FUAGO SaaS Subscription Terms

1. Introduction

FUAGO GmbH, a private limited company established under the laws of Germany, Untertürkheimer Straße 24, 66117 Saarbrücken, Germany ("**Company**") and its customer as specified in the given Order ("**Customer**") agree upon the provision of the Services by executing an Order, each Party's rights and obligations regarding the provision of the Services are exclusively governed by the following FUAGO SaaS Subscription Terms ("**General Terms**") and the accompanying Annexes listed below ("**Services Terms**"). The General Terms and the Service Terms only enter into effect once a corresponding Order has been executed by both Parties. The General Terms, the Service Terms and the Order shall together be referred to as the "**Agreement**". In the event of any conflict or inconsistency between the provisions of the General Terms and the provisions of any Order or Service Terms, the provisions positioned higher in the following list shall take precedence only to the extent of any such conflict or inconsistency:

1. These General Terms
2. Service Terms
    a. Annex A – Data Processing Addendum
    b. Annex B – Support Policy
3. Order

Deviations to these General Terms in an Order shall have precedence over the General Terms if the Parties have agreed expressly to such deviation in the specific Order referring to the respective provision(s) in these General Terms. Any deviation(s) set forth in an Order shall apply to that particular service order only.

2. Interpretation and definitions

2.1. Interpretation

Headings and captions used in the Agreement are for reference purposes only and shall not have any effect on the interpretation of the Agreement. Words in the singular include the plural and vice versa; words importing any gender include all genders; and references to persons include corporations and other legal entities. References to Sections refer to Sections of these General Terms, unless otherwise stated. The term "including" means "including without limitation".

2.2. Definitions

Unless otherwise defined herein, the following terms shall have the meaning set out below:

- "**Affiliate**" means, with respect to any specified entity, any company which is a dependent company within the meaning of Section 15 of the German Stock Corporation Act (*Aktiengesetz*), i.e. any company which stands in a relationship of majority shareholding or control such that the specified entity, directly or indirectly, is able to exercise a dominating influence over that company, or vice versa."
- "**Applicable Foreign Trade Law**" has the meaning given to it in Section "**Embargo and export restrictions**".
- "**Applicable Sanctions List**" has the meaning given to it in Section "**Embargo and export restrictions**".

- "**Authorized Affiliate**" has the meaning given to it in Section "**Use by Authorized Affiliates**".
- "**Authorized Third Party**" has the meaning given to it in Section "**Provision of the FUAGO SaaS Offering to Authorized Third Parties**".
- "**Confidential Information**" has the meaning given to it in Section "**Confidential Information**".
- "**Contract Year**" means every 12-month period during the Term of an Order or the Agreement, calculated from its Effective Date.
- "**Contractual Use**" means the use of the FUAGO SaaS Offering for the permitted use cases or any further license volume description detailed in the given Order. By way of example, an Order may set forth the permitted number of end user seats, a certain number of licenses or any other form of usage specification of the FUAGO SaaS Offering by Customer.
- "**Customer Data**" means any data conveyed to Company via or uploaded into the FUAGO SaaS Offering and/or Services by or on behalf of Customer, an Affiliate, an Authorized Affiliate, a Partner's Reseller, an End Customer, an Authorized Third Party or made accessible for Company in any other ways under the Agreement. To clarify, Service Generated Data is not Customer Data.
- "**Customer Marks**" means the trademarks, trade names, service marks, logos, and/or service names of the Customer.
- "**Customer's Services**" means Customer's services provided to its End Customers' utilizing the FUAGO SaaS Offering provided to Customer for the performance of such services, including services with regard to communication, messaging, mail archiving, etc.
- "**Documentation**" means the documentation for the FUAGO SaaS Offering generally supplied by Company to assist Customer in the use of the FUAGO SaaS Offering and which includes user and functional reference manuals and other written materials, including application notes. Company may but is not obligated to provide any such Documentation under the Agreement.
- "**Effective Date**" means the date on which an Order and the underlying General Terms and Services Terms enter into force. This is the date of duly execution of an Order (e.g., the last signature on an order form or Company's express acceptance of a purchase request sent by Customer via email).
- "**Embargoed Country or Region**" has the meaning given to it in Section "**Embargo and export restrictions**".
- "**End Customer**" means an individual or an entity who receives Customer's Services or subscribes to the FUAGO SaaS Offering provided through, as the case may be, Customer (or Customer in its capacity as Partner) or a Partner's Reseller.
- "**Excess Volume**" has the meaning given to in in Section "**Volume Fees**".
- "**Fees**" means the remuneration for the Subscription to the FUAGO SaaS Offering and any other remuneration for the Services, as specified in the given Order.
- "**FUAGO SaaS Offering**" means collectively the features and functionalities of certain cloud software services provided by Company to Customer as a software-as-a-service offering as further described in the applicable Order and as updated from time to time.

- "**GDPR**" means the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016.
- "**Initial Term**" means, unless specified otherwise in an applicable Order, a period of one year, starting on the Effective Date of an Order.
- "**Intellectual Property Rights**" means, collectively, (i) copyright and neighboring rights (including rights in computer programs, databases and assignable moral rights), (ii) patents, utility models, invention rights and any applications, extensions, divisions, continuations, re-examinations or reissues thereof, (iii) trademarks, service marks, trade names, business names, domain names, logos, trade dress and all goodwill associated with any of the foregoing, whether registered or unregistered, (iv) registered and unregistered designs and any other rights protecting the appearance or configuration of product, (v) rights in trade secrets, know-how and other proprietary data, (vi) all causes of action, claims and remedies (present or future) for past, present and future infringements of any of the above, together with all renewals, extensions and restorations of such rights anywhere in the world.
- "**Invoice Dispute**" has the meaning given to it in Section "**Invoice Disputes**".
- "**Invoice Dispute Report**" has the meaning given to it in Section "**Invoice Disputes**".
- **"Order"** means (i) a written order form executed by both Parties, or (ii) any other ordering process – including, in particular, Customer sending a purchase request via email to Company that Company expressly accepts, including by issuing an invoice, in each case specifying the FUAGO SaaS Offering and/or other Services to be provided by Company under the Agreement.
- "**Party**" means each Company or Customer.
- "**Parties**" means jointly Company and Customer.
- "**Partner**" means the entity that has entered into a separate general reseller partner agreement with Company to act as a reseller partner of Company by supporting Company's marketing and sales activities with regard to the FUAGO SaaS Offering and is authorized, in accordance with the separate reseller partner agreement and the Agreement, to resell and sublicense the FUAGO SaaS Offering. The term "Partner" is used in the Agreement only where rights or obligations specific to that partner reseller role are expressly addressed; in all other respects, every provision applicable to Customer applies fully to Partner.
- "**Partner's Reseller**" means the entity specified in the applicable Order as a reseller partner of Partner that supports Partner's and, consequently, Company's marketing and sales activities for the FUAGO SaaS Offering and is authorized, in accordance with the Agreement, to resell and sublicense the FUAGO SaaS Offering. For clarity, Partner may appoint a Partner's Reseller only if and to the extent the applicable Order expressly permits such appointment and remains fully responsible for Partner's Reseller's compliance with the Agreement.
- "**Payment Due Date**" has the meaning given to in Section "**Fees**".
- "**PEB**" has the meaning given to it in Section "**Embargo and export restrictions**".
- "**Person Day**" means the efforts of one of Company's employees conducted within 8 (eight) hours.

- "**Personal Data**" means personal data within the meaning of applicable data protection laws, in particular the GDPR.
- "**Professional Services**" means consulting and professional services designed to assist Customer's use of the FUAGO SaaS Offering, as agreed upon under an Order or a separate statement of work.
- "**Renewal Term**" has the meaning given to it in Section "**Order term**".
- "**Separately Licensed Third Party Technology**" has the meaning given to it in Section "**Separate licenses**".
- "**Separate Terms**" has the meaning given to it in Section "**Separate licenses**".
- "**Service Generated Data**" means data or information about the operation, delivery, usage or performance of the FUAGO SaaS Offering, including, for clarity, activity logs or other data or information about Customer's/Partner's, Partner's Resellers' and End Customer's usage of the FUAGO SaaS Offering. Such data or information may be generated or derived automatically by or through the FUAGO SaaS Offering or tools associated with it and may be conveyed to Company via the internet from time to time.
- "**Services**" means the provision of the FUAGO SaaS Offering, accompanying Support Services and Professional Services by Company (if any), as agreed in the applicable Order.
- "**Subscription**" means the Customer subscribing to the FUAGO SaaS Offering as well as accompanying Support Services (if any) as agreed in an Order.
- "**Support**" or "**Support Services**" means the provision of support services for the FUAGO SaaS Offering as further described in Section "**Support Services**" and Annex B – Support Policy.
- "**Term**" means the period in time during which an Order and the underlying General Terms and Services Terms are in effect, subject to the provisions in Section "**Term and termination**".
- "**Updates**" means patch releases, updates, upgrades, new versions of the FUAGO SaaS Offering as released by Company after the Effective Date and during the Term from time to time.
- "**Volume Fees**" means the amounts payable for usage of the FUAGO SaaS Offering for Excess Volume, as specified in the applicable Order.

3. Proprietary rights

3.1. Retention of rights

Save as expressly set out in the Agreement, neither Party shall receive any right, title or interest in or to any Intellectual Property Rights owned by the other Party (including any modifications or enhancements made thereto). All rights not expressly granted in the Agreement are reserved by the respective Party or their respective licensors. For the avoidance of doubt, Company (or its suppliers, where applicable) owns and shall remain to own any Intellectual Property Rights in the FUAGO SaaS Offering and the Documentation and all modifications, enhancements, improvements, derivative works, Updates and other alterations of either of the foregoing (even if paid for or requested or directed, by Customer) and Customer owns any right, title or interest, including any Intellectual Property Rights in Customer Data and Customer Marks. Customer shall procure that, as applicable, each Affiliate, Authorized Affiliate, Authorized Third Party,

Partner's Reseller and/or End Customer complies with this Section "**Retention of rights**".

3.2. Feedback license

Customer grants and ensures, as applicable, that every Affiliate, Authorized Affiliate, Authorized Third Party, End Customer and/or Partner's Reseller, grants, to Company a worldwide, royalty-free, transferable, sublicensable, irrevocable, perpetual license to use and incorporate into the FUAGO SaaS Offering and the Documentation and otherwise to freely exploit without restriction in any way, any recommendations, enhancements, requests, corrections, suggestions or other feedback provided by or on behalf of Customer, an Affiliate, Authorized Affiliate, Authorized Third Party or End Customer relating to the features, functionalities and/or operation of the FUAGO SaaS Offering and the Documentation.

3.3. Separate licenses

FUAGO SaaS Offering may contain third party technology (in particular software, including open source software) listed in a URL which shall be made available to Customer as part of the FUAGO SaaS Offering or during the provision of Updates ("**Separately Licensed Third Party Technology**") and which is governed by separate license terms ("**Separate Terms**"). Customer's rights to use Separately Licensed Third Party Technology under the Separate Terms are not restricted in any way by the Agreement. Company shall provide indemnification for third party technology that is part of the FUAGO SaaS Offering and not Separately Licensed Third Party Technology to the same extent as Company is required to provide indemnification for the FUAGO SaaS Offering under the terms of the Agreement. Company shall inform Customer of any notices and other instructions that are related to third party technology components that are included in the FUAGO SaaS Offering and shall provide such notices and instructions via an URL made available to Customer. Customer shall comply with all instructions and notices related to third party technology components and shall reproduce all third party notices in an appropriate location in the application package and include any source code (to the extent source code is provided by Company) as required by the applicable notices or as otherwise instructed by Company.

3.4. Use of Customer's references

Customer agrees that Company may use Customer's name and may disclose that Customer is a customer of Company in advertising, press, promotion and similar public disclosures upon the prior written consent of Customer (such consent not to be unreasonably withheld or delayed). Customer also hereby grants Company a non-exclusive license during the Term of the Agreement to list Customer's name and display Customer Marks on its web presence and in the "partner," "customer" or similar sections of Company's web presence. Company may also publicly issue and distribute a "case study" relating to the Agreement and the Services provided by Company to Customer, provided that it obtains Customer's prior written consent, such consent not to be unreasonably withheld or delayed. Customer agrees to act as a "reference account" with respect to Company's marketing and promotional initiatives.

3.5. Trademarks

Company may use the then current Customer Marks, provided that Company shall: (i) only use Customer Marks in the form and manner and in accordance with the quality standards, that Customer prescribes (and which it may change from time to time) and (ii) upon termination of the Agreement for any reason, immediately cease all use of the Customer Marks. All goodwill associated with Customer Marks and Company's use of

such Customer Marks shall inure to the Customer. Company shall not use, register or attempt to register or take other action with respect to any name, logo, trademark, service mark or other identifier used anywhere in the world by Customer (or a mark confusingly similar thereto), except to the extent authorized in writing by Customer in advance. For the avoidance of doubt, nothing in the Agreement grants Company any Intellectual Property Rights belonging to Customer.

4. Right to access and use

4.1. Customer's usage rights

Subject to Customer's material compliance with its obligations under the Agreement, specifically its payment obligations as well as Customer's obligation to use the FUAGO SaaS Offering in accordance with the Documentation, Company grants Customer the right to access, use and make available (subject to Sections "**Use by Affiliates and third parties**", "**Use by Authorized Affiliates**" and "**Provision of the FUAGO SaaS Offering to Authorized Third Parties**") the FUAGO SaaS Offering solely in accordance with the Agreement and solely for its own Contractual Use or, if agreed upon in the given Order, for the provision of Customer's Services. The FUAGO SaaS Offering may contain Separately Licensed Third Party Technology which is licensed under Separate Terms. As far as the Separate Terms supersede the Agreement such Separate Terms shall govern Customer's use of the respective Separately Licensed Third Party Technology.

4.2. Use by Affiliates and third parties

Customer may allow its third party suppliers or service providers and its Affiliates to access and use the FUAGO SaaS Offering on Customer's behalf, provided that: (i) such access and use must be solely for the benefit of Customer and not for the benefit of that supplier, service provider or Affiliate, (ii) the supplier's, service provider's or Affiliate's access and use must be limited solely to what is required to provide the respective services to Customer in support of the respective contractual purpose and otherwise in accordance with the Agreement and (iii) such access and use must not be intended, in whole or in part, to circumvent any of the license and usage restrictions set forth in the Agreement, in particular in the applicable Order. For clarity, Customer shall be fully liable for the fault of its third party suppliers or service providers and its Affiliates, as applicable, to the same extent as for its own fault towards Company.

4.3. Use by Authorized Affiliates

If a specific Affiliate or – in case Customer is a public authority – a subordinated authority is designated in a given Order ("**Authorized Affiliate**"), Customer may allow such Authorized Affiliate to access and use the FUAGO SaaS Offering, provided that (i) such access and use is limited to the Contractual Use specified in the Order in which the Authorized Affiliate is specified, (ii) such access and use is limited to the specified Authorized Affiliate's own internal business purposes and (iii) Customer ensures that the Authorized Affiliate shall abide by all provisions of the Agreement in particular regarding any use restrictions and obligations applicable to Customer. Customer shall be fully liable for the fault of its Authorized Affiliates to the same extent as for its own fault towards Company.

4.4. Provision of the FUAGO SaaS Offering to Authorized Third Parties

Subject to the provisions and in accordance with the provisions of the Agreement, Customer, in its role as Partner, may (i) use the FUAGO SaaS Offering for its own internal business purposes as specified in the Order, (ii) use and grant non-production

licenses/not-for-resale license for evaluation and demonstration purposes to third parties in the course of its resale activities while bearing the full responsibility for the license compliance and the technical correctness of such non-production/not-for-resale use cases and (iii) grant sub-licenses or grant any type of access to third parties whom it resells the FUAGO SaaS Offering to (each an "**Authorized Third Party**"), provided that (i) the granting of rights of use is restricted to the use of rights granted to Customer by Company under the Agreement, (ii) the granting of rights of use is restricted to the use of the FUAGO SaaS Offering for the Authorized Third Party's own internal business purposes, in particular without granting the right to sell, rent or otherwise further sub-license or grant any type of access to the FUAGO SaaS Offering or to permit the public reproduction or making available of the FUAGO SaaS Offering, (iii) such use by an Authorized Third Party is not used to circumvent, in whole or in part, the restrictions on use contained in the Agreement and (iv) the Authorized Third Party must comply with all restrictions on use and obligations applicable to Partner as Customer.

4.5. Responsibility

Customer, including Customer in its role as Partner, as the case may be, shall ensure that Affiliates, Authorized Affiliates, End Customers, Authorized Third Parties and Partner's Resellers are bound by written agreements incorporating terms and conditions that are at least as protective and restrictive as those in the Agreement. Customer shall (i) keep copies of all such agreements, (ii) track and keep records of all online acceptances of such agreements and (iii) provide such copies and/or online acceptance details to Company on Company's request without undue delay. Customer shall enforce each agreement with at least the same degree of diligence used by Customer to enforce similar agreements for its own offering and services, but in no event less than a reasonable degree of diligence. Customer, including Customer in its role as Partner, shall be responsible and liable for the acts, defaults, omissions and negligence of any, as applicable, Affiliate, Authorized Affiliate, Partner's Reseller, End Customer and Authorized Third Party, as fully as if they were Customer's own acts, defaults, omissions or negligence.

4.6. Use restrictions

Neither Customer, including Customer in its role as Partner, nor any Affiliate, Authorized Affiliate, Partner's Reseller, End Customer, Authorized Third Party, nor any person acting on their behalf may use, directly or indirectly, the FUAGO SaaS Offering, the Documentation, materials or intellectual property provided or accessed under the Agreement in any manner or for any purpose other than as permitted by the Agreement. Without limiting the foregoing, the following actions are prohibited (including any attempt to do any of the following): (i) reverse engineering, disassembling or decompiling the FUAGO SaaS Offering or parts thereof or any underlying code, methodology or intellectual property or applying any other process or procedure to derive the code of any software included in the FUAGO SaaS Offering, (ii) accessing or using the FUAGO SaaS Offering in a way intended to avoid incurring any applicable Fees or charges or purchasing additional licenses or access rights, (iii) reselling or commercializing the FUAGO SaaS Offering in any way other then as agreed in the Agreement or (iv) any misappropriation or unauthorized use or disclosure of the FUAGO SaaS Offering, Documentation or other FUAGO intellectual property.

4.7. Use of the FUAGO SaaS Offering non-production versions

If Company provides any test or non-production access to the FUAGO SaaS Offering for purposes of proof of concept and or evaluation (including sandboxes) under a given Order or subsequently, its use is limited solely to evaluation purposes within

Customer's own business environment and must not be used on production systems. Company shall not be liable for any damages arising out of or in connection with a use in productive systems.

4.8. Technical measures against excessive use

Company reserves the right, but is under no obligation, to restrict the use of the FUAGO SaaS Offering to Contractual Use by means of technical measures.

5. Modification to the Services and the Agreement

5.1. General modification right

Company may release Updates for the FUAGO SaaS Offering, provided the Updates do not result in a material reduction of the functionality, performance, availability or security of the Services.

5.2. Discontinuance

Subject to Section "**Deprecation announcement**", Company may terminate any of the FUAGO SaaS Offering features or functionalities for any reason at any time without liability to Customer.

5.3. Deprecation announcement

If Company intends to discontinue or make backwards incompatible changes to the FUAGO SaaS Offering, it shall notify Customer of such intention at least four (4) months in advance. Company shall then use commercially reasonable efforts to continue to operate those affected versions, features or functionalities without the noted changes for at least four (4) months after that announcement, unless (as Company determines in its reasonable good faith judgment) (i) required by law or third-party relationship (including if there is a change in applicable law or relationship) or (ii) such continued operation could create a security risk or substantial economic or material technical burden.

5.4. Modifications of the FUAGO SaaS Offering

In order to maintain a progressive and modern product experience for the FUAGO SaaS Offering and/or in order to keep up with good industry standards regarding security, reliability or regulatory compliance, Company reserves the right to make reasonable changes to the FUAGO SaaS Offering from time to time. Such changes may relate to any features or functionalities provided through the FUAGO SaaS Offering. If Company makes a material change to the FUAGO SaaS Offering, it shall inform Customer reasonably in advance, but no later than fourteen (14) days before such change becomes effective. This does not apply in cases where such changes are required in order to solve security issues or to address regulatory changes or where such changes are applicable to new or pre-general availability functionality.

5.5. Modifications of the General Terms and/or the Service Terms

Company may update the General Terms and/or the Service Terms, provided the Updates do not (i) result in a material degradation of the overall security of the FUAGO SaaS Offering, (ii) expand the scope of or remove any restrictions on FUAGO's processing of Customer Data as described in the Data Processing Agreement or (iii) have a material adverse impact on Customer's rights under the General Terms and/or the Service Terms. Company shall notify Customer of any material Updates to General Terms and/or the Service Terms.

5.6. Allowed changes

Sections "**General modification right**", "**Discontinuance**", "**Deprecation announcement**", "**Modifications of the FUAGO SaaS Offering**" and "**Modifications of the General Terms and/or the Service Terms**" do not limit Company's ability to make changes required to comply with applicable law or address a material security risk or that are applicable to new or pre-general availability functionality.

6. Customer's obligations

6.1. Prevention of unauthorized access

Customer shall implement and maintain processes and procedures to prevent unauthorized access to and use of the FUAGO SaaS Offering and shall notify Company without undue delay after Customer becomes aware of any such unauthorized access or use. Customer shall at all times use industry standard and up-to-date firewall and virus protection programs designed to ensure that no malicious code, such as viruses, worms, time bombs, Trojan horses, are uploaded to the FUAGO SaaS Offering.

6.2. Access credentials

Customer, including Customer in its role as Partner, or, as the case may be, an Affiliate, an Authorized Affiliate, an End Customer, a Partner's Reseller, an Authorized Third Party or authorized third party suppliers or service providers, shall create a username and a password for the initial access to the FUAGO SaaS Offering, which thereafter shall be required for any further use of the FUAGO SaaS Offering. Customer, any Affiliate, Authorized Affiliate, End Customer, third party supplier or service provider, Authorized Third Party, as applicable, shall keep the username and the password confidential and prevent any unauthorized access thereto. Any log-in credentials and private keys generated by the FUAGO SaaS Offering are for internal use only and Customer and any Affiliate, Authorized Affiliate, Authorized Third Party and End Customer may not sell or transfer them to any other entity or person, except that Customer and any Affiliate, Authorized Affiliate, Authorized Third Party and End Customer may disclose its private key to any individual end user or entity that requires to use the FUAGO SaaS Offering in accordance with the permissions granted in the Agreement. Except to the extent caused by Company's breach of the Agreement, Customer, including Customer in its role as Partner, is responsible for all activities that occur under its Affiliate's, Authorized Affiliate's, End Customer's, Partner's Reseller and Authorized Third Party's log-in credentials or private keys, regardless of whether the activities are authorized or undertaken by Customer, the Affiliate, the Authorized Affiliate, the Authorized Third Party or by their respective employees, contractors, agents or end clients.

7. Customer Data

7.1. General

As between the Parties, Customer or, as the case may be, an Affiliate, an Authorized Affiliate or an Authorized Third Party and/or an End Customer owns all right, title and interest in and to all Customer Data and shall have sole responsibility for the legality, accuracy and maintenance of Customer Data. Without limiting the foregoing, Customer shall obtain and maintain all necessary licenses, consents and other permissions (including those required under applicable law), to authorize the processing of Customer Data (including any content protected by Intellectual Property Rights) by Company and Company's sub-processors in accordance with the terms of the

Agreement. Thus, Customer hereby authorizes Company and Company's sub-processors to use, copy and process Customer Data for the purpose of providing the Services, in particular the FUAGO SaaS Offering and Professional Services, and performing its obligations under the Agreement.

7.2. Service Generated Data

Notwithstanding anything to the contrary, FUAGO may aggregate, collect and analyze Service Generated Data and shall be free (during and after the term of the Agreement) to (i) use the Service Generated Data to develop and improve the FUAGO SaaS Offering, Professional Services and any other FUAGO offerings and for other internal business purposes from time to time and (ii) disclose the Service Generated Data solely in an anonymized format that does not identify Customer or any individual.

7.3. Backups

Customer acknowledges that the FUAGO SaaS Offering does not produce regular backups of Customer Data. Thus, Customer, including Customer in its role as Partner, or, as the case may be, an Affiliate, an Authorized Affiliate, a Partner's Reseller, an End Customer and/or an Authorized Third Party, is solely responsible for regular and sufficient backups of all Customer Data on an environment other than the FUAGO SaaS Offering.

8. Suspension right

Company has the right to immediately suspend Customer's and/or, as applicable, any Affiliate's, Authorized Affiliate's, Authorized Third Party's and/or Partner's Reseller's access to and use of the FUAGO SaaS Offering and/or Support Services (partially or in full) if Company assumes a: (i) violation of Section "**Prevention of unauthorized access**"; (ii) violation of applicable law; or (iii) Customer's breach of Section "**Use Restrictions**". Company shall notify Customer and/or the Affiliate, Authorized Affiliate, Authorized Third Party's, Customer in its role as Partner and/or Partner's Reseller, as applicable of the reason for the suspension without undue delay. This notification obligation shall not apply where such notification would/may violate any applicable laws or regulations. Company shall terminate any such suspension as soon as Company determines that the risk underlying the suspension has been mitigated to Company's satisfaction.

9. Pricing

9.1. Fees

Customer shall pay any Fees in accordance with the relevant Order and the Agreement within thirty (30) days from the receipt of the invoice ("**Payment Due Date**"). Unless otherwise defined in a given Order, Company shall invoice Fees for the Subscription annually in advance upon the Effective Date of each Order and every anniversary thereof. Other Fees are invoiced on occasion. Any special requirements of Customer regarding the form or content of invoices (including any required supporting documentation) or the process for issuing invoices, must explicitly be agreed in the applicable Order. Customer is not entitled to withhold or delay payment of any invoice on the grounds that Company has failed to comply with a requirement not stated in the applicable Order.

9.2. Tax

All Fees exclude taxes, including VAT, GST or IVA and any withholding tax, except for Company's income taxes. If any withholding or deduction is required under applicable

laws, Customer shall, when making payment of the Fees to which the withholding or deduction relates, pay to Company such additional amount as shall ensure that Company receives the same total amount of the Fees that it would have received if no such withholding or deduction had been required.

9.3. Invoice Disputes

Customer may dispute invoiced Fees if Customer believes in good faith that Fees were inaccurately invoiced ("**Invoice Dispute**"). Invoice Disputes must be submitted to accounting@fuago.io and identify all disputed amounts and the reasons for such dispute. Company shall review in good faith all Invoice Disputes and shall provide Customer with an explanation of Fees due following such review ("**Invoice Dispute Report**"). If an Invoice Dispute is submitted before the Payment Due Date, then notwithstanding Section "**Fees**", Customer must only pay the amounts not subject to the Invoice Dispute. Unpaid Fees determined in an Invoice Dispute Report to be accurately invoiced are due within thirty (30) days after delivery of such report by Company to Customer. If an Invoice Dispute is submitted after the Payment Due Date and the Parties determine that Fees were incorrectly invoiced, then Company shall issue a credit equal to the agreed amount.

9.4. Late payment

If Customer fails to pay an invoice in a timely manner, Company shall give Customer written notice. If such notice has been provided and payment has not been made within five (5) days of the receipt of such notice by Customer, then Company may charge Customer interest at the rate of nine (9) percentage points above the base rate of the German Federal Bank (*Deutsche Bundesbank*) per year (or the highest rate permitted by law, whichever is lower). If Company initiates efforts to collect any payment due under any Order, Customer shall be responsible for and pay all costs and expenses incurred by Company, including reasonable attorneys' fees.

9.5. Volume Fees

Unless otherwise agreed in an Order, if Customer exceeds the Contractual Use specified in the Order, Company shall charge Customer at the Volume Fee rate specified in the Order for any use of the FUAGO SaaS Offering beyond the Contractual Use ("**Excess Volume**"). Volume Fees for Excess Volume shall be reviewed and invoiced regularly in arrears. Unless agreed upon otherwise in an Order, Excess Volume shall be reviewed annually at the end of each Contract Year and following such review, the amount of Excess Volume shall be automatically added to the Contractual Use and the Subscription Fee shall be increased by an amount equal to the associated Volume Fees, for all future Contract Years unless Customer notifies Company in writing, prior to the end of the relevant Contract Year, that Customer expects its usage volume will decrease under the Contractual Use level going forward. For clarity, Volume Fees are annual Fees and shall be prorated accordingly. In case the Parties have not agreed upon Volume Fees in the applicable Order, Customer shall promptly execute an Order covering the Excess Volume.

9.6. Price revisions

Customer agrees that Company may increase any Fees under each Order annually by the rate of inflation as published by the German Federal Statistical Office, based on the Consumer Price Index for Germany (CPI; 2020=100). Company shall notify Customer of any such increase with ninety (90) days' prior written notice.

9.7. Travel and expenses

Any Fees exclude travel and accommodation expenses for any business travel agreed by the Parties. Customer shall reimburse Company for reasonable and documented travel and accommodation cost upon Customer's prior approval.

9.8. Suspension and termination for non-payment

Company may suspend the provision of any Services or terminate the Agreement for Customer's breach (either immediately or after a period of suspension) without any liability to Customer, if Customer has failed to pay any Fees and the following conditions are met: (i) Company has served upon Customer two (2) notices, each of which specifies the undisputed invoiced amount that is then unpaid and declares Company's intention to suspend the Services or to terminate the Agreement for non-payment and gives Customer thirty (30) days to pay, with the second notice served no earlier than thirty (30) days after the date of the first notice and (ii) thirty (30) days have elapsed since the date of the second notice and Customer has failed to pay in full the undisputed invoiced amount specified in such second notice.

9.9. Purchase orders

If Customer requires a purchase order number on its invoice, Customer shall provide a purchase order number in the Order. If Customer does not provide a purchase order number, then (i) Company shall invoice Customer without a purchase order number and (ii) Customer shall pay invoices without a purchase order number referenced. Any terms on a purchase order are null and void.

9.10. Payment-related costs

Customer shall bear all costs and charges incurred by Company in connection with the payment of the Fees, including, in particular, any bank charges, transfer fees, foreign exchange costs or other payment-related deductions or levies imposed by financial institutions or intermediaries, particularly where such payments originate from outside the European Economic Area (EEA).

10. Information requests and audits

10.1. Information requests

No more than once per Contract Year, or on an ad hoc basis in case of a specific and reasonable suspicion of non-compliance by Customer, Company may request Customer to provide information in written form about (i) the scope of use of the FUAGO SaaS Offering including necessary details to assess the Contractual Use and (ii) any FUAGO SaaS Offering sub-licenses granted by Customer itself and in its role as Partner pursuant to Sections "**Use by Authorized Affiliates**" and "**Provision of the FUAGO SaaS Offering to Authorized Third Parties**". Such information shall be provided to Company within fifteen (15) days of written notice.

10.2. Audit right

Should the Customer delay or fail to comply with the information obligation pursuant to Section "**Information requests**" or in cases of incomplete information or where Company has a reason to believe that an audit is necessary to ensure compliance with the Agreement by Customer, Company or an independent certified public accountant selected by Company may, at Company's sole expense and no later than upon a five (5) days' advance written notice to Customer and during Customer's normal business hours, inspect the records of Customer related to its activities set forth in Section "**Information requests**". If, upon performing such audit, it is determined that Customer

has underpaid Company by an amount greater than five (5) percent of the payments due to Company in the period being audited, Customer shall bear all expenses and costs of such audit in addition to its obligation to make full payment under the given Order. Company shall use commercially reasonable efforts to minimize any interference with Customer's business while such audit is conducted.

11. Support and Professional Services

11.1. Support Services

Company shall provide Support Services during the Subscription as agreed in each given Order in accordance with Annex B – Support Policy and covered by the Fees.

11.2. Support Services to Authorized Third Parties

In the event that the FUAGO SaaS Offering is made available to Authorized Third Parties as agreed between the Parties, Customer, in its role as Partner, shall be solely responsible for providing any Support Services to such Authorized Third Parties as defined in Annex B – Support Policy.

11.3. Additional Professional Services

Customer may purchase additional services or order deliverables from Company by executing a separate statement of work referencing these General Terms. The Fees per Person Day shall be determined in each applicable Statement of Work.

12. Data Protection

Unless otherwise provided in the applicable Order, Company's processing of Customer's Personal Data for the provision of Services shall be governed by Annex A – Data Processing Addendum and Company shall act as a processor and shall act on Customer instructions concerning the treatment of Customer's Personal Data residing in the Services environment, within the meaning of the GDPR and as further specified in the Agreement, in particular Annex A – Data Processing Addendum. Whenever Customer opens support requests with Company in the course of the receipt of Support Services, Customer shall ensure that no Personal Data is transferred within such requests. In the event that Customer nevertheless transmits Personal Data to Company, Company's processing of such Personal Data shall be governed by Annex A – Data Processing Addendum. Customer agrees to provide any notices and obtain any consents related to Customer's use of the Services and Company's provision of the Services, including those related to the collection, use, processing, transfer and disclosure of Personal Data.

13. Confidentiality

13.1. Confidential Information

Confidential Information includes: (i) the non-public code portions of the FUAGO SaaS Offering and the Documentation and (ii) any business, financial or technical information of either Party disclosed to the respective other Party in connection with the Agreement, including, any information relating to such Party's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how.

13.2. Exceptions

Confidential Information shall not include information that (i) is or becomes publicly available without breach of this Agreement and through no fault of the receiving Party,

(ii) the receiving Party can demonstrate it lawfully possessed before first receiving it from the disclosing Party, (iii) can be demonstrated by objective evidence to have been independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information or (iv) is received from a third party without restriction on disclosure and without breach of any confidentiality obligation.

13.3. Obligations

Each Party shall maintain the Confidential Information of the respective other Party in strict confidence and shall exercise due care with respect to the handling and protection of such Confidential Information, consistent with its own policies concerning protection of its own Confidential Information of like importance (but in no event less than reasonable care). Each Party shall use and disclose the Confidential Information of the other Party only as expressly permitted herein and shall disclose such Confidential Information only to its employees and consultants as is reasonably required in connection with the exercise of its rights and obligations under the Agreement. However, each Party may disclose Confidential Information of the other party pursuant to the order or requirement of a court, administrative agency or other governmental body, provided that the receiving party gives reasonable notice to the other party to afford such Party an opportunity to intervene and contest such order or requirement, if legally permissible. Any such disclosure by the receiving party of the Confidential Information of the disclosing party, shall, in no way, be deemed to change, affect or diminish the confidential and proprietary status of such Confidential Information. The obligations of the Parties set forth in Section "**Confidentiality**" shall survive the termination or expiration of the Agreement.

13.4. Destruction or deletion

Within fourteen (14) days of a termination or an expiration of the Agreement each Party shall destroy all Confidential Information (and all copies and extracts thereof) of the respective other Party in its control or possession. Customer shall certify to Company that all copies of Confidential Information of Company have been returned to Company or destroyed and Company shall certify to Customer that all copies of any Confidential Information of Customer have been returned to Customer or destroyed. Notwithstanding the foregoing, the receiving Party may retain copies of Confidential Information stored on backup disks or in backup storage facilities automatically produced in the ordinary course of business which are not, in the ordinary course of business, accessible from employee workstations. Any such Confidential Information so retained shall be held subject to the confidentiality and use limitations of the Agreement and shall not be accessed by any person except information technology systems administrators (if technically required) nor used for any purpose except necessary data storage systems maintenance.

14. Indemnification

14.1. Indemnification by Company

Subject to the provisions of this Section "**Indemnification**", if a third party makes a claim against Customer alleging that the FUAGO SaaS Offering (except for Separately Licensed Third Party Software), when used in accordance with the Documentation and the Agreement, infringes any Intellectual Property Rights of that third party arising under applicable law, Company shall defend Customer against such claim and shall pay all damages finally awarded by a court of competent jurisdiction or agreed to in settlement, except to the extent such claim arises from Customer's fault, misuse, or breach of this Agreement.

14.2. Indemnification by Customer

Subject to the provisions of this Section "**Indemnification**", if a third party asserts a claim against Company alleging that (i) Customer Marks or Customer Data infringes or misappropriates that third party's Intellectual Property Rights, (ii) access and/or use of the FUAGO SaaS Offering by Customer, including, as applicable, any Affiliate, Authorized Affiliate, Authorized Third Party, End Customer and/or Partner's Reseller, not in accordance with the Agreement infringes or misappropriates that third party's Intellectual Property Rights or violates applicable law, (iii) any acts or omissions of Customer when acting as a Partner infringe any rights of a third party, including unlawful use of data, use of the FUAGO SaaS Offering on such third party's infrastructure or devices without consent or unlawful data acquisition, (iv) a suspension of the Services or termination of the Agreement by Company subject to Section "**Suspension and termination for non-payment**" led to losses or damages of such third party or (v) Company is required to provide any remedies or assume any liability for warranty claims directly to such third party due to Customer's failure to enter into a sufficient license agreement with such third party as set forth in the Agreement; then Customer shall defend Company against such claim and shall pay all damages awarded by a court of competent jurisdiction or agreed to in settlement, to the extent caused by Customer's fault or breach of the Agreement.

14.3. Exclusions and procedure

a) In the event that the FUAGO SaaS Offering is likely to, at Company's sole opinion, become the subject of a claim described in Section "**Indemnification by Company**", Company shall, at its sole discretion, either (i) modify or replace the FUAGO SaaS Offering without loss of significant functionality or (ii) procure a license for Customer to continue using the FUAGO SaaS Offering as agreed in the Agreement. If Company determines that neither of the foregoing is commercially or technically practicable, Company may terminate the Agreement and all rights of use granted hereunder by written notice to the Customer. In such case Customer, including in its role as Partner, shall cease all use of the FUAGO SaaS Offering and, in case of use by Authorized Affiliates, Partner's Resellers, Authorized Third Parties and/or End Customers, ensure that those immediately cease the use of the FUAGO SaaS Offering and ensure that Company has no liability towards them as a result of such termination.

b) Company shall have no liability with regard to any claim or demand arising from (i) an allegation that does not state with specificity that the FUAGO SaaS Offering is the basis of such claim, (ii) the use or combination of the FUAGO SaaS Offering or any part thereof with software, hardware or other materials not developed by Company where the FUAGO SaaS Offering or use thereof would not constitute infringement but for said combination, (iii) modification of the FUAGO SaaS Offering by a party other than Company, where the use of the unmodified FUAGO SaaS Offering would not constitute infringement, (iv) any situation where Customer continues the allegedly infringing activity after being notified thereof and is provided with reasonably acceptable modifications, replacements or other remedies that would have avoided the alleged infringement or (v) an allegation made against Customer prior to the execution of the Agreement or any allegation based upon actions taken by Customer prior to the execution of the Agreement or relating to any patent that Customer was aware of prior to the execution of the Agreement. Customer shall bring to Company's attention any such prior or existing or known patent or other intellectual property claims, demands or allegations made

on it that are material to this Section "**Indemnification**", in writing, prior to the execution of the Agreement.

c) The obligations under this Section "**Indemnification**" and any other indemnification obligations set forth in the Agreement are subject to the following conditions: (i) the indemnified Party shall notify the indemnifying Party in writing within ten (10) days of becoming aware of any claim for which indemnification is sought, provided, however, that any failure to provide such notice shall relieve the indemnifying Party of its indemnification obligations hereunder only to the extent it can demonstrate actual prejudice resulting from such failure, (ii) the indemnifying Party shall have sole control over the defense or settlement of such claim, provided that the indemnified Party shall have the right to participate in such defense or settlement with counsel of its own choosing at its own expense and, provided further, that neither Party shall enter into any settlement of any claim without the respective other Party's prior, written approval, which approval shall not be unreasonably withheld, conditioned or delayed, and (iii) the indemnified Party shall reasonably cooperate with the indemnifying Party in the defense and settlement of such claim, at the indemnifying Party's expense.

d) Subject to Section "**Limitation of liability**", this Section "**Indemnification**" states the sole remedy of Customer and the entire liability of Company with respect to any infringement of Intellectual Property Rights.

15. Warranties

No conditions, warranties or other terms apply to the provision of the Services, in particular the FUAGO SaaS Offering, unless expressly described in the Agreement. No implied conditions, warranties or other terms apply (including any implied terms as to satisfactory quality, fitness for purpose or conformance with description). Company does not warrant that (i) operation of the Services shall be error-free or uninterrupted, (ii) the FUAGO SaaS Offering shall meet Customer's, including Customer in its role as Partner, and, as applicable, Authorized Affiliates', Partner's Resellers, Authorized Third Parties and/or End Customers' specific business requirements or (iii) all deficiencies in the FUAGO SaaS Offering or any other Services can be found or corrected. In cases of functional defects of the FUAGO SaaS Offering, Customer's remedies are limited to the ones provided for in Annex B – Support Policy.

16. Limitation of liability

16.1. Unlimited liability

Nothing in the Agreement excludes or limits either Party's liability for: (i) injury to life, body or health resulting from the negligence of either party or the negligence or willful misconduct of their legal representatives or vicarious agents, (ii) willful misconduct or gross negligence, (iii) claims according to the German Product Liability Act (*Produkthaftungsgesetz*), (iv) a breach of a guarantee (*Beschaffenheitsgarantie*) provided by the respective Party, (v) fraud or fraudulent misrepresentation, (vi) its infringements of the obligations set forth in Section "**Responsibility**", or (vii) its payment obligations under the Agreement.

16.2. Cardinal obligations

In other cases of negligence, the Parties are only liable where an obligation has been breached which is essential to fulfill the Agreement's purpose (cardinal obligation –

Kardinalpflicht)). The term cardinal obligation means those obligations, which must be fulfilled to facilitate the implementation of the Agreement and those obligations upon which the Parties regularly rely. In the event of a breach of a cardinal obligation, liability is limited to typically foreseeable damages at the conclusion of the contract and in any event capped at the amount stated in Section "**Liability cap**".

16.3. Limited liability

Subject to Section "**Unlimited liability**", neither Party shall have any liability arising out of or relating to the Agreement for any (i) loss of profits, (ii) loss of anticipated savings, (iii) loss of business opportunity, (iv) loss of reputation or goodwill, (v) loss due to issues caused by the Services not being used in accordance with the Agreement or the Documentation or (vi) loss due to a defect of any rented Services that has already been existing at the Effective Date in accordance with Section 536a of the German Civil Code (*Bürgerliches Gesetzbuch*).

16.4. Liability cap

Subject to Sections "**Limited liability**" and "**Unlimited liability**", each Party's total liability for all claims arising out of or relating to each Order or otherwise under the Agreement in any Contract Year is limited to the aggregate Fees paid by Customer in the relevant Contract Year for the applicable Services (if any).

16.5. Customer backups

Company is not responsible or liable for Customer's deletion of or Customer's failure to store any content and other communications maintained or transmitted through use of the FUAGO SaaS Offering. Customer is solely responsible for regular backups. Any liability of Company for lost data will be limited to compensatory damages in the amount necessary for restoration of the data using electronic backup media.

16.6. Other liability

Any further liability is excluded.

16.7. Statute of limitation

All damages claims will become statute-barred one (1) year after the claim arises and the claiming Party became aware of it or three (3) years regardless of the claiming Party's awareness.

17. Term and termination

17.1. Term of the Agreement

The Agreement commences on the Effective Date and continues in force and effect until all Orders have been terminated or have expired, subject to the termination rights under the Agreement.

17.2. Order term

Subject to the earlier termination as provided herein, each Order shall be in force for the Initial Term. Unless agreed upon otherwise in an applicable Order, thereafter, each Order shall automatically renew on an annual basis on each anniversary of its Effective Date for periods of (1) year each ("**Renewal Term**"), unless a Party hereto provides written notification of its termination to the other Party no later than ninety (90) days immediately preceding the date on which the Order would otherwise renew or unless earlier terminated as provided herein. During the Initial Term and Renewal Term an Order can only be terminated in accordance with Section "**Termination**".

17.3. Termination

Either Party may terminate the Agreement or an Order for cause immediately by written notice upon the occurrence of any of the following events:

a) if the respective other Party ceases to do business or otherwise terminates its business operations,

b) if the respective other Party is adjudicated as bankrupt or if a petition in bankruptcy is filed against the other party and such petition is not discharged within sixty (60) days of such filing,

c) if the respective other Party breaches any material provision of the Agreement and fails to fully cure such breach within thirty (30) days of written notice describing such breach,

d) if the other Party repeatedly breaches its obligations under the Agreement, even if such breaches individually do not constitute a material breach and repeatedly and fails to fully cure such breaches within thirty (30) days of written notice describing such breaches, or

e) if the other Party engages in conduct that violates applicable laws or regulations in a manner that materially affects this Agreement.

17.4. Effect of termination

Termination shall not relieve Customer of its obligation to pay any Fees accrued or payable to Company prior to the Effective Date of termination. Upon termination or expiration of the Agreement and/or an Order, the rights of use granted to Customer thereunder shall automatically terminate and Customer shall immediately cease and, in case of Use by Authorized Affiliates, Partner's Reseller and/or End Customers, ensure that those immediately cease the use of the FUAGO SaaS Offering and the Support Services.

17.5. Separation damages

Upon expiration of the Agreement or termination in accordance with Section "**Term and termination**", Customer shall not be entitled to any separation compensation or damages of any kind, including indemnification, compensation, reimbursement or damages for loss of prospective compensation, goodwill or loss thereof or expenditures, investments, leases or any type of commitment made in connection with the business of such Party or in reliance on the existence of the Agreement, including advertising and promotion costs, costs of supplies, termination of employees, employee salaries and other such costs and expenses.

18. Provisions for Customers based in the United States

To the extent that there are any discrepancies or inconsistencies between the provisions of the General Terms and the Service Terms for the provision of the Services by Company to Customer, the specific terms set forth in this Section "**Provisions for Customers based in the United States**" shall prevail, govern and control, subject to the Customer having its official business seat in the United States as set forth in the applicable Order.

18.1. Modifications of the FUAGO SaaS Offering (United States)

In derogation of Section "**Modifications of the FUAGO SaaS Offering**", in order to maintain a progressive and modern product experience and/or in order to keep up with good industry standards regarding security, reliability or regulatory compliance,

Company reserves the right to make reasonable Updates to the FUAGO SaaS Offering and the Support Services from time to time. Such Updates may relate to any features or functionality and/or the limitations of the FUAGO SaaS Offering and the Support Services. If Company makes a material change to the Service, Company shall inform Customer reasonably in advance, but no later than thirty (30) days before such change becomes effective. This does not apply in cases where such changes are required in order to solve security issues or to address regulatory changes or changes of the law.

18.2. **General representations and warranties (United States)**

Each Party represents and warrants that it has full power and authority to enter into the Agreement. Each Party warrants that it shall comply with all laws and regulations applicable to its provision, receipt or use, of the FUAGO SaaS Offering, as applicable. Company warrants that it shall use reasonable care and skill in complying with its obligations under the Agreement.

18.3. Warranty disclaimer (United States)

In derogation of Section "**Warranties**", Company does not represent or warrant that: (i) the Services shall meet Customer's and, as applicable, Authorized Affiliates', Partner's Resellers and/or End Customers' business requirements, (ii) the Service shall be error-free or uninterrupted or that the results obtained from its use shall be accurate or reliable, or (iii) all deficiencies in the Services can be found or corrected. Company is not responsible or liable for the deletion of or failure to store any Customer Data and other communications maintained or transmitted through the use of the Services. Customer and, as applicable, Affiliates, Authorized Affiliates', Partner's Resellers and/or End Customers are solely responsible for securing and backing up any Customer Data.

18.4. Limitation of liability (United States)

In derogation of Section "**Limitation of liability**" the following shall apply:

a) Except for amounts due hereunder, Customer's use of the Services and, in particular, the FUAGO SaaS Offering, in whole or in part, outside of the scope of the Agreement or a Party's willful misconduct, to the maximum extent permitted by applicable law, in no event shall either Party's aggregate liability arising out of or related to the Agreement whether in contract, tort or under any other theory of liability, exceed the Fees actually paid by Customer under the Agreement during the twelve (12) months prior to the date on which such claim or cause of action arose.

b) Except for Fees payable under the Agreement use by Customer of the Services, in particular the FUAGO SaaS Offering, in whole or in part, outside of the scope of the Agreement, product liability statutes, product related guarantees, a Party's willful misconduct, as far as permitted by applicable law, in no event shall either Party or its employees or agents be liable to the other Party for any indirect, special, incidental, punitive or consequential damages of any kind, including damages due to loss of data, loss of profits, loss of revenue, loss of use costs of procurement of substitute goods or services or computer failure arising from the Agreement or the use of the Services, however caused and, whether in contract, tort or under any other theory of liability, whether or not the Party has been advised of the possibility of such damage notwithstanding the failure of the essential purpose of any remedy. Some states and jurisdictions do not allow limitations on duration or the exclusion of an implied warranty, so the above limitation may not apply.

c) Except for actions for non-payment and breach of either Party's Intellectual Property Rights, no action (regardless of its form or legal theory) arising out of the Agreement may be commenced by either Party more than one (1) year after the cause of action has accrued.

18.5. Modification to the Agreement (United States)

In derogation of Section "**Modifications of the General Terms and/or the Service Terms**" and Section "**Price revisions**", Company may make changes to the Agreement including pricing (unless static pricing was agreed for the Term) from time to time. Unless noted otherwise, material changes to the Agreement shall become effective thirty (30) days after they are communicated to Customer. If the changes apply to new features or functionalities, they shall be effective immediately. In the event that Customer does not agree to the changes, the Agreement may be terminated with immediate effect by Company. In such cases the following shall apply:

18.6. Survival (United States)

Termination or expiration of the Agreement shall not relieve either party of any payment or other obligation under the Agreement which was to have been performed by such party prior to the termination. All provisions of the Agreement which by their nature are intended to survive the termination or expiration of the Agreement including the provisions of an applicable Order and Sections "**Information requests and audits**", "**Confidentiality**", "**Proprietary rights**", "**Indemnification**", "**Warranty disclaimer (United States)**", "**Effect of termination**", "**Separation damages**", "**Limitation of liability (United States)**" and "**General**" shall survive the termination of the Agreement.

18.7. Injunctive relief (United States)

Each Party acknowledges that the unauthorized use or disclosure of the Confidential Information of the other Party would cause substantial harm to such other Party that could not be remedied by the payment of damages alone. Accordingly, the non-breaching Party shall be entitled to seek preliminary and permanent injunctive relief and other equitable relief for any breach of Section "**Confidentiality**".

18.8. Waiver (United States)

No failure of either Party to exercise or enforce any of its rights under the Agreement shall act as a waiver of such rights.

18.9. Governing law and dispute resolution (United States)

In derogation of Section "**Governing law"** the following shall apply:

a) The Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflicts of laws principles and specifically excluding the provisions of the United Nations Convention on the International Sale of Goods or the UCITA, and

b) any and all disputes, controversies or claims between the parties, including disputes arising out of or in connection with the Agreement the business relationship or the use or disclosure of Confidential Information, which could not be resolved following an agreed dispute resolution procedure shall be finally settled in arbitration proceedings held under the Rules of Arbitration of the International Chamber of Commerce by a single arbitrator appointed in accordance with said rules, whereas such arbitrator shall not be of the nationality of either of the Party. Any threshold questions relating to the existence, validity, enforceability or termination of the Agreement or the arbitrability of any dispute between the Parties,

shall also be decided by the arbitrator. Arbitration hearings shall take place within 120 days of the appointment of the arbitrator and awards issued within 150 days of the appointment of the arbitrator, unless extended with the consent of both Parties. The arbitrator shall agree to these limits prior to accepting appointment. Discovery shall be limited to that which is reasonably necessary for the expeditious and inexpensive resolution of the arbitration and in no event, shall more than two (2) corporate depositions per party be permitted. Any such depositions shall be conducted pursuant to Federal Rule of Civil Procedure 30(b)(6). The place of arbitration shall be New York City, in the County and State of New York, United States of America. The language of the arbitration shall be English. The arbitrator shall award to the prevailing party all costs, reasonable attorneys' and administrative fees and expenses related to the arbitration, including reasonable fees and expenses of attorneys, accountants, expert witnesses and other professionals incurred by the prevailing party and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction over the relevant Party or its assets.

Notwithstanding the foregoing, either party may, without waiving any remedy under the Agreement seek preliminary or interim injunctive relief in any court having jurisdiction thereof until a final award by the arbitrator is rendered.

19. General

19.1. Compliance with the law

Customer is responsible for compliance with legal obligations, especially any regulatory and security requirements.

19.2. Embargo and export restrictions

The Parties are mutually obliged to comply with all export control, embargo and sanctions laws and regulations that are applicable under German, United Kingdom, European Union laws and restrict, prohibit or prescribe a licensing requirement for the import, export, re-export or transfer of goods, software, technology or data and the provision of services, directly or indirectly, to certain countries, for certain End Customers or to certain End Customers; this shall also apply with respect to applicable United States and other national law to the extent that German or European Union legal provisions do not conflict therewith ("**Applicable Foreign Trade Law**").

In the event that restrictions apply to the sale, supply, transfer, making available and/or export of the Services, in particular the FUAGO SaaS Offering, due to an embargo imposed by the European Union, Germany, the United Kingdom or the United States, the legally binding conclusion of the Agreement is subject to the condition precedent that a prior authorization is granted by the competent authority or the competent authorities.

Customer confirms, represents and warrants that Customer and, as applicable, Affiliates, Authorized Affiliates, Partners and Partner's Resellers, is/are not subject to any sanctions, in particular, that Customer is not included in any list of persons, entities or bodies ("**PEB**") with which business is restricted or prohibited. Customer also confirms, represents and warrants that Customer is neither directly nor indirectly majority-owned, held or controlled by any such PEB. Such lists of PEB include, but are not limited to, those issued by the European Union or any of its member states, the United Nations Security Council, and/or the United States' government, whereas these confirmations shall extend to sanctions lists relating to economic sanctions measures taken by one or more states against another state and issued by any body other than

the United Nations, the European Kingdom, the United Kingdom or Germany only if the European Union, Germany, the United Kingdom or the United States have also adopted – albeit not identical – economic sanctions measures against that state ("**Applicable Sanctions List**"). Customer shall inform Company immediately if Customer itself or one of the PEB holding or controlling the Customer is included in an Applicable Sanctions List.

Notwithstanding the foregoing confirmations, representations and warranties, Customer agrees to promptly provide, upon request, all information and documentation that shall enable Company to conduct a comprehensive sanctions list screening of Customer, including information on Customer's shareholders, beneficial owners and board of directors.

Customer must not resale, supply, transfer or otherwise make available directly or indirectly any Services obtained from Company to or for the benefit of any PEB that is subject to sanctions under Applicable Foreign Trade Law or directly or indirectly majority-owned, held or controlled by a PEB that is subject to sanctions under Applicable Foreign Trade Law.

If the Services obtained from Company are listed in lists of goods and technology, whose sale, supply, transfer, making available or export to a certain country or region is prohibited or subject to an authorization requirement under Applicable Foreign Trade Law ("**Embargoed Country or Region**"), Customer must not directly or indirectly (re-)sell, (re-)export or otherwise supply or transfer the goods obtained from Company to a PEB in the Embargoed Country or Region or for use in the Embargoed Country or Region, unless a (general) license has been granted by the competent authority. This applies in particular, but not exclusively, to the provision of the Services to PEBs based in Russia, including subsidiaries or other group companies based in Russia, that are owned by or solely or jointly controlled by, a PEB which is incorporated or constituted under the law of an member state of the European Union, a member state of the European Economic Area, Switzerland, the United States or a partner country.

A breach of this Section "**Embargo and export restrictions**" is a material breach of the Agreement. Customer further agrees to comply with all laws and regulations of all jurisdictions in Customer's use of the Services.

19.3. Governing law

The Agreement and any dispute (contractual or non-contractual) concerning the Agreement or its subject matter or formation are governed by the laws of the Federal Republic of Germany. The Parties agree that the courts of Saarbrücken, Germany, shall have exclusive jurisdiction over any legal action or proceeding arising out of or relating to this Agreement.

19.4. Assignment

This Agreement shall inure to benefit and bind the Parties hereto, their successors and assigns, but neither Party may assign the Agreement without written consent of the other, except that Company may assign without consent to a related entity or the successor of all or substantially all of the assignor's business or assets to which the Agreement relates. There are no third-party beneficiaries to the Agreement, except as agreed in the Agreement.

19.5. Notices

Company shall provide notices under the Agreement to Customer by sending an email to the email address provided by Customer in the Order. Customer shall provide notices under the Agreement to Company by sending an email to accounting@fuago.io. Notice shall be treated as received when the email is sent. Customer is responsible for keeping its notification email address current throughout the Term. The Parties may use emails to satisfy written approval and consent requirements under the Agreement. For the avoidance of doubt, and unless expressly stipulated otherwise in the Agreement, any requirement for “written”, “written form” or equivalent shall be deemed satisfied by an email sent in accordance with this clause. The Parties may also use emails to satisfy written approval and consent requirements under the Agreement.

19.6. Severability

If any provision of the Agreement is found by any court, tribunal or administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Agreement and shall be ineffective without, as far as is possible, modifying any other section or part of the Agreement and the legality and enforceability of the other provisions of the Agreement shall not be affected.

19.7. Subcontracting

Company may subcontract obligations under the Agreement but shall remain liable to Customer for any subcontracted obligations.

19.8. Independent contractors

The Parties to the Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency between the Parties. Neither party shall have the power to bind the other or incur obligations on the other’s behalf without the other’s prior written consent.

19.9. Entire agreement

The Agreement states all terms agreed between the Parties and supersedes any prior or contemporaneous agreements between the Parties, relating to the subject matter of the Agreement. In entering into the Agreement, neither Party has relied on and neither Party shall have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly described in the Agreement.

19.10. Force Majeure

Neither Party shall be responsible for any failure to perform due to causes beyond its reasonable control, including, acts of God, war, riot, embargoes, acts of civil or military authorities, denial of or delays in processing of export license applications, fire, floods, earthquakes, accidents, strikes or fuel crises, pandemics provided that such party gives prompt written notice thereof to the other Party.