



Botium Terms and Conditions

January 2021

These Botium Terms and Conditions (these “Terms”) describe your rights and responsibilities as a user of our products. These Terms are between you and Botium GmbH, with its principal place of business at Gerasdorfer Strasse 141/8, 1210 Vienna, Austria listed here “Botium”, “we” or “us”.

“You” means the entity you represent in accepting these Terms or, if that does not apply, you individually. If you are accepting on behalf of your employer or another entity, you represent and warrant that:

- (i) you have full legal authority to bind your employer or such entity to these Terms;
- (ii) you have read and understand these Terms; and
- (iii) you agree to these Terms on behalf of the party that you represent.

These Terms are effective as of the date you register to use our products (the “Effective Date”). These Terms do not have to be signed in order to be binding. You indicate your assent to these Terms by registering to use Botium products or services.



1. WHAT THESE TERMS COVER.

1.1. Cloud Products.

These Terms govern our Cloud Products, related Support, and Additional Services. These Terms include Our Policies (including our Privacy Policy), the Product-Specific Terms, and your Orders.

1.3. Software Products Not Covered.

These Terms do not apply to our on-premise software products, use of which requires a separate Software License Agreement with us. For clarity, however, any client software (e.g., Botium Core) we provide as part of the Cloud Products themselves remains subject to these Terms.

2. HOW CLOUD PRODUCTS ARE ADMINISTERED.

2.1. Administrators.

Through the Cloud Products, you may be able to specify certain End Users as Administrators, who will have important rights and controls over your use of Cloud Products and End User Accounts. This may include making Orders for Cloud Products or enabling Features (which may incur fees); creating, de-provisioning, monitoring or modifying End User Accounts, and setting End User usage permissions; and managing access to Your Data by End Users or others. Without limiting Section 2.3 (Responsibility for End Users), which fully applies to Administrators, you are responsible for whom you allow to become Administrators and any actions they take, including as

described above. You agree that our responsibilities do not extend to the internal management or administration of the Cloud Products for you.

2.2. Reseller as Administrator.

If you order Cloud Products through a Reseller, then you are responsible for determining whether the Reseller may serve as an Administrator and for any related rights or obligations in your applicable agreement with the Reseller. As between you and Botium, you are solely responsible for any access by Reseller to your accounts or your other End User Accounts.

2.3. Responsibility for End Users.

Some Cloud Products require users to be designated by Administrators; You are responsible for understanding the settings and controls for each Cloud Product you use and for controlling whom you allow to become an End User. Please note that you are responsible for the activities of all your End Users, especially how End Users use Your Data, even if those End Users are not from your organization or domain.

2.5. Credentials.

You must require that all End Users keep their user IDs and passwords for the Cloud Products strictly confidential and do not share such information with any unauthorized person. User IDs are granted to individual persons and may not be shared. You are responsible for any and all actions taken using End User Accounts and passwords, and you agree to immediately



notify us of any unauthorized use of which you become aware.

3. WHAT'S INCLUDED IN YOUR CLOUD PRODUCT SUBSCRIPTIONS; WHAT ARE THE RESTRICTIONS.

3.1. Access to Cloud Products.

Subject to these Terms and during the applicable Subscription Term, you may access and use the Cloud Products for your own business purposes, all in accordance with these Terms, the applicable Order and our Documentation. The rights granted to you in this Section 3.1 are non-exclusive, non-sublicensable and non-transferable.

3.2. Support.

During the Subscription Term, we will provide Support for the Cloud Products in accordance with the applicable Order.

3.3. Restrictions.

Except as otherwise expressly permitted in these Terms, you will not:

- (a) reproduce, copy, modify, adapt or create derivative works of the Cloud Products;
- (b) rent, lease, distribute, sell, sublicense, transfer or provide access to the Cloud Products to a third party;
- (c) use the Cloud Products for the benefit of any third party;
- (d) incorporate any Cloud Products into a product or service you provide to a third party;
- (e) interfere with or otherwise circumvent mechanisms in the Cloud Products intended to limit your use;

(f) reverse engineer, disassemble, decompile, translate or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Cloud Products, except to the extent expressly permitted by applicable law (and then only upon advance notice to us);

- (g) remove or obscure any proprietary or other notices contained in any Cloud Product;
- (h) use the Cloud Products for competitive analysis or to build competitive products;
- (i) publicly disseminate information regarding the performance of the Cloud Products; or
- (j) encourage or assist any third party to do any of the foregoing.

4. OUR SECURITY AND DATA USAGE POLICIES.

4.1. Security.

We implement and maintain technical and administrative security measures designed to protect Your Data from unauthorized access, destruction, use, modification, or disclosure.

4.2. Data Usage.

We use Usage Data to build features and improve the functionality and feature set of our services, and may disclose to third parties aggregated and anonymised research data (which cannot reasonably be used to infer the identity of any user or customer of Botium) based on the Usage Data and User Data Model. Nothing in our agreement shall restrict us from such use of Usage Data.



4.3. Subpoenas.

Nothing in these Terms prevents us from disclosing Your Data to the extent required by law, subpoenas or court orders, but we will use commercially reasonable efforts to notify you where permitted to do so. Botium strives to balance your privacy rights with other legal requirements.

5. TERMS THAT APPLY TO YOUR DATA.

5.1. Using Your Data to provide Cloud Products to You.

You retain all right, title and interest in and to Your Data in the form submitted to the Cloud Products. Subject to these Terms, and solely to the extent necessary to provide the Cloud Products to you, you grant us a worldwide, limited term license to access, use, process, copy, perform, export, and display Your Data. We may also access your accounts, End User Accounts, and your Cloud Products with End User permission in order to respond to your support requests.

5.2. Your Data Compliance Obligations.

You and your use of Cloud Products (including use by your End Users) must comply at all times with these Terms, the Acceptable Use Policy and all Laws. You represent and warrant that:

- (i) you have obtained all necessary rights, releases and permissions to submit all Your Data to the Cloud Products and to grant the rights granted to us in these Terms and
- (ii) Your Data and its submission and use as you authorize in these Terms will not violate (1)

any Laws, (2) any third-party intellectual property, privacy, publicity or other rights, or (3) any of your or third-party policies or terms governing Your Data.

Other than our express obligations under Section 4 (Our security and data privacy policies), we assume no responsibility or liability for Your Data, and you are solely responsible for Your Data and the consequences of submitting and using it with the Cloud Products.

5.3. No Prohibited Sensitive Personal Information.

You will not submit to the Cloud Products (or use the Cloud Products to collect) any Sensitive Personal Information.

Notwithstanding any other provision to the contrary, we have no liability under these Terms for Sensitive Personal Information submitted in violation of the foregoing.

5.4. Your Indemnity.

You will defend, indemnify and hold harmless us (and our officers, directors, agents and employees) from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) resulting from any claim arising from or related to

- (i) your breach of Section 2.3 (End User Consent) or any claims or disputes brought by your End Users arising out of their use of Cloud Products,
- (ii) your breach (or alleged breach) of Sections 5.2 (Your Data Compliance Obligations) or 5.3



(No Prohibited Sensitive Personal Information);
or

(iii) Your Materials. This indemnification obligation is subject to you receiving

(a) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice);

(b) the exclusive right to control and direct the investigation, defense or settlement of such claim and

(c) all reasonable necessary cooperation

6. ADDITIONAL SERVICES.

6.1. Additional Services.

Subject to these Terms, you may purchase Additional Services that we will provide to you pursuant to the applicable Order. Additional Services may be subject to additional policies and terms.

6.2. Our Deliverables.

We will retain all right, title and interest in and to Our Deliverables. You may use any of Our Deliverables provided to you only in connection with the Cloud Products, subject to the same usage rights and restrictions as for the Cloud Products.

7. MAINTENANCES.

7.1. Maintenance windows.

We use maintenance windows to bring new features and fixes to your Botium Box as soon as possible. Maintenance windows occur weekly on Sundays between 2 pm and 6 pm (MET). We aim to keep total weekly downtime

for upgrades to less than 15 minutes, and we'll only use the maintenance windows when we have changes to release.

7.2. Find out about recent changes.

Check out our release notes wiki page to keep in sync with our latest changes. We'll use it to tell you about new features and changes to existing features in your Botium Box.

7.3. How we communicate maintenance windows.

Regular maintenance windows: We won't send maintenance notifications unless we need to deviate from the regular schedule.

Other types of maintenance: For other required maintenance, like urgent fixes, we'll notify you via mail at least two hours in advance.

8. BILLING, RENEWALS, AND PAYMENT.

8.1. Monthly and Annual Plans.

Except for No-Charge Products, all Cloud Products are offered either on a monthly subscription basis or an annual subscription basis.

8.2. Renewals.

Except as otherwise specified in your Order, unless either party cancels your subscription prior to expiration of the current Subscription Term, your subscription will automatically renew for another Subscription Term of a period equal to your initial Subscription Term. Cancelling your subscription means that you will not be charged for the next billing cycle, but



you will not receive any refunds or credits for amounts that have already been charged. All renewals are subject to the applicable Cloud Product continuing to be offered and will be charged at the then-current rates.

8.3. Increase Usage.

You may increase your use of Cloud Products by placing a new Order or modifying an existing Order. Unless otherwise specified in the applicable Order, we will charge you for any increased use at our then-current rates, prorated for the remainder of the then-current Subscription Term.

8.4. Payment.

You will pay all fees in accordance with each Order, by the due dates and in the currency specified in the Order. Other than as expressly set forth in Section 12.2 (Warranty Remedy) or Section 15 (Changes to these Terms), all amounts are non-refundable, non-cancelable and non-creditable. You agree that we may bill your credit card or other payment method for renewals, overages to set limits or scopes of use, expenses, and unpaid fees, as applicable.

8.5. Delivery.

We will deliver the login instructions for Cloud Products to your account or through other reasonable means no later than when we have received payment of the applicable fees. All deliveries under these Terms will be electronic.

9. FREE-OF-CHARGE PRODUCTS.

9.1. Availability.

We do not guarantee that Free-Of-Charge products, services, or any part of them, will always be available or be uninterrupted. We may suspend or withdraw or restrict the availability of all or any part of them for business and operational reasons. We will try to give the User reasonable notice of any suspension or withdrawal.

9.2. Fair Usage Policy.

To provide Free-Of-Charge services in high quality to as many users as possible, subsequent usage limits apply.

- (i) for Botium Box Mini: limited test sessions per hour, limited convos and utterances per test set; 1 Botium agent;
- (ii) for Botium Box Enterprise Trials: 5 Botium agents;

10. IP RIGHTS IN THE CLOUD PRODUCTS.

10.1. Ownership.

Cloud Products are made available on a limited access basis, and no ownership right is conveyed to you, irrespective of the use of terms such as “purchase” or “sale”. We have and retain all right, title and interest, including all intellectual property rights, in and to Our Technology (including the Cloud Products).

10.2. Open Source Component.

You acknowledge that certain software components of the Product may be covered by open source licenses as promulgated by the Open Source Initiative or by the Free Software Foundation. To the extent required by such



open source license, the terms of such license will apply to such open source components in lieu of the relevant provisions of these Terms. If such open source license prohibits any of the restrictions in these Terms, such restrictions will not apply to respective open source components.

11. CONFIDENTIALITY.

Except as otherwise set forth in these Terms, each party agrees that all code, inventions, know-how and business, technical and financial information disclosed to such party ("Receiving Party") by the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any of Our Technology and any performance information relating to the Cloud Products will be deemed our Confidential Information without any marking or further designation. Except as expressly authorized herein, the Receiving Party will

- (1) hold in confidence and not disclose any Confidential Information to third parties and
- (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under these Terms. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know, provided that they are

bound to confidentiality obligations no less protective of the Disclosing Party than this Section 11 and that the Receiving Party remains responsible for compliance by them with the terms of this Section 11. The Receiving Party's confidentiality obligations will not apply to information which the Receiving Party can document:

- (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information;
- (ii) is or has become public knowledge through no fault of the Receiving Party;
- (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or
- (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may also disclose Confidential Information if so required pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party).

The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.



12. TERM AND TERMINATION.

12.1. Term.

These Terms are effective as of the Effective Date and expire on the date of expiration or termination of all Subscription Terms.

12.2. Termination for Cause.

Either party may terminate these Terms (including all related Orders) if the other party (a) fails to cure any material breach of these Terms within thirty (30) days after notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

12.3. Termination for Convenience.

You may choose to stop using the Cloud Products and terminate these Terms (including all Orders) at any time for any reason upon written notice to us. Upon any such termination (i) you will not be entitled to a refund of any pre-paid fees and (ii) if you have not already paid all applicable fees for the then-current Subscription Term or related services period (as applicable), any such fees that are outstanding will become immediately due and payable.

12.4. Effects of Termination.

Upon any expiration or termination of these Terms, you must cease using all Cloud Products and delete (or at our request, return)

all Confidential Information or other materials of ours in your possession. You will not have access to Your Data (and we may delete all of Your Data unless legally prohibited) after expiration or termination of these Terms (or its applicable Subscription Term). In no event will termination relieve you of your obligation to pay any fees payable to us for the period prior to the effective date of termination.

13. WARRANTIES AND DISCLAIMER.

13.1. Mutual Warranties.

Each party represents and warrants that it has the legal power and authority to enter into these Terms.

13.2. Warranty Remedy.

We will use commercially reasonable efforts, at no charge to you, to correct reported non-conformities with the Performance Warranty. If we determine corrections to be impracticable, either party may terminate the applicable Subscription Term. In this case, you will receive a refund of any fees you have pre-paid for use of the Cloud Product for the terminated portion of the applicable Subscription Term.

13.3. WARRANTY DISCLAIMER.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 13, ALL CLOUD PRODUCTS, SUPPORT AND ADDITIONAL SERVICES ARE PROVIDED "AS IS," AND WE AND OUR SUPPLIERS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTY OF



NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING OUR EXPRESS OBLIGATIONS IN THESE TERMS, WE DO NOT WARRANT THAT YOUR USE OF THE CLOUD PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, THAT WE WILL REVIEW YOUR DATA FOR ACCURACY OR THAT WE WILL PRESERVE OR MAINTAIN YOUR DATA WITHOUT LOSS. YOU UNDERSTAND THAT USE OF THE CLOUD PRODUCTS NECESSARILY INVOLVES TRANSMISSION OF YOUR DATA OVER NETWORKS THAT WE DO NOT OWN, OPERATE OR CONTROL, AND WE ARE NOT RESPONSIBLE FOR ANY OF YOUR DATA LOST, ALTERED, INTERCEPTED OR STORED ACROSS SUCH NETWORKS. WE CANNOT GUARANTEE THAT OUR SECURITY PROCEDURES WILL BE ERROR-FREE, THAT TRANSMISSIONS OF YOUR DATA WILL ALWAYS BE SECURE OR THAT UNAUTHORIZED THIRD PARTIES WILL NEVER BE ABLE TO DEFEAT OUR SECURITY MEASURES OR THOSE OF OUR THIRD PARTY SERVICE PROVIDERS. WE WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE OUR REASONABLE CONTROL. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

13.4. WARRANTY EXCLUSIONS.

WARRANTY IS FULLY EXCLUDED IN CASES OF FREE-OF-CHARGE USE OF THE PRODUCTS.

14. LIMITATION OF LIABILITY.

14.1. Consequential Damages Waiver.

EXCEPT FOR EXCLUDED CLAIMS (AS DEFINED BELOW), NEITHER PARTY (NOR ITS SUPPLIERS) WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF DELAY, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

14.2. Liability Cap.

EXCEPT FOR EXCLUDED CLAIMS, EACH PARTY'S AND ITS SUPPLIERS' AGGREGATE LIABILITY TO THE OTHER ARISING OUT OF OR RELATED TO THESE TERMS WILL NOT EXCEED THE AMOUNT ACTUALLY PAID OR PAYABLE BY YOU TO US UNDER THESE TERMS IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

14.3. Excluded Claims.

"Excluded Claims" means

- (1) amounts owed by you under any Orders,
- (2) either party's express indemnification obligations in these Terms, and
- (3) your breach of Section 3.3 (Restrictions).



14.4. Nature of Claims and Failure of Essential Purpose.

The parties agree that the waivers and limitations specified in this Section 14 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in these Terms is found to have failed of its essential purpose.

14.5. LIABILITY EXCLUSIONS.

LIABILITY IS FULLY EXCLUDED IN CASES OF FREE-OF-CHARGE USE OF THE PRODUCTS.

15. DISPUTE RESOLUTION.

15.1. Informal Resolution.

In the event of any controversy or claim arising out of or relating to these Terms, the parties will consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of sixty (60) days, either party may pursue relief as may be available under these Terms pursuant to Section 15.2 (Governing Law; Jurisdiction). All negotiations pursuant to this Section 15.1 will be confidential and treated as compromise and settlement negotiations for purposes of all rules and codes of evidence of applicable legislation and jurisdictions.

15.2. Governing Law; Jurisdiction.

These Terms will be governed by and construed in accordance with the applicable laws of Vienna, Austria, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding arising out of or related to these Terms must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in Vienna, Austria, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the courts in Vienna, Austria, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. In any action or proceeding to enforce a party's rights under these Terms, the prevailing party will be entitled to recover its reasonable costs and attorneys' fees.

15.3. Exclusion of UN Convention and UCITA.

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to these Terms. The Uniform Computer Information Transactions Act (UCITA) will not apply to these Terms regardless of when or where adopted.

15.4. Subsequent Arbitration.

If there is no bilateral treaty regarding litigation and enforcement between the states where the parties are located, each party consents to all disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International



Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules and such arbitration shall be final binding and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of the arbitration shall be as set forth in section 15.2, and the arbitration language shall be German.

16. CHANGES TO THESE TERMS.

We may modify the terms and conditions of these Terms (including Our Policies) from time to time, with notice to you in accordance or by uploading the modified Terms on our website. Every time you wish to use our products, please check these terms to ensure you understand the terms that apply at that time.

16.1. Free-Of-Charge Products.

You must accept the modifications to continue using the Free-Of-Charge Products. If you object to the modifications, your exclusive remedy is to cease using the Free-Of-Charge Products.

16.2. Paid Subscriptions.

Except as otherwise indicated below, modifications to these Terms will take effect at the next renewal of your Subscription Term and will automatically apply as of the renewal date unless you elect not to renew pursuant to Section 8.2 (Renewals). Notwithstanding the foregoing, in some cases (e.g., to address compliance with Laws, or as necessary for new features) we may specify that such

modifications become effective during your then-current Subscription Term.

17. CHANGES TO THE CLOUD PRODUCTS.

You acknowledge that the Cloud Products are on-line, subscription-based products, and that in order to provide improved customer experience we may make changes to the Cloud Products, and we may update the applicable Documentation accordingly. Subject to our obligation to provide Cloud Products and Additional Services under existing Orders, we can discontinue any Cloud Products, any Additional Services, or any portion or feature of any Cloud Products for any reason at any time without liability to you.

18. GENERAL PROVISIONS.

18.1. Force Majeure.

Neither party will be liable to the other for any delay or failure to perform any obligation under these Terms (except for a failure to pay fees) if the delay or failure is due to events which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency.

18.2. Assignment.

You may not assign or transfer these Terms without our prior written consent. As an exception to the foregoing, you may assign these Terms in their entirety (including all



Orders) to your successor resulting from a merger, acquisition, or sale of all or substantially all of your assets or voting securities, provided that you provide us with prompt written notice of the assignment and the assignee agrees in writing to assume all of your obligations under these Terms. Any attempt by you to transfer or assign these Terms except as expressly authorized above will be null and void. We may assign our rights and obligations under these Terms (in whole or in part) without your consent. We may also permit our Affiliates, agents and contractors to exercise our rights or perform our obligations under these Terms, in which case we will remain responsible for their compliance with these Terms. Subject to the foregoing, these Terms will insure the parties' permitted successors and assigns.

18.3. Entire Agreement.

These Terms are the entire agreement between you and us relating to the Cloud Products and any other subject matter covered by these Terms, and supersede all prior or contemporaneous oral or written communications, proposals and representations between you and us with respect to the Cloud Products or any other subject matter covered by these Terms. No provision of any purchase order or other business form employed by you will supersede or supplement the terms and conditions of these Terms, and any such document relating to these Terms will be for administrative purposes only and will have no legal effect.

18.4. Waivers; Modifications.

No failure or delay by the injured party to these Terms in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder at law or equity. Except as set forth in Section 16 (Changes to these Terms), any amendments or modifications to these Terms must be executed in writing by an authorized representative of each party.

18.5. Interpretation.

As used herein, "including" (and its variants) means "including without limitation" (and its variants). Headings are for convenience only. If any provision of these Terms is held to be void, invalid, unenforceable or illegal, the other provisions will continue in full force and effect.

19. DEFINITIONS.

Certain capitalized terms are defined in this Section 19, and others are defined contextually in these Terms.

"Administrators" mean the personnel designated by you who administer the Cloud Products to End Users on your behalf.

"Cloud Products" means our hosted or cloud-based solutions, including any client software we provide as part of the Cloud Products.



“Documentation” means our standard published documentation for the Cloud Products, currently located in our Wiki.

“End User” means an individual you or an Affiliate permits or invites to use the Cloud Products. For the avoidance of doubt:

- (a) individuals invited by your End Users,
- (b) individuals under managed accounts, and
- (c) individuals interacting with a Cloud Product as your customer are also considered End Users.

“End User Account” means an account established by you or an End User to enable the End User to use or access a Cloud Product.

“Laws” means all applicable local, state, federal and international laws, regulations and conventions, including those related to data privacy and data transfer, international communications and the exportation of technical or personal data.

“Our Deliverables” means any materials, deliverables, modifications, derivative works or developments that we provide in connection with any Additional Services.

“Our Technology” means the Cloud Products (including all No-Charge Products), Our Deliverables, their “look and feel”, any and all related or underlying technology and any modifications or derivative works of the foregoing, including as they may incorporate Feedback.

“PO” means a purchase order.

“Product-Specific Terms” means additional terms that apply to certain Cloud Products and Additional Services.

“Sensitive Personal Information” means any

- (i) special categories of personal data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation;
- (ii) patient, medical or other protected health information regulated by HIPAA;
- (iii) credit, debit or other payment card data subject to PCI DSS;
- (iv) other personal information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations);
- (v) social security numbers, driver’s license numbers or other government ID numbers; or
- (vi) any data similar to the foregoing that is protected under foreign or domestic laws or regulations.

“Subscription Term” means your permitted subscription period for a Cloud Product, as set forth in the applicable Order.

“Your Data” means any data, content, code, video, images or other materials of any type that you (including any of your End Users) submit to Cloud Products. In this context, “submit” (and any similar term) includes submitting, uploading, transmitting or otherwise making available Your Data to or through the Cloud Products.



“Your Materials” means your materials, systems, personnel or other resources.