

Terms of Service

Horizon
021 Software GmbH
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1. Introduction

021 Software GmbH, Taunusstraße 59-61, 55118 Mainz, Germany („Horizon“) offers a software-as-a-service solution and professional services to consumer-validate product decisions by uncovering purchase intent from real consumers through behavioural data (“Services”). These Terms of Service (“Terms”) govern the contractual relationship between Horizon and Customer about the use of the Services.

Use of the Services is only offered to entrepreneurs (“*Unternehmer*”) pursuant to Sec. 14 German Civil Code (“*Bürgerliches Gesetzbuch*”) and not to consumers. An entrepreneur is a natural or legal person or a partnership with a legal personality who, when entering a legal transaction, acts in exercise of his or her trade, business, or profession.

2. Acceptance

When you create and register an account with us on our website (e.g. www.gethorizon.net, app.gethorizon.net) (“Website”) or by mutually executing one or more order forms with us which reference these Terms (“Order”) or by accessing or using the Services in any manner, you agree to be bound by these Terms (together with all “Orders”, the “Agreement”). If the Agreement has been concluded via our website, the text of the Agreement will be available to you in your account in English language.

Customer’s terms and conditions only become part of the Agreement if expressly agreed upon in written form.

3. Service and License

3.1. General

The location of service provision is the output of the router of the data center used by Horizon for service delivery. Customer is responsible for ensuring their ability to receive the Services. In particular, the provision of necessary hard- and software by Horizon is not part of the Agreement.

Customer has no right to claim access to any source code.

3.2. Usage Rights

Horizon provides the Services exclusively for Customer's use as software-as-a-service via the internet; Customer is granted a simple, non-exclusive, non-transferable, non-sublicensable right to use limited in time to the duration of the Agreement. Horizon shall be responsible for operation and maintenance of the Services. Customer may use the Services for its own benefit and the benefit of its affiliated companies according to Sec. 15 et seq. German Stock Corporation Act (each an "Affiliate"). The Customer shall be entitled to grant its and Affiliates' employees, representatives, and contractor's access to the Services (each a "User").

Users may submit content or information to the Services, such as messages or files ("Customer Data"), and Customer may exclusively provide Horizon with instructions on what to do with it. For example, Customer may provision or deprovision access to the Services, enable or disable third-party integrations, manage permissions, retention and export settings, transfer or assign a team account, or consolidate a team account with other team accounts.

Any sub-leasing or other provision of the Services by Customer vis-à-vis third parties are subject to explicit prior approval by Horizon.

3.3. Trials

If Customer is accessing or making use of the Service on a trial basis or on an evaluation basis as identified in the corresponding Order (the "Trial"), Customer may use the Services during the Trial provided such use does not exceed the service levels set forth in the corresponding Order. The Trial may be subject to certain restrictions, limitations and differing terms, all as specified in the corresponding Order.

3.4. No-fee Access ("Basic Plan")

If Customer is accessing or making use of the Service on a no-fee basis (Basic Plan), Customer may use such Services provided such use does not exceed the Service levels specified on the Horizon website with respect to the Basic Plan. Customer acknowledges and agrees that the Basic Plan is provided on an "as-is" basis, and that it is provided without any support. Additionally, Customer acknowledges and agrees that Horizon may terminate the Limited Use at any time and for any reason or modify the applicable terms by publishing a notice on the Horizon website.

3.5. Add-Ons

In addition to existing Agreements between Horizon and Customer, Customer may purchase additional products or services ("Add-Ons" or "Boosters") that will either be applied to a specific existing Agreement between Horizon and Customer or applied separately, without being applied to an existing Agreement. The respective Agreement to which an Add-On is applied to is referred to in the proposal of Horizon submitted to the Customer. The term of Add-Ons to existing Agreements is always equal to the period of the existing Agreement.

3.6. Professional Services

The Parties may agree on Horizon providing Professional Services to Customer, i.e. strategic advisory, consultancy and operational support for test setups and reporting ("Service Subscriptions"). Customer acknowledges that such Service Subscriptions are subject to additional Fees as provided for under an applicable Order. Service Subscriptions can be either purchased on a time & material basis ("Pay as you go"; monthly invoicing based on timesheets) or via upfront payments for a 12 month subscription of Professional Services. If Customer purchases a 12 month subscription of Professional Services, Customer

obtains a certain monthly amount of man-days for Professional Services, for the period of 12 months from the date of purchase. Any monthly amount of man-days for Professional Services can be transferred to any following month within the 12 month subscription term, but not in any month that is beyond the 12 month subscription term. Thereby, Customer acknowledges that any amount of man-day capacity purchased via an applicable Order expires after the 12 month subscription term.

Professional Services do not include the creation of any kind of product images by Horizon for Customer, such as, but not exclusively, 3D renderings of products or product ideas from Customer. If Horizon is providing the Customer with Professional Services, it will be detailed under an applicable Order. Purchases of any kind that Horizon needs to take to provide Customer with Professional Services and which are not included in the applicable Order for Professional Services, such as domains or rights of use for images, are subject on top of the additional Fees for Professional Services.

If Horizon is providing Professional Services to Customer, Horizon shall have the right to use Customer's trademark (word mark, figurative mark and any other features identifying Customer's trademark) for the purpose of the Professional Services.

In the event of termination of an Agreement containing a Service Subscription between Horizon and Customer by Customer, any remaining Professional Services budget allocated to Customer under this Service Subscription will expire concurrently with the end of the contract period. This policy applies notwithstanding any provisions to the contrary in any Agreement or other ancillary contract. Specifically, customers shall not be entitled to access or utilize any unused Professional Services budget from the Service Subscription beyond the termination of the respective Agreement.

3.7. Continuous Improvement

Horizon extends and improves the Services continuously.

Horizon may change the scope of the Service's functions at any time to an extent that is reasonable for the Customer. A change is in particular reasonable if it is required due to an important reason – e.g., as of disturbances in provision of services by subcontractors or for security reasons – and the agreed characteristics, as well as the major obligations of Horizon, substantially remain unaffected. Horizon will inform Customer about the changes at least four (4) weeks in advance via email, unless such changes relate to voluntary services or insignificant components of the Services.

3.7.1. Subcontractors

Horizon is entitled to make use of suitable subcontractors, in particular, but not conclusively, for rendering professional services. Horizon shall be liable for subcontractors used by it as for its own actions.

3.8. Agency Partners

If Customer has signed an Agreement as an Agency Partner and has thereby access to Horizon's partner offers, additional regulations apply for and between Customer and Horizon; see section 6 below. In such cases, Customer is referred to as "Agency Partner", in addition to the reference as "Customer".

3.9. Data Rights

Unless stipulated to the contrary in this section 3.8, all rights in data uploaded into or generated within the systems of Horizon ("Customer Data") remain with the Customer.

Customer grants Horizon a limited, non-exclusive, royalty-free, non-transferable right and license to collect, process, store, modify, display, reproduce and to grant access to Customer Data and to the extent necessary to fulfill its obligations under this Agreement. Customer Data is and will remain the sole and exclusive property of Customer and all rights, title and interest in the same are reserved by Customer.

Derived Data is new and anonymous information generated through analysis and other processing of Customer Data and information generated through monitoring or other observation of Customer's and User's use of the Services and aggregated with data from other customers of Horizon ("Derived Data"). Derived Data does not contain Customer Data, Confidential Information, or any personal data under GDPR. During and after the term of the Agreement, Horizon may create, use, reproduce, display, modify, create derivative works of and otherwise exploit Derived Data for analysis, improving and providing the Services, and other purposes that might serve the development of the Services and other Horizon products. Horizon owns and retains all rights in Derived Data.

During the term of this Agreement, the Services allows the Customer to retrieve specific data in a machine-readable format at any time.

3.10. Feedback

Customer may from time to time provide suggestions, comments, or other feedback to Horizon with respect to the Services ("Feedback"). Customer shall, and hereby does, grant to Horizon a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid license to use and exploit the Feedback for any purpose.

3.11. External Links / Third-Parties

Horizon may provide links or integrations to other applications, websites or services ("Third-Party Services" or "Third-Party"), in particular but not conclusively to social networks for audience acquisition such as for example Meta Inc.. Connections, links or integrations from the Horizon's website or software may take Customer to Third Party Services not covered by these Terms of Service. When Customer accesses resources of Third Party Services in this manner, Customer does so at their own risk and on its own account. Such Third-Parties are not sub-processors of Horizon relating to such Third-Party Services and Horizon is not responsible for them vis-a-vis Customer. Horizon encourages Customer to read and understand the terms of service and privacy policy of Third-Party Service. Horizon does not make any claim or warranty whatsoever about the content of those Third-Party Services to which we link, or any products or services available through those Third-Party Services or the third parties providing such services.

4. Payment

4.1. The Customer pays to Horizon the remuneration agreed upon conclusion of the Agreement. The remuneration may be specified in an Order or at Services interface "check-out". Customer bears the costs of the monetary transaction. In the event that the costs of monetary transaction are borne by Horizon, Horizon reserves the right to charge Customer for the difference between the agreed remuneration and/or any additional costs

incurred.

4.2. For clarity, in the event the parties agree to downgrading any subscriptions from a paid plan to a free plan, Customer will remain responsible for any unpaid fees under the paid plan, and Services under the paid plan will be deemed fully performed and delivered upon expiration of the initial paid plan subscription term.

4.3. Unless agreed on explicitly, no advertisement budget for target group acquisition is included in the agreed remuneration and must be borne by the Customer.

4.4. Any travel costs approved by Customer in text form (including letter and email) are invoiced additionally.

4.5. If not agreed otherwise, remuneration applies monthly and net, excluding the applicable value added tax (VAT). No early payment discounts ("*Skonto*") are granted.

4.6. Invoicing takes place at the beginning of each billing period agreed upon in advance. Invoiced fees are due 14 days after correct invoicing.

4.6.1. As part of the license "Ad-Accounts provided by Horizon", Horizon may place advertisements on behalf of Customer and Customer may be required to pay in advance for the advertising costs of the advertisements. Horizon reserves the right to charge Customer for these advertising costs as well as any additional costs related to the advertisements (e.g. processing and regulatory fees charged by the advertisement platform that are related to the consumer research or Services) at any time. The same payment terms apply as in 4.6.

4.7. remuneration shall be given without deduction of any withholding taxes or other withholding taxes that are imposed by a foreign tax authority or other sovereign and/or are owed based on legal provisions ("Withholding Taxes"). If Customer must pay withholding taxes, Customer must nevertheless pay the full agreed-upon fee to Horizon. Horizon will provide Customer with appropriate support in the reimbursement of withholding tax; whereas Customer has to indemnify Horizon from any costs incurred.

4.8. Customer should always submit orders to the email address orders@gethorizon.net provided by Horizon for this purpose.

5. Customer's Obligations

5.1. Customer is obliged to keep access credentials safe and may only disclose these credentials to authorized Users. Customer shall oblige its Users to confidential handling of access credentials and immediately inform Horizon if there are any indications that access credentials become known to a non-authorized third party.

5.2. Customer is responsible for ensuring that it meets the system requirements for the operation of the Service, which are made available by Horizon upon request.

5.3. Customer is obliged to comply with all applicable legal provisions when using the Services, especially regarding copyright and data protection law. In the event Customer uses the Services to make third-party content (e.g., images, photographs, trademarks) accessible, Customer shall indemnify Horizon from any third-party claims asserted against Horizon about Customer's infringement of their rights. Horizon will inform Customer immediately about third-party claims and will provide information and documents necessary for their defense upon request. Additionally, Horizon will either leave defense to Customer or carry out defense in consultation with Customer. Horizon will not acknowledge or agree or not agree upon facts that have not yet been proven regarding any third-party claims without prior

consultation with Customer. These provisions apply respectively to contractual penalties as well as administrative or judicial fines, as far as Customer is responsible.

5.4. If Customer is using the Service “Incognito Testing”, Horizon will provide a legal entity of its own to be the publisher of the landing page, allowing the customer to test incognito, avoiding any implications for existing brands. However, Customer shall be responsible for the respective website to any third party. In particular, Customer shall indemnify and hold harmless Horizon for any costs and damages that are caused in relation with the content of such website. Further, Customer shall accept Horizon referring to Customer any third party approaching Horizon because of the website, and Customer shall be responsible for responding to such third parties.

5.5. Customer shall always comply with the applicable export and import control regulations and applicable sanctions laws that the parties or the Services may be subject to (“Export Control Laws”), including but not limited to the laws and regulations of the Federal Republic of Germany, the European Union, the United Kingdom, and the United States of America. Horizon is not obliged to perform any obligation under this Agreement to the extent that the performance of such obligation would breach Export Control Laws or expose Horizon to any risk of enforcement action, punitive or restrictive measures, or other adverse action under Export Control Laws.

6. Agency Partner Terms and Obligations

6.1. If Customer is an Agency Partner, Horizon grants Customer, subject to the limitations specified in these Terms of Service, a non-transferable, non-exclusive right to demonstrate and promote Horizon Products and Services to prospective customers and customers of the Agency Partner, and to provide access to Horizon's Products and Services to customers of the Agency Partner through the access provided to the Agency Partner by Horizon.

6.2. Horizon reserves the right to terminate the Agreement in accordance with section 8 in the event of any failure to comply with the Agreement between Horizon and Agency Partner or the Terms of Service.

6.3. In case Agency Partner refers a new customer (“**Referred Customer**”) to Horizon that meets criteria specified individually in the Agreement between Horizon and Agency Partner, Horizon intends to compensate the Partner with a commission (“**Revenue Share**”)

6.4. In order to be eligible to receive a Revenue Share as specified in the Agreement, the Referred Customer, the business relationship between Horizon and the referred Customer as well as the Agency Partner must meet the criteria in section 6.4.1. et seq. Horizon may terminate the Agreement or discontinue the Revenue Share at any time if one or more of the eligibility criteria in section 6.3.1 are not met on a one-off or continuing basis.

6.4.1. Agency Partner is only eligible for the receipt of Revenue Share from Horizon to Agency Partner if the following criteria are met, at the discretion of Horizon:

- 6.4.1.1. Referred Customer has purchased a paid annual plan with Horizon.
- 6.4.1.2. Referred Customer actually purchased the paid annual plan with Horizon through Agency Partner's original referral to Horizon.
- 6.4.1.3. Referred Customer does not reject Revenue Share or prohibit such transactions as Revenue Share from Horizon to Agency Partners or other affiliates.

- 6.4.1.4. Referred Customer is not yet a paying Horizon customer and also not an Agency Partner of Horizon.
- 6.4.1.5. Referred Customer has registered a new, own user account with Horizon.
- 6.4.1.6. Referred Customer has not already been involved in Horizon's active sales process.
- 6.4.1.7. Referred Customer is not a member of an affiliate program of Agency Partner.
- 6.4.1.8. Agency Partner is taking reasonable measures to ensure that Referred Customer do not violate the Terms of Service.
- 6.4.1.9. Referred Customer has not been a Horizon customer within the last 180 days before the purchase of a paid annual plan with Horizon.
- 6.4.1.10. The referral of Referred Customer to Horizon by Agency Partner did not take place prior to the conclusion of the Agreement between Horizon and Agency Partner.
- 6.4.1.11. At Horizon's discretion, Agency Partner acts in good faith in the interests of marketing Horizon and shall not practice in a manner that may negatively affect Horizon or the public perception of Horizon.
- 6.4.1.12. Remuneration such as a revenue share is not illegal under the laws of the local jurisdiction of the Referred Customer, Agency Partner or Horizon.
- 6.4.1.13. Referred Customer pays the agreed fees to Horizon and does not prove to be insolvent after the signing of the agreement, irrespective of the reasons.

6.5. Revenue Share Payment

6.5.1. In addition to the requirements set out in section 6.4.1 and following, the following criteria must be met in order for the Horizon Revenue Share to be paid to Agency Partners:

- 6.5.1.1. Agency Partner shall provide Horizon with the bank details necessary for the delivery of the payment from Horizon to Agency Partner.
- 6.5.1.2. Agency Partner has invoiced Horizon for payment of the Revenue Share, clearly indicating as a service the promotion of a new paying Horizon customer to Horizon by Agency Partner.

6.5.2. It is the responsibility of Agency Partner to ensure that the bank details provided are up-to-date and correct. Horizon is not required to make payments by any other means.

6.5.3. If any of the requirements set out in section 6 do not apply or if a Revenue Share transaction from Horizon to Agency Partner has demonstrably not been possible for more than 120 days (for example, due to Agency Partner providing incorrect bank details) through no fault of Horizon, and Horizon has contacted all contact details provided by Agency Partner to Horizon to correct this without receiving a response from any of Agency Partner's contacts, Agency Partner's right to receive the Revenue Share in respect of the associated Referred Customer shall be forfeited.

6.5.4. If all the requirements in section 6 are met, Agency Partner is entitled to receive Revenue Share, provided that Referred Customer is not linked to an already forfeited transaction as set out in 6.5.3.

6.5.5. Horizon determines the currency in which the Revenue Share is paid to Agency Partners. The currency in which the Revenue Share payment is made by Horizon to Agency

Partner may be different from the currency of the transaction between Horizon and Referred Customer.

6.5.6. Any Revenue Shares payable by Horizon to Agency Partner may be offset against contributions owed by Agency Partner to Horizon.

6.5.7. Horizon reserves the right to pay all Revenue Shares claimed by Agency Partner to Horizon on a quarterly basis within the first 30 days after the end of the quarter.

7. Terms of Use

Customer is responsible for the User's use of the Services. Horizon is entitled to disable access to the Services of Customer or any User if

7.1.1. the Services are used in violation of section 5;

7.1.2. there are demonstrable indications that Customer's access credentials were or are misused, or the access credentials were or are made available to an unauthorized third party or if access credentials are used by more than one natural person;

7.1.3. there are demonstrable indications that a third-party gains access to the Services provided to Customer in any other way;

7.1.4. there are demonstrable indications that Customer's or User's specific use of the Services threatens the security of the Services and/or other Customers and their data;

7.1.5. Horizon is obliged to disable Customer's access for legal reasons or under a court or administrative order; or

7.1.6. Customer is in default with the agreed payment for more than four weeks.

8. Term and Termination

8.1. Unless otherwise agreed, the Agreement has a minimum term of 12 months. The plans "Basic" and "Starter" do not have a minimum contract term.

8.2. Unless agreed otherwise, the Agreement shall automatically be extended by twelve-month intervals, respectively, if not terminated upon notice 30 days before the end of the then-current term by one of the parties.

8.3. Additionally, Horizon is entitled to terminate the Agreement without notice if Customer is in default with agreed-upon payment for more than six (6) weeks and if Horizon informed Customer of intended termination in written or text form at least two (2) weeks before the termination is supposed to become effective.

8.4. A Basic Plan or a Trial can be terminated without cause at any time.

8.5. If a paid plan is terminated by the Customer, it is turned into a Basic Plan.

8.6. The right of termination for good cause remains unaffected.

8.7. Termination notices are subject to the text form.

8.8. Upon termination of a Basic Plan, irrespective of its cause, Horizon will delete Customer Data. Horizon is entitled but not obliged to store Customer Data for security reasons beyond termination of the Agreement, particularly to protect Customer from inadvertent loss of data and for purposes of accounting, invoicing, documentation, or evidence. Additionally, Horizon is entitled to store data beyond the duration of the Agreement to the extent Horizon is obliged by law, especially under commercial or tax law, or by order of a court or authorities.

9. Confidentiality

9.1. “Confidential Information” means the contractual contents and all information and attachment in any form (in particular written, oral or in electronic form) which the parties communicate to each other in the course of the performance of this Agreement. This also includes all documents, data carriers and other media created by each party as well as Customer Data.

9.2. The parties shall treat Confidential Information as strictly confidential and use it only for the purposes of performing the Agreement.

9.3. Any Confidential Information shall be kept secret by the receiving party, protected from access by third parties, and shall not be used for any other purpose other than specified in Section 9.2. Confidential Information shall only be disclosed to receiving party's and its Affiliate's employees or subcontractors if they must be aware of such information to fulfill the purpose of this Agreement. Employees shall be bound to confidentiality in an appropriate manner. Any third party is to be bound in an appropriate manner in accordance with this Section.

9.4. The confidentiality set above shall not apply to any information of which it can be proven that

9.4.1. it was known to the public already prior to the date on which it was received,

9.4.2. it became public through no fault of the party that is subject to the confidentiality,

9.4.3. it was already in the possession of the party receiving the Confidential Information at the time which it was forwarded,

9.4.4. it was already accessible to the party receiving the Confidential Information by an authorized third party that was not subject to confidentiality obligation,

9.4.5. it was passed to members of professional groups who are legally bound to confidentiality.

9.5. The disclosure of Confidential Information in compliance with a court order or an order from public authorities shall not be deemed a breach of Agreement. However, the respective party shall inform – to the extent permitted by law – the other party without undue delay and shall reasonably assist the other party in taking legal steps against such order.

9.6. The parties shall be obliged to implement and uphold reasonable technical and organizational measures regarding the security of the disclosing party's Confidential Information, but in no case any measures less protecting than the measures used by the receiving party for its own Confidential Information. The disclosing party shall be entitled to review the technical and organizational measures of the receiving party on the receiving

party's premises.

9.7. The obligation to confidentiality according to this Section shall continue in force for the duration of another two (2) years after the end of the term of the Agreement.

10. Warranty

10.1. Horizon is liable for defects when providing the Services exclusively according to the following provisions.

10.2. Defects are non-insignificant deviations from the contractually agreed scope of functions of the Services.

10.3. If the Services are faulty, Horizon will rectify or re-provide the Services upon Customer's notice within a reasonable period. When using third-party software which Horizon licensed for the use by Customer, correction of faults is limited to the provision of updates, upgrades or patches. Rectification may also be made by providing instructions with which Customer is able to work around defects in a reasonable way using the Services.

10.4. Customer will notice Horizon about suspected or occurred defects immediately in text form.

10.5. In the event of a deficiency in title, Horizon may either retroactively license the concerned components of the Services or substitute them for equivalent components, to the extent this does not, or not materially, impair the functionalities of the Services.

10.6. Horizon indemnifies the Customer from and against any claims that third parties may assert vis-à-vis Customer based on the infringement of their rights by the Services provided by Horizon. Customer will inform Horizon without undue delay about any asserted third-party claims, and provide any information and documents required to defend such claims upon first request. Furthermore, Customer will either grant Horizon control of the defense or defend the claim in coordination with Horizon. In particular, Customer will not acknowledge any claims or admit to any facts without Horizon' prior approval.

11. Liability

11.1. In case of personal injury or death as well as for deliberate and grossly negligent actions, Horizon has unlimited liability.

11.2. Horizon shall be liable for slight negligent action only in cases of a breach of duty essential to the purposes of this Agreement ("*wesentliche Vertragspflicht*"). Duties are considered essential if necessary for the due execution of the Agreement, so Customer may regularly rely on proper observation.

11.3. In the events described in Section 11.2, Horizon's liability for any lack of commercial results, indirect damages and loss of profits is excluded.

11.4. Liability according to Section 11.2 shall be limited to typical and foreseeable damages at the time of conclusion of the Agreement.

11.5. Liability according to Section 11.2 shall be excluded in terms of Services provided free of charge.

11.6. Limitations of liability shall also apply to employees, subcontractors, and agents of Horizon.

11.7. A potential liability of Horizon for any guarantees or claims based on Product Liability Law remains unaffected.

11.8. Further liability of Horizon (in particular the non-fault liability in terms of defects existing when the Agreement is concluded under Sec. 536a para. 1 of the German Civil Code) is excluded.

12. Data Processing Agreement

To fulfil Horizon's obligations under the Agreement, Horizon processes personal data submitted by Customer and its Users; and Customer acts as data controller in terms of applicable data protection laws ("Commissioned Data"). This section 12 specifies the data protection obligations and the Parties' rights in connection with processing of Commissioned Data. In addition to that, Customer and Horizon may conclude a separate DPA regarding consumer data if legally required.

12.1. Scope of the commissioning/ Customer's right to issue instructions

12.1.1. Horizon shall process the Commissioned Data exclusively on behalf of and in accordance with Customer's instructions.

12.1.2. Section 12.1.1 does not apply if Horizon is legally obliged to data processing. Horizon shall notify Customer of any applicable legal restrictions before processing, unless that law prohibits such notification on important grounds of public interest.

12.1.3. Horizon's processing of Commissioned Data is limited to the type, scope and purpose as follows:

- Personal master data:

Type: name, surname, email address

Purpose: Provision of certain features of the Services: user management, functions in the software, such as rights management, team member management and creation of flights.

Persons affected: Users

- Communication data:

Type: email, user activity in the software, browser identification, IP address

Purpose: provision of certain features of the software: user and access management, functions in the software such as error analysis, quality assurance of the operation and the faultlessness of the software, user support and information about news or product updates.

Persons affected: Users

12.1.4. Customer may issue instructions by using the functions of the software and the Services.

12.1.5. Customer may issue instructions about the type, extent, purpose and means of the processing of Commissioned Data.

12.1.6. Horizon shall immediately inform Customer before any data processing if, in its opinion, an instruction infringes the GDPR or any other applicable data protection provisions.

12.2. Requirements for Horizon personnel

12.2.1. Horizon shall ensure all personnel engaged in the processing of Commissioned Data are adequately bound to confidentiality obligations.

12.2.2. Horizon shall be responsible that natural persons acting under Horizon's authority who have access to Commissioned Data will process such data only on Horizon's instructions, unless they are obliged to process the data in accordance with the law of the European Union or the Member States.

12.3. Security of processing

Considering the state-of-the-art technology, the implementation costs and the nature, the scope, circumstances, and purposes of the processing of Commissioned Data, as well as the different likelihood and severity of the risk to the rights and freedoms of the data subjects, Horizon shall take appropriate technical and organizational measures to ensure an appropriate level of protection for the Commissioned Data.

12.3.1. Prior to processing Commissioned Data and throughout the term of the Agreement, Horizon shall establish and maintain, as well as develop further (if necessary), the technical and organizational measures. Horizon will ensure the processing of Commissioned Data will occur in accordance with those measures.

12.4. Engagement of further processors

12.4.1. Customer authorizes Horizon to engage subprocessors. Horizon's current subprocessors are listed here: www.gethorizon.net/subprocessors

12.4.2. At the request and instruction of Customer, Horizon will exercise all rights against a sub-processor, including but not limited to audit rights, which Horizon itself is entitled to under the respective data processing agreement and which concern the processing for the customer. Horizon is not entitled to any scope of assessment; Horizon exercises such rights as if they were Customer's rights. Further, Horizon is obliged to monitor its sub-processors independently and on a regular basis.

12.4.3. Horizon shall inform Customer of its intention to engage a new subcontractor. Customer may reasonably oppose the proposed engagement of a new subcontractor. Customer shall notify Horizon of such objections in writing within 14 days after receipt of the Horizon's notice relating to such a new subcontractor. If the Parties cannot resolve the objections, Horizon will not make the proposed engagement. If Customer does not object to the engagement of a new subprocessor, Horizon shall document these changes to the list of subcontractors.

12.4.4. The Services are run in a multi-tenant environment. Thus, Customer's objection may lead to a degradation, in whole or in part, in the Services. In such instances, the Parties will attempt to resolve the situation amicably. If the Parties are unable to do so, Horizon may terminate the Agreement extraordinarily. Partial terminations are permitted.

12.4.5. Horizon shall contractually impose the same data protection obligations on each subprocessor as set out in this section 12.

12.4.6. Prior to each engagement and regularly throughout the term of the engagement, Horizon shall monitor the subprocessor's technical and organizational measures to ensure

their processing of Commissioned Data occurs in accordance with this section 12.

12.4.7. If subprocessors outside the European Union / the European Economic Area are engaged, Horizon will fulfill the requirements of Art. 44 (and following) GDPR.

12.5. Data subjects' rights

12.5.1. Horizon shall use commercially reasonable efforts to support Customer in fulfilling Customer's obligations to respond to requests exercising data subjects' rights.

12.5.2. Horizon shall (i) inform Customer without undue delay if a data subject contacts Horizon with a request for exercising his or her rights in relation to Commissioned Data; and (ii) on request, provide Customer with all reasonably necessary information available to Horizon regarding the processing of Commissioned Data which Customer needs to respond to the data subject's request.

12.6. Other support obligations of Horizon

12.6.1. Horizon shall notify Customer without undue delay after becoming aware of any breach of Commissioned Data, including incidents that lead to the destruction, loss, alteration, or unauthorized disclosure of or access to Commissioned Data. If possible, Horizon's initial notification shall include a description of: (i) the nature of the breach, indicating, as far as possible, the categories and the approximate number of affected data subjects, the categories and the approximate number of affected personal data sets; (ii) the likely consequences of the breach; and (iii) the measures taken or proposed by Horizon to remedy the breach and, where appropriate, measures taken to mitigate potential adverse effects.

12.6.2. If Customer must notify supervisory authorities and/or data subjects in accordance with Art. 33, 34 of GDPR, Horizon shall assist the Customer's notification compliance efforts, if requested.

12.6.3. Horizon shall use commercially reasonable efforts to assist Customer with data protection impact assessments, and if necessary, subsequent consultations with the supervisory authority pursuant to Art. 35, 36 GDPR.

12.7. Deletion and return of Commissioned Data

Upon termination or expiration of the Agreement, Horizon shall either completely and irrevocably delete or return all Commissioned Data to the Customer, unless Horizon is obligated by law to retain Commissioned Data.

12.8. Evidence and audits

12.8.1. Horizon is responsible for and shall regularly check to monitor that the processing of Commissioned Data is consistent with this section 12 and with the instructions by Customer. Horizon shall document its compliance in an appropriate manner and provide Customer with appropriate evidence upon request.

12.8.2. Customer shall be entitled to audit Horizon by himself or through a commissioned auditor bound to secrecy prior to the start of the processing of Commissioned Data and regularly during the term of the Agreement about compliance with the provisions of this section 12, in particular the implementation of the technical and organizational measures

including inspections. Horizon will use reasonable efforts to facilitate such audits, including granting the necessary entry and access rights and the provision of necessary information.

13. Miscellaneous

13.1. This Agreement is the entire agreement between Customer and Horizon regarding Customer's use of the Services and supersedes all prior and contemporaneous agreements, proposals or representations concerning its subject matter. Any term or condition stated in Customer's purchase order or in any other Customer document is void.

13.2. These Terms between Customer and Horizon can be amended by respective separate agreements as follows: Horizon communicates the amended conditions before intended effectiveness in text form and highlights the regulations to be amended as well as the date of the intended entry into force. Besides, Horizon will grant Customer a reasonable, at least two (2) month period for declaring approval of or objection to the amended Terms for further use of services. If Horizon does not receive any declaration of Customer within this period, which begins with receipt of the announcement, the amended terms are considered agreed upon. Horizon will inform Customer separately about the legal consequences at the beginning of the period, including the right to object, the period to object and the relevance of remaining silent.

13.3. Amendments and side agreements to this Agreement need to be in written form or signed electronically. This also applies to amendments of this clause 10.2.

13.4. Customer's right to exercise set-offs against claims of Horizon are limited to counter-claims, which are undisputed or affirmed by a legally binding adjudication or those which are part of a reciprocal agreement towards the respective claim.

13.5. The business relationship may be made public. Customer grants Horizon the right to use Customer's word and word/figurative marks for marketing purposes; Provider may in particular use such marks on its website.

13.6. This Agreement is governed by the laws of the Federal Republic of Germany, excluding the Convention on the International Sale of Goods (CISG) and conflict of laws provisions.

Exclusive venue for any and all disputes with regard to this Agreement is Mainz, provided the parties of the Agreement are merchants or Customer has no place of general jurisdiction in Germany or in another member state of the European Union or its permanent or habitual residence is transferred abroad after entry into force of these Terms or permanent or habitual residence is not known at the time the action is filed.