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SCHEDULE 5 – CLOUD TERMS

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1. Background

1.1. These cloud terms govern our delivery and your use of cloud products.

2. Definitions

2.1. Whenever this schedule uses the words listed below, it is a reference to the meaning defined in relation to each word irrespective of whether the word in question is used in the singular or in the plural form, together with adjective or noun words, in the main text or in definitions or the like.

2.2. "Including" or "for example" means an incomplete list of examples serving only to make sure that the examples are included under the provision in question, and which consequently shall not preclude that other matters are included as well.

2.3. "Product" means the product specified in the invoice.

2.4. "Third-party Infrastructure" means any third-party infrastructure used to deliver the Product in accordance with these terms and consisting of any number and combination of free and/or payable third-party deliveries from one or more third parties.

2.5. "We", "us", "our" refer to [Partner].

2.6. "You", "Your" refer to the customer acting as an end user.

3. Services and Service Levels

3.1. **Make the product accessible online.** We make the Product accessible 24/7/365 via a broadband Internet connection to a hosting environment situated on at least two separate geographical locations, and once this setup is in place, the Product will be deemed to be accessible to you also under the following circumstances, provided that such circumstances could not reasonably have been avoided or overcome by us when complying with a reasonable standard of case:

(a) Deficiencies in or in relation to Third-party Infrastructure: The Product is considered accessible even if access to the Product is cut off, impaired or illegal due to deficiencies in or in relation to Third-party Infrastructure;

(b) Disruption of resource supply: The Product is considered accessible even if access to the Product is cut off due to disruption of electricity, heat, water, or other resource supply, provided that the disruption is caused by events outside of our control;

(c) Disruption of the Internet connection: The Product is considered accessible even if access to the Product is cut off due to a disruption in the internet, provided that the disruption is not related to factors in the building of the hosting environment or the hosting environment itself.

3.2. **Deliver a certain uptime.** We deliver an uptime for the Product of 99.9 % calculated in accordance with the following principles:

(a) Uptime scenarios: The Product is considered available ("up") in the following scenarios:

i) *Accessible*: The Product is up when it is accessible in accordance with these terms.

ii) *Material functionality working*: The Product is up when all material functionality of the Product is working as it is supposed to, either because it is free of errors or because we have provided you with a reasonable workaround in relation to any known errors.

iii) *Undergoing scheduled maintenance*: The Product is up when it is undergoing scheduled maintenance in accordance with these terms.

(b) Rolling period: The uptime percentage is calculated on the basis of a rolling period of 90 days.

Example: The 16th of July 2022 the status is that the Product has been registered down 15 hours on the 2nd of May 2022, 34 minutes on the 25th of April 2022 and 10 hours on the 12th of April 2022. This amounts to a downtime of 15 hours and 34 minutes during a rolling period of 90 days as the 12th of April 2022 lies outside the preceding 90 days.

(c) Registered downtime: The Product is considered down from the time you notify us in writing about an event that cannot be qualified as an uptime scenario (as set out above) and until we notify you in writing that the Product again can be qualified as being in a state falling under an uptime scenario.

3.3. **Back-up your data.** We undertake to back-up your data every 24 hours and store each backup for 48 hours. This means that each time a new back-up is carried out, it replaces and thereby erases a 48-hour-old back-up. You must notify us in writing at least 12 hours in advance if you want us to prevent the erasure of a back-up which is otherwise scheduled for being erased. Erased back-ups cannot be restored.

3.4. **Reinstate your data.** Upon your request and without undue delay, we will reinstate your data contained in any back-up available in accordance with these terms provided that you: (i) pay for our time consumption at our rates applicable at the time in question; and (ii) reimburse us any additional costs incurred by us when reinstating the data.

3.5. **Compose Third-party Infrastructure in accordance with best IT practice.** We compose any Third-party Infrastructure in accordance with a reasonable standard of case and we only use internationally recognized providers such as for example Microsoft, IBM, or Amazon.

3.6. **Inform you about the composition of Third-party Infrastructure.** Upon written request and within a reasonable time, we will inform you about the composition of Third-party Infrastructure.

3.7. **Hosting as part of the Product.** Hosting via Microsoft is part of the Product. You accept that the following terms applicable for Microsoft's products also apply to your use of the Product.

(a) the Microsoft Cloud Agreement: https://docs.microsoft.com/en-us/partner-center/agreements#europe.

(b) Microsoft provides an uptime guarantee for all Microsoft cloud services specified in the Service Level Agreement in effect at any time: https://docs.microsoft.com/en-us/partner-center/agreements#europe.

(c) The specific SLA level for each resource type is always updated on: https://azure.microsoft.com/en-us/support/legal/sla/.

3.8. **Carry out scheduled maintenance activities.** We are entitled to temporarily cut off your access to the Product to carry out scheduled maintenance activities during the following maintenance windows with the following limitations:

(d) 7 days prior notification: We may cut off your access for a period of up to 3 hours if we notify you in writing at least 7 days in advance.

Example: You receive an e-mail notification on the 12th of February at 14.53. We may cut off your access on the 19th of February from 14.54 to 17.54.

(e) 1-hour prior notification: We may cut off your access for up to 15 minutes if we notify you in writing at least 1 hour in advance.

Example: You receive an e-mail notification on the 12th of February at 14.53. We may cut off your access on the 12th of February from 15.54 to 16.09.

(f) Window ceiling: We may, as a maximum, schedule maintenance activities on 3 days during the period used for calculating the uptime. If we exceed this maximum, the excess time used on maintenance activities will be considered downtime.

3.9. **Acceptance of extensive use of Third-party Infrastructure.** You understand and accept extensive use of Third-party Infrastructure to comply with these terms. This involves that we can use Third-party Infrastructure for all aspects of delivering the Product to you and for complying with any obligation to back-up your data.

3.9.1. Where the Product includes software from a third party of Third-party Infrastructure, your right of use will at any time be subject to the terms applicable for such Third-party Software or Third-party Infrastructure.

3.10. **Service desk.** We may make a service desk available as part of the Product. Contact details and other information about the service desk is available on our website.

4. Changes and discontinue

4.1. Changes to the Product. We are entitled at any given time to change the Product, provided that such change does not materially decrease the functionality of the Products. This involves that we may alter the user interface and retire existing features and functionality if we deem this to be desirable as part of our ongoing product development.

4.2. Discontinue the Product. We are entitled to discontinue the Product; however, we undertake to fulfill any existing obligations to deliver it during the agreed term. This means that you may be prevented from renewing your access to the Product.

5. Infringements

5.1. Assist with removal of any infringements by Third-party Infrastructure. You must assist us with removal of any infringements of third-party rights by the Product. You are required to do this by acting in accordance with any reasonable demand we make and in any case demands we can make under these terms when an infringement is due to the Product.

5.2. Notify and invoke our contractual rights against Third-party. We will without undue delay notify the relevant third party about any errors in or infringements by the Third-party Infrastructure that come to our attention after you have notified us about errors in or infringements by the Product. If it becomes necessary, we will also invoke any indisputable, contractual rights we have against the third party to ensure a prompt and proper solution including trying to obtain reimbursement of costs incurred by you or indemnification of damages inflicted upon you. We will also keep you duly updated on the communications exchanges with the third party and the actions they plan to take or are taking.

6. Damages, liability, and limitations

6.1. Claim liquidated damages. You are entitled to claim liquidated damages in the amount and under the conditions set out below if the service does not meet the specified uptime:

6.1.1. Liquidated damages amount: The amount is calculated as a percentage of the price paid for the Product during the relevant number of calendar months used to calculate the uptime and the following percentages are used for the calculation:

< 99.9 % →   10 %
< 99.0 % →   25 %

Example: You pay EUR 1,000 for the Product each calendar month and the specified uptime is 99.9 % each calendar month. The actual uptime during February is 99.7% and you are therefore entitled to 10 % of EUR 1,000 in liquidated damages.

If the uptime is calculated on basis of a period specified in another measurement unit than calendar months, the period in question will for the purpose of calculating the price paid during the period be converted to calendar months by dividing the period with 30.

Example: The price per calendar month is EUR 1,000. The uptime is calculated on basis of a rolling period of 90 days. This will be converted to 90/30 = 3 calendar months and the price paid during the period will consequently be EUR 3,000.

6.1.2. Notification: You must make a claim for liquidated damages to us in writing no later than 3 calendar months after the end of the period in question;

6.1.3. No additional claim for damages: You accept that any claim for liquidated damages automatically constitutes a waiver of claiming additional damages even if you deem the liquidated amount to be insufficient to cover your loss. The liquidated damages amount is your sole remedy in relation to the event giving rise to the claim;

6.1.4. Payment via set off: You accept that the liquidated damages will be paid via set off against the future invoices we issue to you regarding the Product and that any outstanding amount after expiry of the Product will be transferred to an account of your choosing no later than 30 days of the date of expiry.

6.2. Claim damages. If we inflict damage upon you due to our gross negligence or willful misconduct, you are entitled claim damages subject to the following conditions and limitations:

(a) Notification deadline: You must notify us of the claim in writing no later than 3 calendar months after you did or should have become aware of the claim and in any event no later than 12 calendar months after the date of the event forming basis for the claim;

(b) Only direct damages: You are only entitled to claim direct damages. We are not liable for consequential, indirect, incidental, special, exemplary, or punitive damages. The following types of damages are considered indirect damages:

i)   Loss of profit.

ii) Loss of customers.

iii) Loss of business opportunities.

iv) Loss inflicted by disruption of a relationship to a customer, supplier, or other third party.

v) Loss of goodwill.

vi) Loss caused by work or production stoppage.

vii) Loss of data other than those that we are under an obligation to back-up.

(c) Limited damage amount: You are only entitled to claim damages for an amount less than or equal to the price exclusive of VAT paid for the Product during the preceding 12 calendar months. For the avoidance of doubt, the aggregate amount will not be adjusted in case your access to the Product has lasted less than 12 months. This applies irrespective of whether you during that period present one or more claims and whether multiple claims are related or not.

6.3. **No obligation in relation to or liability for Third-party Infrastructure.** We do not accept any liability for any obligation in relation to or liability for any Third-party Infrastructure to the extent otherwise is not expressly stated in these terms.

6.4. **No other remedy.** You are not entitled to invoke any other remedy in case of breach by us than the remedies explicitly mentioned in these terms.

7. Security and Personal Data

7.1. **Ensure that licensed users keep their login secret.** You undertake to ensure that licensed users keep their login secret. This involves that each licensed user must refrain from lending out or in any way share their login with others including their superiors, their subordinates, or any other colleagues.

8. Audits

8.1. **Perform self-audit.** Upon our request, you must perform a self-audit of your compliance with these terms. This is done by answering any questions we ask of you concerning your use of the software. You diligently conduct any necessary or prudent investigations to answer the questions and based on these investigations you answer them to the best of your ability. If you deem the questions to be vague or otherwise unclear, you may require us to clarify them before answering. The answers must be provided in writing unless we expressly agree otherwise. You with both retrospective and prospective effect pay the then current list price for any non-licensed use discovered as part of the self-audit. If it is later discovered that you due to neglect or willful misconduct have provided imprecise or wrongful answers, you at that later time pay

three times the current list price for each non-licensed use that would have been discovered at the time of the self-audit if you had provided precise and correct answers.

9. Term and Termination

9.1. **Term.** You choose your term on the Boyum Portal as set out in clause 14.1 **Error! Reference source not found.**and 1 4.1.1. of Schedule 2 (End User License Agreement).

9.2. **Termination for convenience by you.** The agreed Contract Duration for subscription-based licenses is binding and you cannot terminate the Agreement during this period. Subject to the restrictions set out in clause 14.2. of Schedule 2 (End User License Agreement), you may, however, at any time deselect the Autorenewal in order to let a subscription-based license expire.

9.3. **Termination for convenience by us.** We are entitled to terminate your access to the Product by providing you with a prior notice of 12 months. We are not required to provide you with a notice if we are prevented from providing access to the Product based on circumstances outside our control. Termination can be conducted via electronic means.

9.4. **Termination for cause by you.** If we commit a material breach, you are entitled to terminate the service order in question for cause subject to the following definitions and conditions:

(a) Definition of material breach: It shall be determined on a case-by-case basis if a breach constitutes a material breach, except that the following events shall always be deemed to be a material breach:

i) Failure to "Make the Product accessible online" as set out in clause 3.1.

ii) Failure to "Back-up your data" as set out in clause 3.3.

iii) Failure to "Compose Third-party Infrastructure in accordance with best IT practices" as set out in clause 3.5.

iv) Failure to "Inform you about the composition of Third-party Infrastructure" as set out in clause 3.6.

v) Failure to "Notify and invoke our contractual rights against third party" as set out in clause 5.2.

(b) Condition of written notice: You must first notify us of the breach in writing and in the notice describe the breach and clearly state your intent to terminate for cause unless the breach is rectified within a reasonable time; and

(c) Condition of rectification period: You are obligated to give us a reasonable period to rectify the breach and such period will in any case minimally be set to 30 days.

9.5. **Termination for cause by us.** If you commit a material breach, we are entitled to terminate your purchase and the EULA for cause subject to the following definitions and conditions:

(a) <u>Definition of material breach</u>: It shall be determined on a case-by-case basis if a breach constitutes a material breach except that the following events shall always be deemed to be a material breach:

    i) Failure to "Assist with removal of any infringements by Third-party Infrastructure" as set out in clause 5.1.
    ii) Failure to "Ensure that licensed users keep their login secret" as set out in clause 7.1.
    iii) Failure to "Perform self-audit" as set out in clause 8.1.
    iv) Failure to pay an invoice in accordance with a payment deadline as set out in the Software Reseller Agreement.

(b) <u>Written notice</u>: We must first notify you of the breach in writing and in the notice describe the breach and clearly state our intent to terminate for cause unless the breach is rectified within a reasonable time.

(c) <u>Rectification period</u>: We must provide you with a 30 day period to rectify the breach, unless the breach is pertaining to your payment obligations where the rectification period shall be 7 days or alternatively the shortest period allowed by mandatory rules under the applicable law.

9.6. **Deactivate Product.** If we have the right to terminate this agreement for cause, we may instead choose to first deactivate your access to the Product. We may then terminate this agreement for cause without further notice after granting you an additional grace period of minimally 3 days to rectify the breach. If you rectify the breach, we will reactive the Product.

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