 - (b) judgment, order or decree of a relevant court of law;
 - (c) common law or law of equity;
 - (d) industry code, policy, guidance or standard in each case enforceable by law;
 - (e) directive, order, direction or requirement of any Regulatory Body; and
 - (f) regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data ("GDPR");
- which is applicable to either of the parties, or in relation to which they are subject;

"Receiving Party" means a party to this Agreement that receives Confidential Information from a Disclosing Party;

"Representative" means any party that has full or partial administrative permissions to manage the working group or materials in a Transaction, including any employee, agent, independent contractor, accountant, auditor, counsel, banker, lender, employee of a limited partner of the Subscriber, employee of an affiliate where the Subscriber owns a greater than fifty percent (50%) interest or is able to exercise control over that affiliate, or any other advisor of a party to this Agreement;

"Services" means the services provided by Firmex pursuant to the Agreement, including access to the Website, encryption, transmission, access and storage of Materials in digital form during the course of a Transaction, and support, training, and professional services;

"Service Fees" means those amounts payable by the Subscriber to Firmex for the Services (and includes any license fees for the use of the Technology) set out in the pricing schedule in the Order;

"Service Level Commitment" means a service level commitment to the Subscriber by Firmex contained in Clause 11;

"Storage Allowance" means the amount of disk space accessible by the Subscriber through their use of the Services which is included in the Service Fees and as set out in the Order;

"Subscriber" means a subscriber to the Services whose details are set out in an Order;

"Technology" means any information technology application developed by Firmex which facilitates the digital storage and file transfer of information on Firmex's servers including, but not limited to, a digital information store pertaining to Transactions where Guest Users can examine digitally stored documents, which may include such features as due diligence checklists, the ability to build multiple checklists and sub-lists for a variety of jurisdictions, post documents, search documents, manage multiple drafts of Materials and document commentaries, assign drafting tasks, the tracking of changes to documents, the authorisation and tracking of access to documents, the generation of reports, the generation and viewing of a Transaction;

"Transaction" means a single transaction (which may include any number of related sub-transactions) involving the Subscriber and Guest Users, where the Subscriber is either a party to the transaction or an adviser for a party to the transaction;

"Unique Host User" means a user that is a Representative of the Subscriber which has a valid log-in and password and who logs into the Website on behalf of the Subscriber at least once, and which counts towards the total number of User Licenses purchased by the Subscriber, as specified in the Order;

"Website" refers to a portion of the server segmented by the Technology accessible by utilizing Guest Users over the internet and which contains, materials uploaded or requested by the Subscriber or Unique Host User.



2 SERVICES

2.1 Firmex will provide Services to the Subscriber, as follows:

- (a) Firmex will, in accordance with the Agreement, make available to the Subscriber and Guest Users, the Website enabled with the Technology. Promptly after the Effective Date, Firmex will make available the Services set out in the Agreement;
- (b) Promptly upon receipt of a written request from the Subscriber, Firmex will discontinue access to the Website by any or all Guest Users and/or delete the Website from its servers as applicable;
- (c) Firmex will maintain and update the security of the Website in accordance with generally accepted information technology practices, and, without limiting the foregoing, will adhere to the security standards outlined in this Clause 2.1 (a). Firmex will notify the Subscriber by way of email of any breach of Website security within twenty (24) hours of Firmex learning of the breach. In the event of such a breach, Firmex will not allow access to the Website by any person other than its own database administrator(s), and Guest Users. Firmex will automatically monitor the Website at all times during the Committed Term for possible and actual infections by computer viruses, worms and other malicious software and will take all reasonable precautions to prevent such infections;
- (d) Firmex will use reasonable endeavours to achieve the Service Level Commitments throughout the Committed Term;
- (e) To the extent that Firmex has the capability to maintain logs of the activities of Guest Users on the Website, Firmex will
 - (i) promptly make any such log or logs available to the Subscriber at the Subscriber's written request; and
 - (ii) otherwise protect such logs as Confidential Information.

These logs may include a report of the total minutes a Unique Host User or Guest User is logged into the Website.

- (f) Firmex will maintain Materials for a period of five (5) business days following the end of the Committed Term, after which time all data may be deleted without further notice at Firmex's absolute discretion;
 - (g) The Storage Allowance is set out in the Order. If the amount of disk storage required exceeds the Storage Allowance, Firmex will have the right to charge the Subscriber Firmex's current Excess Storage Fees or those agreed to in the Order, if any;
 - (h) The number of Unique Host Users is set out in the Order. If the amount of Unique Host Users exceeds this allowance, Firmex will have the right to charge the Subscriber its current Unique Host Users Fees or those agreed to in the Order, if any;
 - (i) The Committed Term is set out in the Order. If the Website continues to be used past the end of the Committed Term, Firmex will have the right to charge the Subscriber its current monthly fee, and additional storage and users fees as applicable, or those fees agreed to in the Order if any.
- 2.2 The Subscriber shall provide Firmex with full, complete and accurate information regarding its use of the Service, including the names of each Unique Host User who the Subscriber wishes to access the Service, and the Subscriber shall update this information as necessary via the Website. Firmex may suspend or terminate access to the Service and/or the Website if the Unique Host User information provided by the Subscriber is inaccurate, not current or incomplete.
- 2.3 The Subscriber may only use the Services to store data for itself and its Guest Users. The Subscriber may not use the Services or its access to the Technology or any of Firmex's intellectual property rights described in Clause 6.1 below, whether for itself or for any other person directly or indirectly, to research, develop or create, or to facilitate any of the foregoing by itself or any other person, any service or technology or product that competes with, or is similar to, the Website and/or the Services, or any other service provided through the Technology.

3 FEES

- 3.1 In consideration of the provision of the Services and license granted by Firmex under Clause 6 below, the Subscriber shall pay to Firmex the Fees described in the Order. The Fees shall be payable in the currency specified in the Order.
- 3.2 The Subscriber shall pay any and all applicable taxes in addition to the Fees.
- 3.3 Fees are calculated based on the Agreement, and except in the case of a Committed Term of less than twelve (12) months, will increase by the greater of three (3%) annually or as otherwise stated per the Agreement.

4 BILLING

- 4.1 Firmex shall invoice the Subscriber for the Services as set out in the Order. The Fees shall be payable on receipt of a valid invoice from Firmex. Invoices shall be sent by Firmex in accordance with the Service Fees set out in the Order.
- 4.2 The Subscriber has thirty (30) days from the date that any discrepancy appears in the Subscriber's statement or invoice to notify Firmex in writing of such discrepancy in order to make a claim for an adjustment or credit after which time all Service Fees will be deemed correct and fully payable without discount, deduction or set-off by the Subscriber.
- 4.3 In the event that any of Service Fees remain unpaid by the Subscriber for more than thirty (30) days (from the stated invoice date) then, in addition to any other remedies it may have available to it, Firmex reserves the right to immediately discontinue the provision of the Services and/or access to the Website without notice to the Subscriber.

5 DEFAULT AND TERMINATION

- 5.1 The following events are a Default by a party where the default is not cured in the relevant cure period:
- (a) a party fails to perform or observe any of its material obligations under the Agreement (other than achievement of Service Level Commitments, governed by Clause 5.3) and the failure continues unremedied for five (5) days following receipt of a notice of the failure from the other party;
 - (b) a party becomes insolvent, commits any act of bankruptcy or makes a proposal or arrangement with its creditors as a result of its inability to pay its debts as they come due; or
 - (c) a party fails to make payment when due to the other party on the due date.
- 5.2 Upon Default, the non-defaulting party may do any or all of the following:
- (a) immediately terminate this Agreement by giving written notice to the party in Default; and
 - (b) exercise any of its other rights and remedies under the Agreement and/or otherwise available to it at law or in equity.
- 5.3 If Firmex fails to achieve the Service Level Commitments in two (2) or more months in any six (6) month period, the Subscriber shall have either:
- (a) the right to terminate the Agreement immediately by giving Firmex written notice; or
 - (b) receive a twenty percent (20%) discount on the Fees payable for the months in which the Service Level Commitments were not achieved during such six (6) month period.
- 5.4 The Subscriber's remedies under Clause 5.3 are limited to the right of termination or the Fee reduction set out therein. Under no circumstances whatsoever shall the Subscriber be entitled to a greater than twenty percent (20%) discount of the Fees payable for any month. The Subscriber is not under any circumstances whatsoever entitled to claim or receive damages from, or pursue any other remedy against, Firmex save in respect of the foregoing provisions of Clause 5.3 for failure to achieve the Service Level Commitments.
- 5.5 Firmex reserves the right to terminate the Agreement in the event of unauthorised running by the Subscriber or any third party on their behalf of security or vulnerability port scans, service penetration tests, load tests or other network tests on the Technology, the Website or any other part of the Services without the prior written consent and authorisation of Firmex.
- 5.6 Firmex reserves the right to suspend, delay, prevent or restrict access to the Website for non-payment of Fees.
- 5.7 Upon termination of the Agreement for Default by the Subscriber, the right of the Subscriber, Guest Users and Unique Host Users and to access or use Materials shall cease immediately.
- 5.8 Any termination of the Agreement for Default shall be only by written notice of the terminating party to the other party setting out the details of the Default.
- 5.9 Firmex may terminate this Agreement for convenience upon ninety (90) days' written notice to the Subscriber by Firmex.
- 5.10 Notwithstanding the foregoing or any other term or condition hereof or of the Agreement, and except in the case of a Committed Term of less than twelve (12) months, unless either party provides written notice of termination to the other in accordance with the terms of this Clause 5, or, the Committed Term is not otherwise modified by mutual agreement of the Parties, in writing, at least thirty (30) business days in advance of the expiry of the Committed Term, the Committed Term shall be deemed to have automatically been renewed for an additional one (1) year period from the scheduled end of such Committed Term (the "Renewal Term"), and shall continue to do so on a recurring basis, in perpetuity, unless and until either party terminates this Agreement in accordance with the terms of this Clause 5, or, provides the other with written notice of its intention of non-renewal at least thirty (30) business days prior to the end of such then-current Renewal Term.
- 5.11 Upon termination of the Agreement, each party shall return to the other the other party's Confidential Information or, upon request, destroy the Confidential Information and all copies, and certify in writing that the Confidential Information has been destroyed. All obligations arising prior to such termination shall be complied with, and any provisions of this Agreement that by their nature operate beyond the termination or expiry of the Agreement shall survive such termination.

6 INTELLECTUAL PROPERTY AND LICENSES

- 6.1 Firmex does not own any intellectual property rights in the Materials. Firmex owns and shall at all times own absolutely any and all intellectual property rights in the Technology, the Website, including, but not limited to, the look and feel of the Website, the database designs, the architecture of all information technology, and any



elements of such technology that are intrinsic to the Technology, subject to the Subscriber's ownership of its trade-marks used on the Website as described in Clause 6.2 below.

6.2 The Website may, at the Subscriber's option and written request, be privately branded using a Subscriber trade-mark, or on any other use of a Subscriber trade-mark, but all such trade-marks shall remain the property of the Subscriber. Firmex grants to the Subscriber the right, during the Term, to display the Firmex trade-marks on the Subscriber brochures and other materials to promote the use of the Technology, subject to Firmex's written prior approval of the use of its trademarks in accordance with this Clause 6.2.

6.3 Firmex is entitled to insert a legend on any page of a Website indicating that the Website has been developed by Firmex. Firmex may insert a hyperlink in the legend to Firmex's own web site. Unless notified in writing by Subscriber, Firmex may use the Subscriber's name and trade-mark in a list of representative clients.

6.4 Firmex grants to the Subscriber a license to access and use, and to grant the Guest Users access to, and use of, the Technology, solely through a Website, for the Term and solely in accordance with the terms of the Agreement, including the right to copy solely as required to give effect to the Agreement. Firmex retains any and all rights, title and interest in the Technology not specifically licensed to the Subscriber under the Agreement.

6.5 The Subscriber acknowledges and agrees that each Guest User is required to agree to Firmex's Terms of Use prior to being permitted to access and use the Website.

6.6 Subject to Clause 6.4 above, the Subscriber does not have the right, and agrees not, to reverse engineer, recreate, copy, create derivative software from, distribute, transfer, sell, lease, rent, licence or otherwise deal with the Technology or any part of it.

7 CONFIDENTIALITY AND DATA PROTECTION

7.1 Each party acknowledges that it would be damaging to the other party if its Confidential Information were used other than as permitted under the Agreement or is disclosed to, made available or obtained by any third parties. Each party shall make all commercially reasonable efforts during the Term and thereafter to prevent the other party's Confidential Information from being disclosed to, made available or obtained by any person or entity for any purpose except as described in the Agreement. Each party's efforts to protect the Confidential Information of the other party will not be less than those that it takes to prevent the disclosure of its own Confidential Information.

7.2 The Receiving Party will be responsible for any and all breaches by its Representatives of the Agreement and, in particular, this Clause 7. Without limiting the generality of the foregoing, Firmex will keep confidential any and all Confidential Information of the Subscriber furnished or provided to it or its Representatives, and each party will only use the Confidential Information of the other for the purpose of providing or receiving, as the case may be, the Services in accordance with the Agreement.

7.3 The parties hereby agree and acknowledge that it shall not be a breach of Clause 7.1 to disclose Confidential Information required to be disclosed by law, judicial or arbitration process or by governmental authorities, provided that the Receiving Party first gives the Disclosing Party reasonable notice of any required disclosure pursuant to such law, order or process and takes all reasonable steps to restrict such disclosure and protect the confidentiality of the Disclosing Party's Confidential Information to the fullest extent possible and to fully cooperate with the Disclosing Party, in any efforts the Disclosing Party may reasonably take to challenge or delay such disclosure.

7.4 Firmex shall have no obligation whatsoever to obtain any consent for the collection, use and disclosure of Personal Information placed, shown or displayed on the Website, and the storage, processing and backup of such Personal Information by Firmex. Each party will collect, process, use, store, disclose, dispose of and otherwise handle Personal Information collected or accessible by either party under the Agreement in accordance with any and all applicable Privacy Laws. Firmex will post all applicable privacy policies regarding the processing of Personal Information on the Website so that such policies are accessible to all Guest Users and Unique Host Users.

7.5 The parties agree to comply with the terms of the Data Protection Addendum attached to these Terms and Conditions.

7.6 Each party acknowledges and agrees that:

(a) the restrictions set forth in this Clause 7 are reasonable in the circumstances and the Receiving Party waives any and all defenses to the strict enforcement of the restrictions herein contained;

(b) a violation of any of the provisions of this Clause 7 will result in immediate and irreparable harm and damage to the Disclosing Party; and

(c) in the event of any violation of any provision of this Clause 7, the Disclosing Party shall be entitled to apply for equitable relief by way of temporary or permanent injunction and to such other relief as any court of competent jurisdiction may deem just and proper.

8 WARRANTIES, INDEMNITIES AND LIMITATION OF LIABILITY

8.1 Each party covenants, represents and warrants to the other that it has the right to enter into the Agreement.

8.2 Except as specifically set forth in the Agreement, Firmex and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Service. Further, Firmex and its licensors do not represent or warrant that:

(a) the use of the Service will be uninterrupted or error-free, or operate in combination with any other hardware, software, system or data;

(b) the Services will meet the requirements or expectations of the Subscriber or Guest Users;

(c) any stored data in the Website will be accurate or reliable;

(d) all errors or defects in the Technology and/or the Services will be corrected; or

(e) the Services or the server(s) that make the Services available are free of viruses or other harmful components and, except as specifically set forth in the Agreement, all conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantable quality, merchantability, fitness for a particular use or purpose, or non-infringement of third party intellectual property rights, are hereby disclaimed and excluded to the maximum extent permitted by applicable law by Firmex and its licensors.

8.3 Firmex shall not have any responsibility for the accuracy, quality, integrity, legality, reliability or appropriateness of the Materials, or for obtaining rights to use or any title in or to any of the Materials. Firmex shall not be responsible or liable for the deletion, correction, destruction, damage or loss of any of the Materials caused by the Subscriber or Guest Users, for their failure to store any Materials, or for their misuse of the Technology.

8.4 Except for direct damages and the provision of Clause 8.5 below; neither party shall be liable to the other for any losses, costs, expenses, claims or damages whatsoever (including, without limitation, loss of profits or any other economic loss, or any indirect, exemplary, incidental, special or consequential damages whatsoever, even if it has been advised of the possibility of such damages), and in no event shall liability for any losses, costs, expenses, claims or damages exceed, in the aggregate, the total monthly fees payable by the Subscriber to Firmex in the twelve (12) months immediately preceding the event which caused the relevant damage or injury, less any amounts owing to Firmex by the Subscriber. The exclusions and limitations in this Clause 8 shall apply regardless of whether any action is brought in contract or in tort, (including breach of warranty, negligence and strict liability), or fundamental breach and/or failure of essential purpose of the Agreement or of any remedy contained herein and shall survive the expiration, termination or repudiation of the Agreement.

8.5 Firmex shall defend or settle, at its own cost and expense, any and all suits, actions, proceedings or claims against the Subscriber alleging that:

(a) any part of the Technology and/or the Services;

(b) the use of the Technology and/or the Services by Subscriber in the manner contemplated by the Agreement; or

(c) the copying or use of any part of the Materials produced by Firmex in the course of rendering the Services infringes any trade-mark, industrial design, patent, trade secret or copyright in Canada or England and Wales, provided that Firmex is notified promptly in writing of such claim, has the exclusive right to control such defense or settlement and, at its request and expense, is given authority and assistance by the Subscriber reasonably required for such defense.

8.6 Firmex will pay any settlement amount, or any damages and costs finally awarded by any court of competent jurisdiction, in any such suit, action, or claim set out in Clause 8.5 above. If any part of the Technology and/or the Services is, or in Firmex's opinion is likely to become, the subject of such a suit, action or claim, Firmex, at its sole option and at no expense to the Subscriber may:

(a) obtain for the Subscriber from any and all persons who claim an interest in the Technology, the Services and/or the work products arising from the Services, the right allowing the Subscriber to use them as contemplated by the Agreement; or

(b) substitute non-infringing equivalent Technology and/or Services; and this indemnity shall extend thereto; provided that nothing in this Clause 8 shall require Firmex to indemnify the Subscriber for any matter whatsoever arising from modifications made by the Subscriber, from any Default by the Subscriber, from the combination of the Technology by the Subscriber with other software, equipment, systems or process, or from a claim that is based on the Subscriber's use of the Technology other than in accordance with the terms of the Agreement. Nothing in this Clause 8 shall require Firmex to indemnify the Subscriber in any way whatsoever for any matter arising from any default by the Subscriber.

8.7 The Subscriber shall defend or settle, at its own cost and expense, any and all suits, actions, proceedings or claims against Firmex alleging that any part of the Materials, or the posting of the Materials on the Website, infringes any trade-mark, patent, trade secret, copyright or any other intellectual property rights whatsoever in Canada or England and Wales or constitutes an illegal disclosure of the confidential information of a third party, provided that the Subscriber is notified promptly in writing, has the exclusive right to control such defense and at its request and expense, is given authority and assistance by Firmex reasonably required for such defense or settlement. The Subscriber will pay any settlement amount, or any damages and costs finally awarded in any such suit, action or claim, and hold harmless Firmex. Nothing in this Clause 8.7 shall require the Subscriber to indemnify Firmex for any matter arising from any Default by Firmex.

9 FORCE MAJEURE

9.1 Neither party shall be liable to the other for any delay or failure to perform their obligations under the Agreement due to fire, flood, earthquake, acts of God, acts of war, riots, civil disorder, acts of terrorism, strikes, lock-outs or labor disruptions, the failure of telecommunications systems or any other cause whether similar or dissimilar beyond its reasonable control (a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, the non-performing party shall be excused from any further



performance of those of its obligations pursuant to this Agreement affected by the Force Majeure Event only for so long as such Force Majeure Event continues, and such party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

10 GENERAL

10.1 Notices and other communications required or permitted under the Agreement shall be in writing and addressed to the parties at the addresses above. Notices shall be sent by delivery (written receipt required) or by email (machine confirmation to be retained by sender) and the party sending such notice shall email the other party to confirm receipt. Either party may change its address or email address for notification purposes by giving the other party notice in accordance with this Clause 10.1 of the new address or email address and the date upon which it will become effective. A communication shall be deemed to have been received as of the next business day following its transmission by email if transmitted after 4 p.m. Eastern Time.

10.2 The Agreement may be executed in any number of counterparts, all of which when executed and delivered, shall constitute one (1) single agreement between the parties. This Agreement may be executed by way of such third-party electronic document signature platform as Firmex may, in its absolute discretion, choose from time to time, or by way of an exchange of signed pdf copies of this Agreement by email.

10.3 Except as expressly set out herein, nothing contained in the Agreement shall create or imply any agency or employment relationship between the parties, nor shall the Agreement be deemed to constitute a joint venture or partnership between the parties.

10.4 If any provision of the Agreement is held by a court of competent jurisdiction to be unenforceable or contrary to law, then the remaining provisions of the Agreement, or the application of such provisions to persons or circumstances other than those as to which they are invalid or unenforceable, shall not be affected, and each such provision shall be valid and enforceable to the extent granted by law. The Agreement constitutes the entire agreement between the parties relating to the Services.

10.5 No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.

10.6 This Agreement does not give any right to any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

10.7 This Agreement shall be governed and construed in accordance with the law of England and Wales. Any action or proceeding to enforce or arising out of this Agreement shall be commenced in the English courts, and each of the parties hereby irrevocably consents and submits to the jurisdiction of such courts and waives any objection based on venue or forum non-conveniens with respect to any action instituted therein to enforce or arising out of the Agreement.

11 SERVICE LEVEL COMMITMENTS

11.1 Firmex will ensure that its servers and other information technology systems under its control that allow access to the Website are operating at a rate of ninety-nine percent (99%) of potential uptime during each calendar month throughout the Term.

11.2 Potential uptime is calculated as the number of hours in a particular calendar month less planned downtime of twelve (12) hours per calendar month. Firmex will use this planned downtime to implement any changes it considers necessary to be made to the Technology and will use reasonable precautions to ensure that the changes, once implemented, will not disrupt the Services. Firmex will provide twenty-four (24) hours prior notice of planned downtime.

11.3 Firmex will provide help desk response to Unique Host Users in accordance with the terms of the Order. Firmex may also provide help desk technical support through an online service, such as an interactive software interface providing instant messaging and remote access assistance, subject to the capabilities of the Unique Host User's system.



DATA PROCESSING ADDENDUM

IT IS HEREBY AGREED that:

1. DEFINITIONS

1.1 In this Addendum, the following definitions shall apply, unless the context otherwise requires:

“**Data Protection Legislation**” shall mean any applicable law or regulation pertaining to data protection, privacy, and/or the processing of personal information, to the extent applicable in respect of a party’s obligations under this Addendum, including the Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679 (the GDPR) and any other laws and associated regulations relating to the protection of personal data and the privacy of individuals;
“**Agreement**” means the agreement between Firmex and the Subscriber in respect of the provision of the Services;
“**Data Subjects**” has the same meaning as in the Data Protection Legislation;
“**DPIA**” means a data privacy impact assessment;
“**Personal Data**” has the same meaning as in the Data Protection Legislation;
“**Processing**” has the same meaning as in the Data Protection Legislation;
“**Services**” means the virtual data room and related services provided by Firmex to the Subscriber.

1.2 All other defined terms used in the Agreement shall apply equally in this Addendum.

1.3 Paragraph and Appendix headings shall not affect the interpretation of this Addendum.

1.4 References to paragraphs and Schedules are to paragraphs of and Schedules to this Addendum.

1.5 The Appendices form part of this Addendum and shall have effect as if set out in full in the body of this Addendum. Any reference to this Addendum includes the Appendices.

1.6 A reference to “this Addendum” or to any other Addendum or document referred to in this Addendum is a reference to this Addendum or such other Addendum or document as varied, superseded or novated (in each case, other than in breach of the provisions of this Addendum or the provisions of the Addendum or document in question, as appropriate) from time to time.

1.7 Unless the context otherwise requires, in this Addendum words in the singular shall include the plural and, in the plural, shall include the singular and a reference to one gender shall include a reference to the other genders.

1.8 A “person” includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).

1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time provided that, as between the parties, no such amendment, extension or re-enactment made after the date of this Addendum shall apply for the purposes of this Addendum to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party.

1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. CONSIDERATION

In consideration of the mutual covenants and Addendums in this Addendum and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, Firmex and the Subscriber hereby agree in accordance with the terms of this Addendum.

3. FIRMEX RESPONSIBILITIES

3.1 Firmex will process Personal Data in order to:

- 3.1.1 provide the Services in accordance with the terms of the Agreement;
- 3.1.2 receive payments for the provision of the Services;
- 3.1.3 monitor, prevent and detect fraudulent payment transactions;
- 3.1.4 comply with legal or regulatory obligations applicable to the processing and retention of payment data, including anti-money laundering screening and compliance with know-your-customer obligations; and
- 3.1.5 improve Firmex’s products and services.

3.2 Firmex shall:

- 3.2.1 inform the Subscriber promptly upon receipt of a request by a Data Subject for information under the Data Protection Legislation;
- 3.2.2 not Process Personal data other than in accordance with the Subscriber’s written instructions in accordance with Appendix 2 and Firmex shall inform the Subscriber immediately in the event that Firmex believes that such instructions are not in compliance with the Data protection Legislation;
- 3.2.3 if it so chooses at its absolute discretion, transfer any Personal Data to, or access the same, from a country outside the European Economic Area without the prior written consent of the Subscriber. Firmex shall ensure that there are appropriate safeguards in place for any international transfers of Subscriber Personal Data outside of the European Economic Area including, by way of example but without limitation, by the use of the European Union Standard Contractual Clauses for controller to process transfers to its affiliates and/or subcontractors (if applicable);
- 3.2.4 provide the Subscriber (at the Subscriber’s reasonable cost) with such assistance as the Subscriber may reasonably require in order to respond to a request by a data subject;
- 3.2.5 ensure that any persons used by Firmex to Process Personal Data are subject to legally binding obligations of confidentiality in relation to the Personal Data; and
- 3.2.6 ensure that obligations equivalent to the obligations set out in this Addendum are included in all contracts between Firmex and permitted sub-contractors who will be Processing Personal Data.

3.3 The Subscriber consents to Firmex’s existing subprocessors as at the date of this Agreement, which are listed at <https://www.firmex.com/sub-processors/> (“**Subprocessor List**”). Firmex will provide prior notice of the addition of any new subprocessor (each a “**New Subprocessor**”) including general details of the processing it performs or will perform, which notice may be given by posting details of such addition to the Subprocessor List. If the Subscriber does not object in



writing to Firmex's appointment of a New Subprocessor (on reasonable grounds relating to the protection of Subscriber Personal Data) within thirty (30) days of Firmex adding that New Subprocessor to the Subprocessor List, the Subscriber agrees that it will be deemed to have consented to that New Subprocessor. If the Subscriber provides such a written objection to Firmex, Firmex will notify the Subscriber in writing within thirty (30) days that either: (i) Firmex will not use the New Subprocessor to process the Subscriber Personal Data; or (ii) if Firmex is unable or unwilling to do so. If the notification in paragraph (ii) is given, the Subscriber may, within thirty (30) days of such notification, elect to terminate the Agreement upon written notice to Firmex. However, if no such notice of termination is provided within that timeframe, the Subscriber will be deemed to have consented to the New Subprocessor. Firmex will impose data protection terms on New Subprocessors to protect the Subscriber Personal Data to the same standard as provided for by this Agreement and Firmex will remain fully liable for any breach of this Agreement that is caused by any such subprocessor.

3.4 Firmex will implement and maintain appropriate technical and organizational measures (including the data security processes and requirements set out in Appendix 1 to this Addendum) to ensure a level of security in relation to the Personal Data appropriate to the risk, including with respect to the management and notification of Data Security Incidents (as that term is defined in Appendix 1).

3.5 At the choice of the Subscriber as notified in writing to Firmex, Firmex will delete or return any and all Personal Data to the Subscriber after the end of the provision of the Services and delete any and all existing copies held by Firmex, unless further storage of the Personal Data is required or authorised by the Data Protection Legislation.

3.6 To the extent required by the Data Protection Legislation, Firmex shall provide the Subscriber with commercially reasonable assistance, at the sole cost and expense of the Subscriber, in respect of any DPIAs that the Subscriber is required to carry out under the Data Protection Legislation.

3.7 Firmex hereby agrees, acknowledges and accepts that it is responsible for the security of any and all Personal Data in its possession, custody or control. When using Personal Data in conjunction with the Services, Firmex will only use such Personal Data as permitted by this Addendum, or any other agreements between Firmex and the Subscriber.

4. PROVISION OF INFORMATION TO DATA SUBJECTS

The Subscriber must, and shall be solely responsible for, ensuring that all Data Subjects are provided with adequate and appropriate information about the Processing of their Personal Data, including by the use of a clear and easily accessible data privacy notice.

5. INCIDENT NOTIFICATION

5.1 Other than to the extent necessary to comply with any and all applicable legal, regulatory or law enforcement requirements, Firmex hereby agrees that it must inform the Subscriber without any unreasonable delay whatsoever, and in any event not more than forty-eight (48) hours after Firmex becomes aware of any data security incidents (including, but not limited to, a loss, theft, misuse, unauthorised access, disclosure, or acquisition, destruction or other compromise of any Personal Data) that has occurred in Firmex's systems (a "Data Incident").

5.2 In the event of a Data Incident, Firmex will provide the Subscriber with any and all reasonable information and cooperation to enable the Subscriber to fulfill any data breach reporting obligations the Subscriber may have under (and in accordance with the timescales required by) the Data Protection Legislation.

5.3 Firmex agrees that it will further take all reasonably necessary measures and actions, and do such things as are reasonably required to remedy or mitigate the effects of the Data Incident and Firmex will keep the Subscriber informed of all material developments in connection with the Data Incident.

6. VERIFICATION AND AUDIT

6.1 If requested by the Subscriber, Firmex will (on a confidential basis) provide the Subscriber with a written report to verify Firmex's compliance with the Data Protection Legislation and the terms of this Addendum.

6.2 Firmex shall further provide written responses (on a confidential basis) to all reasonable and not excessive requests from the Subscriber for information in respect of this Addendum, including responses to information security and audit questionnaires provided by the Subscriber to Firmex.

6.3 The parties hereby agree and acknowledge that it is their intention, where possible, to rely on the provision of written responses provided under paragraphs 6.1 and 6.2 above to verify and confirm Firmex's compliance with the Applicable Law and the terms of this Addendum. However, Firmex shall allow the Subscriber (or its appointed third-party auditors) to carry out an audit of Firmex's processing of Personal Data under this Addendum.

6.4 In respect of an audit in accordance with paragraph 6.3 above, the Subscriber shall:

6.4.1 provide Firmex with reasonable prior notice of such intention to carry out the audit and the proposed date to do so;

6.4.2 conduct the audit during normal business hours;

6.4.3 be liable for any and all costs and expenses in relation to such audit; and

6.4.4 take all reasonable measures to prevent unnecessary disruption to Firmex's operations.

6.5 Any such audit under paragraph 6.3 above shall be subject to Firmex's security and confidentiality terms and guidelines in force from time to time.

7. LIMITATION OF LIABILITY

The total liability of Firmex (and its employees, directors, officers, affiliates, successors, and assigns), arising out of or related to this Addendum, whether in contract, tort, or otherwise, shall not, when taken together in the aggregate, exceed the limitation of liability set forth in clause 8 of the Agreement.



8. **WAIVER**

8.1 No failure or delay by either party in exercising any right or remedy under this Addendum or by law, shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

8.2 Unless specifically provided otherwise, rights arising under this Addendum are cumulative and do not exclude rights provided by law.

9. **SEVERANCE**

9.1 If any provision of this Addendum (or any part of any provision) is found by any Court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of this Addendum, and the validity and enforceability of the other provisions of this Addendum shall not be affected.

9.2 If any provision of this Addendum (whether part or whole) is found to be invalid, illegal or unenforceable, then that provision (or part of it) shall apply with the minimum modification necessary to make it valid, legal and enforceable.

10. **TERM OF THIS ADDENDUM**

This Addendum shall continue in full force and effect for the duration of the Agreement. Firmex's obligations in respect of the implementation and maintenance of appropriate and adequate security measures in relation to the processing of Personal Data shall survive the termination of this Addendum and shall continue for the duration of time that Firmex retains any Personal Data of the Subscriber.

11. **RIGHTS OF THIRD PARTIES**

A person who is not a party to this Addendum has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Addendum but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

12. **GOVERNING LAW**

The governing law and dispute resolution provisions of the Agreement will apply to this Addendum.



Appendix 1

Data Security

1. FIRMEX'S CONTROLS AND POLICIES

1.1 Firmex has in place and maintains and enforces a security program that addresses the management of Firmex's security and the security controls ("Controls"). The Controls include:

- 1.1.1 Firmex's approved and documented processes and procedures which it publishes internally, communicates to appropriate personnel within Firmex, and reviews not less than once each year;
- 1.1.2 a clear written assignment of responsibility and authority for activities in respect of the Controls;
- 1.1.3 policies covering, amongst other things and as may be applicable from time to time, acceptable computer use, data classification, cryptographic controls, access control, removable media, and remote access; and
- 1.1.4 regular testing of the key controls, systems and procedures.

1.2 Firmex has in place, maintains and enforces the Controls and related policies that address how Personal Data is collected, used and shared by Firmex.

2. MANAGEMENT OF RISKS

Firmex performs and undertakes from time to time appropriate risk assessments and implements and maintains in place controls for risk identification, analysis, monitoring, reporting, and corrective action identified as being required as a result of such risk assessments.

3. MANAGEMENT OF ASSETS

Firmex maintains and enforces an asset management program that appropriately classifies and controls hardware and software assets throughout their life cycle.

4. TEAM MEMBER EDUCATION AND AWARENESS

4.1 Firmex requires that all employee team members, agents, and contractors ("Team Members") acknowledge, confirm and agree to adhere to their data security and privacy responsibilities under Firmex's policies and procedures as are in place and amended from time to time.

4.2 In relation to Team Members who, in the course of undertaking their employment or engagement with Firmex, Process Personal Data, Firmex shall, in respect of such Team Members:

- 4.2.1 implement a procedure for, and undertake, pre-employment background checks and screening;
- 4.2.2 conduct and require Team Members to undertake security and privacy training;
- 4.2.3 implement and enforce disciplinary processes for violations of data security or privacy requirements; and
- 4.2.4 upon termination or applicable role change, promptly remove and/or update Team Member access rights and require the return or destruction of Personal Data in the possession, custody or control of such Team Member.

5. VULNERABILITY ASSESSMENTS

Firmex performs periodic vulnerability assessments and network penetration testing on any and all systems, platforms, networks and applications that Process Personal Data.

6. PHYSICAL ACCESS CONTROL SYSTEMS

6.1 Firmex implements and maintains appropriate and robust access control systems designed specifically to maintain the confidentiality of Personal Data. These controls are reviewed and upgraded as Firmex sees fit from time to time and include:

- 6.1.1 authorisation processes for physical, privileged, and logical access to facilities, systems, networks, wireless networks, operating systems, mobile devices, system utilities, and other locations containing Personal Data; and
- 6.1.2 granting access only if it is logged, strictly controlled, and needed for a Team Member or third party to perform their job function.

6.2 Firmex authenticates each Team Member's identity through appropriate authentication credentials such as strong passwords, token devices, or biometrics.



Appendix 2 Data Processing Instructions

This Appendix 2 describes the Processing that Firmex will perform on behalf of the Subscriber.

This Appendix supplements the data processing activities described in the Firmex Privacy Policy (<https://www.firmex.com/company/privacy-policy/>).

Subject matter, nature and purpose of the processing operations

The Subscriber Personal Data will be subject to the following basic processing activities:

- Providing the Services purchased by the Subscriber under the Agreement;
- Providing account management and customer technical support services.

Firmex provides the Services but does not determine the content of any information held in the systems, devices, files and other data in association with the Subscriber's use of the Services which is determined solely by the Subscriber, and Firmex processes these systems, devices, files, and other data solely for the purpose of providing the Services procured by the Subscriber.

Duration of the processing operations

The Subscriber Personal Data will be processed for the following duration:

- The duration specified in Paragraph 10 of the Data processing Addendum.

Data subjects

The Subscriber Personal Data concerns the following categories of data subjects:

- Data subjects include the individuals about whom Personal Data is provided to Firmex via the Services by (or at the direction of) the Subscriber.

Types of personal data

The Subscriber Personal Data concerns the following categories of data:

- Personal Data relating to individuals provided to Firmex via the Services, by (or at the direction of) the Subscriber.

Special categories of data (if appropriate)

The Subscriber Personal Data concerns the following special categories of data:

- Unless otherwise specified, Firmex's services are not designed to process special categories of data.

