

Elimity Insights
Terms & Conditions
Software-as-a-Service Trial Agreement EMEA

v202003

These terms and conditions (“**Terms & Conditions**”) are fixed and defined by Elimity NV, a Belgian corporation (“**Elimity**”), with its headquarters at Motstraat 30, 2800 Mechelen, Belgium (“**Elimity**”).

By ordering, accessing or using Elimity’s Software as a Service Trial, you (the “**Customer**”) signify acceptance of and agree to these Terms & Conditions.

Elimity and the Customer agree that these Terms & Conditions will apply to the Customer’s orders for Services, as accepted by Elimity. Such accepted order, together with these Terms & Conditions (including its Exhibits and Annexes) constitute the parties’ entire agreement with regard to the Services provided thereunder (hereinafter referred to as the “**Agreement**”).

1. DEFINITIONS

“**Administrator User**” means each Customer employee designated by Customer to serve as technical administrator of the SaaS Trial Services on Customer’s behalf. Each Administrator User must be sufficiently trained and qualified.

“**Agreement**” means the Order accepted by Elimity together with these Terms & Conditions.

“**Anti-Corruption Laws**” shall mean all local and international laws and regulations concerning fraud, bribery and corruption, including but not limited to (and as applicable) the UK Bribery Act of 2010 and the United States Foreign Corrupt Practices Act 1977.

“**Authorized User**” means each Customer employee using the Software.

“**Data Protection Addendum**” or “**DPA**” means the provisions detailed in **Exhibit D** hereto.

“**Data Protection Laws**” means in relation to any personal data (if any) which is processed in the performance of the Agreement, the laws as outlined in **Exhibit D** hereto.

“**Documentation**” means the user guides, online help, release notes, training materials and other documentation provided or made available by Elimity to Customer regarding the use or operation of the SaaS Trial Services.

“**Effective Date**” means the date on which the Order is executed by the Customer and Elimity.

“**Host**” means the computer equipment on which the Software is installed, which is owned and/or operated by Elimity or its subcontractors.

“**Order**” means the document by which Customer orders SaaS Trial Services.

“**SaaS Trial Services**” means the specific Elimity internet-accessible service(s) provides use of Elimity’s identity/access management Software that is hosted by Elimity and which is made available to Customer over a network on a term-use basis, in order to become familiar with its features

“**Services**” means (a) the SaaS Trial Services, and (b) the Support and Maintenance Services provided under the Agreement.

“**Software**” means the object code version of any software to which the Customer is provided access as part of the SaaS Trial Services, including any updates or new versions.

“**Subscription Term**” or “**SaaS Term**” means that period specified in an Order during which the Customer will have online

access and use of the Software through the SaaS Trial Services. In order to extend the Subscription Term both parties will mutually agree to and execute a follow-on Order.

“**Support and Maintenance Services**” means the support and maintenance services provided by Elimity to the Customer pursuant to the Agreement and **Exhibit B**.

2. SaaS Trial Services

2.3 Prior Agreement. If the parties already have a fully executed agreement that expressly governs orders for Services, such agreement shall supersede the present Terms & Conditions.

2.4 Right to SaaS Trial Services. During the Subscription Term, Customer will receive a non-exclusive, non-sublicensable, non-transferable, non-assignable, worldwide right to access and use the SaaS Trial Services solely for Customer’s internal business operations, subject to the present Terms & Conditions. Customer acknowledges that the Agreement constitutes a services agreement and that Elimity will not be delivering copies of the Software to Customer as part of the SaaS Trial Services.

3. RESTRICTIONS

3.1 Intellectual Property Rights. Subject to the limited licenses granted herein, Elimity shall own all right, title and interest in and to the Software, Services, Documentation, and other deliverables provided under the Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual property rights therein. Customer agrees to assign all right, title and interest it may have in the foregoing to Elimity.

3.2 Customer shall not, and shall not permit anyone to:

- (i) copy or republish the SaaS Trial Services or Software,
- (ii) make the SaaS Trial Services available to any person other than Authorised Users,
- (iii) if the use of the SaaS Trial Services is limited to a certain number of Authorized Users, make the SaaS Trial Services available to more users than permitted,
- (iv) use or access the SaaS Trial Services to provide service bureau, time-sharing or other computer hosting services to third parties,
- (v) modify or create derivative works based upon the SaaS Trial Services or Documentation,
- (vi) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the software used to provide the SaaS Trial Services or in the Documentation,
- (vii) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Software used to provide the SaaS Trial Services, except and only to the extent such activity is expressly permitted by applicable law, or
- (viii) access the SaaS Trial Services or use the Documentation in order to build a similar product or competitive product.

4. CUSTOMER RESPONSIBILITIES

4.1 Assistance. Customer shall provide commercially reasonable information and assistance to Elimity to enable Elimity to deliver the Services. Customer acknowledges that Elimity’s ability to deliver the Services in the manner provided in the Agreement may depend upon the accuracy and timeliness of such information and assistance.

4.2 Compliance with Laws. Customer shall comply with all applicable local, state, national and foreign laws in connection with its use of the SaaS Trial Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data. Customer acknowledges that Elimity exercises no control over the content of

the information transmitted by Customer through the Services. Customer shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.

- 4.3 Unauthorised Use; False Information. Customer shall: (a) notify Elimity immediately of any unauthorised use of any password or user id or any other known or suspected breach of security, (b) report to Elimity immediately and use reasonable efforts to stop any unauthorised use of the SaaS Trial Services that is known or suspected by Customer, and (c) not provide false identity information to gain access to or use the SaaS Trial Services.
- 4.4 Administrator Access. Customer shall be solely responsible for the acts and omissions of its Administrator Users. Elimity shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrator Users.
- 4.5 Customer Input. Customer is solely responsible for collecting, inputting and updating all Customer information stored on the Host (“**Customer Content**”) and for ensuring (a) that the Customer Content does not include anything that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party or contain anything that is obscene, defamatory, harassing, offensive or malicious, and (b) that the Customer has collected and handled all Customer Content in compliance with all applicable data privacy and protection laws, rules, and regulations.
- 4.6 License from Customer. Subject to the terms and conditions of the Agreement, the Customer shall grant to Elimity a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content for the purposes of (i) providing the SaaS Trial Services to Customer and (ii) performing analytics on Customer Content.
- 4.7 Ownership and Restrictions. Customer retains ownership and intellectual property rights in and to its Customer Content.
- 4.8 Suggestions. Elimity shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the SaaS Trial Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Users, relating to the operation of the SaaS Trial Services.

6. TERM AND TERMINATION

- 6.1 Term of the Agreement. The Agreement shall begin on the Effective Date, or within seven (7) days after receipt of the Order, and shall continue for the Subscription Term, unless terminated earlier as outlined in this Section 6.
- 6.2 Termination. Either party may terminate the Agreement immediately upon a material breach by the other party that has not been cured within thirty (30) days after receipt of written notice of such breach.
- 6.4 Suspension for Ongoing Harm. Elimity reserves the right to suspend delivery of the Services if Elimity reasonably concludes that Customer's use of the Services is causing immediate and ongoing harm to Elimity or others. In the extraordinary case that Elimity must suspend delivery of the Services, Elimity shall immediately notify Customer of the suspension and the parties shall diligently attempt to resolve the issue. Elimity shall not be liable for any liabilities, claims or expenses arising from or relating to any suspension of the Services in accordance with this Section 6.4 and Customer will indemnify Elimity for any third-party claims arising from or relating to any suspension of the Services in accordance with this Section 6.4. Nothing in this Section 6.4 will limit Elimity's rights under Section 6.5 below.
- 6.5 Effect of Termination.
 - (a) Upon termination of the Agreement or expiration of the Subscription Term, Elimity shall immediately cease providing the Services and all usage rights granted under the Agreement shall terminate.
 - (b) If Elimity terminates the Agreement due to a material, uncured breach by Customer, then Customer shall immediately

pay to Elimity all amounts then due or to become due during the Subscription Terms.

- (c) Survival. Section 3 (Restrictions), Sub-Section 5.2 (Invoice and Payment), Section 6 (Term and Termination), Section 9 (Limitations of Liability), Section 10 (Indemnification), Section 11 (Confidentiality), and Section 14 (General Provisions) of the Agreement shall survive the expiration or termination of the Agreement for any reason.

8. WARRANTIES

- 8.1 Warranty. Elimity represents and warrants that (i) Elimity may validly enter into the Agreement and has the legal power to do so, and that (ii) Elimity will provide the Services in a professional manner consistent with general industry standards substantially in accordance with the Documentation. For any material breach of any foregoing warranty, Customer's exclusive remedy shall be as provided in Section 6 (Term and Termination).
- 8.2 Disclaimer. Elimity does not guarantee that the SaaS Trial Services will be performed error-free or uninterrupted, or that Elimity will correct all SaaS Trial Services errors. Customer acknowledges that Elimity does not control the transfer of data over communications facilities, including the Internet, and that the SaaS Trial Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. This Section 8 sets forth the sole and exclusive warranty given by Elimity (express or implied) with respect to the subject matter of the Agreement. Neither Elimity nor any of its licensors or other suppliers warrant or guarantee that the operation of the SaaS Trial Services will be uninterrupted, virus-free or error-free, nor shall Elimity or any of its service providers be liable for unauthorised alteration, theft or destruction of Customer's or any User's data, files, or programs.

9. LIMITATIONS OF LIABILITY

- 9.1 Nothing in the Agreement excludes or limits either party's liability for:
- (i) death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
 - (ii) any breach by them of Section 3 (Restrictions) or Section 11 (Confidentiality) of the Agreement;
 - (iii) the indemnification obligations for third party claims pursuant to Section 10 (Indemnification);
 - (iv) a breach of its respective obligations under the DPA due to its wilful misconduct or negligence ("negligence" not including an error of judgement or mistake in good faith) or that of its employees, contractors or agents);
 - (v) otherwise any wilful misconduct, fraud or fraudulent misrepresentation by it or its employees; or
 - (vi) any liability that cannot be excluded or limited by virtue of the Governing Law (pursuant to Section 14.14 below) of the Agreement.
- 9.2 Subject to Section 9.1, in no event shall either party be liable to the other for any indirect, special, punitive or consequential loss or damage, including (by way of example and not an exhaustive list), loss of profits, loss of business, loss of revenue, loss of or damage to goodwill, loss of savings (whether anticipated or otherwise).

10 INDEMNIFICATION

To the maximum extent permitted by law, Customer agrees to indemnify, defend and hold harmless Elimity, and its subsidiaries, affiliates, officers, directors, shareholders, employees, representatives, agents, volunteers, attorneys, managers, licensors, business partners and each of their respective successors and assigns (the "**Indemnified Parties**") from and against all damages, losses, liabilities, claims, expenses, fees or costs (including, without limitation, reasonable attorneys' fees and costs) incurred in connection with any claim, demand or action brought or asserted against any of the Indemnified Parties arising out of or relating to Customer's (i) use of the SaaS Trial Services (ii) breach of the Agreement, (iii) violation of any third-party right, including without limitation any intellectual property right, publicity, property or privacy right, (iv) a

breach of Customer's representations or warranties under the Agreement, and/or (v) a breach of Customer's obligations under applicable law.

11 CONFIDENTIALITY

11.1 Definition. “**Confidential Information**” means any information disclosed by a party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”), directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as “confidential” or “proprietary,” (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be “confidential” or “proprietary” within thirty (30) days of such disclosure, (c) is specifically deemed to be confidential by the terms of the Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Elimity Confidential Information will include, but not be limited to, Elimity Software and Documentation.

11.2 Confidentiality. The Receiving Party shall treat all Confidential Information of the Disclosing Party as confidential, shall not use such Confidential Information except to exercise its rights and perform its obligations under the Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, the Receiving Party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other Disclosing Party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorised disclosure of the other party’s Confidential Information. The Receiving Party shall not reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the Disclosing Party's Confidential Information and which are provided to the Receiving Party hereunder. The Receiving Party may disclose Confidential Information of the Disclosing Party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the Receiving Party.

11.3 Exceptions. Confidential Information excludes information that:

- (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the Receiving Party,
- (b) is known to the Receiving Party, without restriction, at the time of disclosure or becomes known to the Receiving Party, without restriction, from a source other than the Disclosing Party not bound by confidentiality obligations to the Disclosing Party, or
- (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the Receiving Party.

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the Receiving Party shall use reasonable efforts to promptly notify the Disclosing Party prior to such disclosure to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of the Agreement and the relationship of the parties, but agrees that the specific terms of the Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of the Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

11.4 Term. The parties’ confidentiality obligations pursuant to this Section 11 shall remain in force during the term of the Agreement and for three (3) years after its termination.

11.5 Termination. Upon termination of the Agreement and upon subsequent written request by the Disclosing Party, the Receiving Party shall promptly return or destroy the Confidential Information and provide written certification of such destruction to the Disclosing Party, provided that the Receiving Party may permit its legal counsel to retain one (1) archival copy of such Confidential Information in the event of a subsequent dispute between the parties.

13 PROCESSING OF PERSONAL DATA

Elimity shall comply with the requirements relating to the Processing of Personal Data set forth in **Exhibit D (Data Processing Addendum)**.

14 GENERAL PROVISIONS

- 14.1 Non-Exclusive Service. Customer acknowledges that the Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Elimity's ability to provide the Services or other technology, including any features or functionality first developed for Customer, to other parties.
- 14.2 Assignment. Neither party may assign the Agreement or any right under the Agreement, without the consent of the other party, which consent shall not be unreasonably withheld or delayed; provided however, that either party may assign the Agreement to an acquirer of all or substantially all of the business of such party to which the Agreement relates, whether by merger, asset sale or otherwise or to any of its Affiliates. The Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns. Either party may employ subcontractors in performing its duties under the Agreement, provided, however, that such party shall not be relieved of any obligation under the Agreement and subject (as applicable) to the applicable sub-processing terms of the DPA.
- 14.3 Notices. Except as otherwise permitted in the Order, notices under the Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified mail, (b) when transmitted if sent by facsimile, provided that a copy of the notice is promptly sent by another means specified in this section, or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party at the address set forth in the Order.
- 14.4 Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.
- 14.5 Waiver. No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of the Agreement shall not constitute a waiver of any other or subsequent breach.
- 14.6 Severability. If any term of the Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of the Agreement shall remain in full force.
- 14.7 Entire Agreement. The Agreement (i.e. the present Terms & Conditions, including all Exhibits) contains the entire agreement between the parties and supersedes all previous oral and written communications by the parties concerning the subject matter of the Agreement. The Agreement may be amended solely in a writing signed by both parties. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the party against whom their enforcement is sought; mere commencement of Services or payment against such forms shall not be deemed acceptance of the terms.
- 14.9 Export Regulations. Local export laws and regulations apply to the SaaS Trial Services. Customer agrees that such export control laws govern its use of the SaaS Trial Services (including technical data) and any services deliverables provided under the Agreement, and Customer agrees to comply with all such export laws and regulations. Customer agrees that no data, information, software programs and/or materials resulting from Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws.
- 14.10 No Third Party Beneficiaries. The Agreement is an agreement between the parties, and confers no rights upon either party's employees, agents, contractors, partners or customers or upon any other person or entity.
- 14.11 Independent Contractor. The parties have the status of independent contractors, and nothing in the Agreement nor the

conduct of the parties will be deemed to place the parties in any other relationship. Except as provided in the Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.

- 14.12 Statistical Information and Analytics. Elimity may anonymously compile statistical information and analytics related to the SaaS Trial Services for purposes of improving the SaaS Trial Services, provided that such information does not identify Customer's data or include Customer's name.
- 14.13 Governing Law. The Agreement will be governed by and construed in accordance with the laws of Belgium. The United Nations Convention on Contracts for the International Sale of Goods shall not apply
- 14.14 Compliance with Laws. Elimity shall comply with all applicable laws in connection with its delivery of the Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data.
- 14.15 Dispute Resolution. Except with respect to any claim for the protection of a party's intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of the Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within fifteen (15) days after such meeting, the parties have not succeeded in resolving the dispute, either party may protect its interests by any lawful means available to it.
- 14.16 Anti-Bribery/Corruption. Elimity shall ensure that, in relation to the Agreement and general business practices, it shall not engage in any activity, practice or conduct which may constitute an offence under any applicable Anti-Corruption Laws. In particular, Elimity shall not offer, promise or pay to, or solicit or receive from any other person (including public and government officials) or company, any financial or other advantage which causes or is intended to cause another person to improperly perform their function or activities in order to secure or retain a business advantage. Elimity shall further ensure that, unless allowed or required by local law, it shall not offer, promise or pay to any public government official any financial or other advantage in order to secure or retain a business advantage, including payment intended to induce officials to perform duties they are otherwise obligated to perform.

EXHIBIT A - SOFTWARE & PRICE SCHEDULE

NOT RELEVANT

EXHIBIT B - SUPPORT AGREEMENT

This document communicates Elimity's Support and Maintenance Services to its Customers applicable to the SaaS Trial Services the Customer has ordered (the "SaaS Support") in accordance with the Software as a Service Agreement (the "Agreement"). Except as otherwise modified or defined herein, capitalized terms shall have the same meaning as in the Agreement.

1. Support

NOT RELEVANT

2. Response and Resolution Goals

NOT RELEVANT

3. Accessing Support

Customer Support offers several ways to resolve any technical difficulties:

- The online support center (<https://support.elimity.com/>) is available 24x7 for self-service technical assistance.
- The support email address is support@elimity.com

EXHIBIT C - SERVICE LEVEL AGREEMENT

NOT RELEVANT

EXHIBIT D - Elimity NV Data Processing Addendum

This Data Processing Addendum ("**DPA**"), forms part of the Agreement between Elimity and the Customer. All capitalised terms not defined in this DPA shall have the meanings set forth in the Agreement.

1. Definitions

"**Data Controller**" means an entity that determines the purposes and means of the processing of Personal Data. For the purpose of the Agreement, the Customer shall be the Data Controller.

"**Data Processor**" means an entity that processes Personal Data on behalf of a Data Controller. For the purpose of the Agreement, Elimity shall be the Data Processor that processes Personal Data on behalf of the Customer.

"**Data Protection Law**" means any applicable data protection or privacy laws, including (i) Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation) ("**GDPR**") and (ii) other other applicable laws that are similar or equivalent to or that are intended to or implement the laws that are identified in (a) of this definition.

"**Data Subject**" means an identifiable natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identify of that natural person.

"**Personal Data**" means any information relating to a Data Subject.

"**Personal Data Breach**" means a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data.

"**Processing**" means the collection, possession, use, disclosure, transfer, storage, deletion, combination, access or other use of Personal Information as contemplated by GDPR. "**Process**", "**processes**" and "**processed**" will be interpreted accordingly.

"**Sensitive Personal Data**" means any Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purposes of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

"**Sub-processor**" means any Data Processor engaged by Elimity or its Affiliates to assist in fulfilling its obligations with respect to providing the Services pursuant to the Agreement or this DPA. Sub- processors may include third parties or Elimity's Affiliates.

2. Processing of Personal Data

2.1 Elimity shall only process the Personal Data on documented instructions from the Customer. Elimity may not process or use Personal Data for any purpose other than the purpose set out in this DPA, or other than provided in the instructions, including with regard to transfers of personal data to a third country or an international organization, unless Elimity is required to do so according to Union or Member State Law. In that case, Elimity shall inform the Customer in writing of that legal requirement before processing, unless that law prohibits such information on important grounds of public

interest.

- 2.2 Elimity ensures that any natural person acting under its authority who has access to the Personal Data does not process such Personal Data except on instructions from the Customer, unless he or she is required to do so by Union or Member State law.
- 2.3 If Elimity considers an instruction from the Customer to be in violation of the Data Protection Law, Elimity shall promptly inform the Customer in writing about this.
- 2.4 Elimity shall not disclose or transfer Personal Data, nor allow access by any third party (including affiliates and subcontractors) without the prior written permission of the Customer, except (i) as specifically stated in the instructions of the Customer or (ii) where such disclosure or transfer is required by any applicable law, regulation, or public authority.
- 2.5 Elimity shall not transfer Personal Data outside the European Economic Area, unless the Customer provides its consent thereto. In the event of such transfer, Elimity shall implement appropriate safeguards, such as the EU Commission's Standard Contractual Clauses.

3. Details of Data Processing

- 3.1 Purpose. The purpose of the Processing of Personal Data under this DPA is the provision of the Services to the Customer and the performance of Elimity's obligations under the Agreement or as otherwise agreed by the parties in mutually executed written form. Elimity provides identity governance solutions and other Services as described in the Agreement and thus processes Personal Data upon the instruction of the Customer in accordance with the terms of the Agreement.
- 3.2 Categories of Data Subjects. Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to, Personal Data relating to the following categories of Data Subjects:
 - (i) Employees, contractors, agents, advisors, freelancers of Customer (who are natural persons); and/or
 - (ii) If licensed under the Agreement, Customer's business partners and/or end-users authorised by Customer to use the Services.
- 3.2 Types of Personal Data. Customer may submit Customer Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to, the following types of Personal Data:
 - (i) Identification and contact data (name, address, title, contact details);
 - (ii) Employment details (job title, role, manager); and/or
 - (iii) IT information (entitlements, IP addresses, usage data, cookies data, geolocation data).
- 3.3 Sensitive Personal Data. Unless otherwise specified in the Agreement, Customer will not provide or make available to Elimity any Sensitive Personal Data.

4. Elimity's Obligations as Data Processor

- 4.1 Elimity shall ensure that all Personal Data received from or on behalf of The Customer are maintained in a secure manner; and develop, implement, maintain, and monitor a comprehensive, written information security program that contains administrative, technical and physical safeguards to protect against anticipated threats or hazards to the confidentiality, integrity and security of, the unauthorized or accidental destruction, loss, alteration or use of, and the

unauthorized access to, Personal Data with measures that meet or exceed the requirements of the company standards, prevailing industry standards, as well as mandatory security requirements applicable to Elimity.

4.2 The appropriate technical and organizational security measures shall be determined with due regard for:

- (i) the current state of the art,
- (ii) the cost of their implementation, and
- (iii) the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

4.3 Elimity shall upon request provide the Customer with sufficient information to enable the Customer to ensure that Elimity's obligations under this Exhibit are complied with, including ensuring that the appropriate technical and organizational security measures have been implemented. The technical and organizational security measures undertaken by Elimity are set forth in **Annex B (Elimity SaaS Security Program)** to this DPA.

4.4 Taking into account the nature of the processing, Elimity shall assist the Customer, by means of appropriate technical and organizational measures, insofar as this is possible, in fulfilling its obligation to respond to requests from Data Subjects pursuant to laws and regulations in the area of privacy and data protection (such as, the right of access, the right to rectification, the right to erasure, the right to restrict the processing, the right to data portability and the right to object).

4.5 Elimity shall maintain a record of processing activities under its responsibility. That record shall contain all of the following information listed in art. 30.2 GDPR. Elimity shall make the record of processing activities available at the request of the Customer.

4.6 Elimity must without undue delay in writing (which may include by e-mail to e-mail addresses notified to Elimity by the Customer) notify the Customer about:

- (i) any request for disclosure of Personal Data processed under this Agreement by authorities, unless expressly prohibited under Data Protection Legislation
- (ii) any finding of (a) Personal Data Breach that results in accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed by Elimity under this Agreement, or (b) other failure to comply with Elimity's obligations under this Section 4, or
- (iii) any request for access to the Personal Data received directly from the Data Subjects or from third parties.

Elimity shall inform the Customer about events mentioned under Section 4.6 (ii)(a), at the latest within twenty-four (24) hours upon discovery of such events.

4.7 Such a notification from Elimity to the Customer with regard to a breach of security as meant in Section 4.6 (ii)(a) will contain at least the following information:

- (i) The nature of the Personal Data breach, stating the categories and (by approximation) the number of Data Subjects concerned, and stating the categories and (by approximation) the number of the personal data affected;
- (ii) The likely consequences of the Personal Data breach; and
- (iii) A proposal for measures to be taken to address the Personal Data breach, including (where appropriate) measures to mitigate any possible adverse effects of such breach.

Elimity shall document (and shall keep such documentation available for the Customer) any Personal Data breaches, including the facts related to the Personal Data breach, its effects and the corrective measures taken. After consulting with the Customer, Elimity shall take any measures needed to limit the (possible) adverse effects of Personal Data breaches

(unless such consultation cannot be awaited due to the nature of the Personal Data breach).

4.8 Elimity must reasonably assist the Customer with meeting the other obligations that may be incumbent on the Customer according to Data Protection Legislation where the assistance of Elimity is implied, and where the assistance of Elimity is necessary for the Customer to comply with its obligations. This includes, but is not limited to, at the request to provide the Customer with all necessary information about an incident under Clause 3.6 (ii), to provide the Customer with all necessary information about any requests from Data Subjects under Chapter III of the GDPR and all necessary information for an impact assessment in accordance with Article 35 and Article 36 of the GDPR.

5. Subprocessing

5.1 Authorised Sub-processors. Customer agrees that Elimity may engage Sub-processors to process Personal Data on Customer's behalf. The Sub-processors currently engaged by Elimity and authorised by Customer are listed in **Annex A (List of Elimity Sub-processors)**.

5.2 Sub-processor Obligations. Elimity will: (i) enter into a written agreement with the Sub-processor imposing data protection terms that require the Sub-processor to protect the Personal Data to the standard required by Data Protection Laws; and (ii) remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Sub-processor that cause Elimity to breach any of its obligations under this DPA.

5.3 Updates. Elimity shall (i) provide an up-to-date list of the Sub-processors it has appointed upon written request from Customer and (ii) notify Customer (for which email will suffice) if it adds or removes Sub-processors at least thirty (30) days prior to allowing such Sub-processor to process Personal Data.

5.4 Objections by Customer. Customer may object in writing to Elimity's appointment of a new Sub-processor within ten (10) days of such notice, provided that such objection is based on reasonable grounds relating to data protection. In such event, the parties will discuss such concerns in good faith with a view to achieving resolution. If Elimity cannot provide an alternative Sub-processor, or the parties are not otherwise able to achieve resolution as provided in the preceding sentence, Customer, as its sole and exclusive remedy, may terminate the Agreement (including this DPA) with respect only to those Services which cannot be provided by Elimity without the use of the objected-to new Sub-processor by providing written notice to Elimity. Elimity will provide a pro-rata refund for prepaid fees for Services not performed/delivered as of the date of termination.

6. Confidentiality

6.1 Elimity shall keep Personal Data confidential. Elimity must ensure that persons authorized to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

6.2 Elimity shall not disclose the Personal Data to third parties or take copies of Personal Data unless strictly necessary for the performance of Elimity's obligations towards the Customer according to the Agreement, and on condition that whoever Personal Data is disclosed to is under the responsibility of a professional subject to the obligation of professional secrecy under Data Protection Law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Data Protection Law or rules established by national competent bodies. Elimity shall notify the Customer of the disclosure within thirty (30) days unless Data Protection Law prohibits such notification on important grounds of public interest.

6.3 Elimity shall limit the access to Personal Data to employees for whom access to said data is necessary to fulfil Elimity's obligations towards the Customer.

6.4 The obligations of Elimity under this Section 6 shall continue until the storage period of the Personal Data is terminated and regardless of whether the cooperation of the parties has been terminated.

7. Audits and Inspections

7.4 If any Data Protection Authority requests access to Elimity's records, facilities and/or personnel, for the purpose of conducting an audit or an announced or unannounced inspection regarding Data Protection compliance, Elimity will promptly notify the Customer by telephone followed by written confirmation. The Customer or its designee will have the right, but not the obligation, to be present at any audit or inspection by a Data Protection Authority that relates to the processing of personal data, and where time permits, to conduct a pre-inspection audit. The Parties shall decide by mutual agreement on the need to organize a preparatory inspection (including of any CRO subcontractors), carried out by the Customer or its designee, or by Elimity, as appropriate, as well as preparation for interviews. Elimity undertakes to communicate its inspection preparation program, its processes and its preparation schedule to the Customer.

8. Return or Deletion of Data

On termination or expiration of the Agreement, Elimity will return all Personal Data to the Customer and delete all Personal Data (including copies) from Elimity's systems, in accordance with applicable law. Elimity shall not be required to delete Customer Personal Data to the extent (i) Elimity is required by applicable law or order of a governmental or regulatory body to retain some or all of the Personal Data; and/or (ii), Personal Data it has archived on back-up systems, which Customer Personal Data Elimity shall securely isolate and protect from any further processing, except to the extent required by applicable law Elimity shall immediately communicate this in writing to the Customer, stating the basis, term and scope of such obligation under applicable law.

9. Relationship with the Agreement

9.1 Except for the changes made by this DPA, the Agreement remains unchanged and in full force and effect. If there is any conflict between this DPA and the Agreement, this DPA shall prevail to the extent of that conflict in connection with the Processing of Personal Data.

9.2 Notwithstanding anything to the contrary in the Agreement or this DPA, the liability of each party and each party's Affiliates under this DPA shall be subject to the exclusions and limitations of liability set out in the Agreement.

9.3 Any claims against Elimity or its Affiliates under this DPA shall only be brought by the Customer entity that is a party to the Agreement against the Elimity entity that is a party to the Agreement. In no event shall this DPA or any party restrict or limit the rights of any data subject or of any competent supervisory authority.

9.4 This DPA will be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement, unless required otherwise by applicable Data Protection Laws.

9.5 This DPA and the Model Clauses will terminate simultaneously and automatically with the termination or expiry of the Agreement.

Annex A - List of Elimity Sub-processors

Elimity uses a range of third-party Sub-processors to assist it in providing the Services. These Sub-processors, as of the Effective Date of this DPA, are set out below.

Third-Party Sub-processors

Entity Name	Corporate Location	Purpose
Google Ireland Limited	Ireland	Hosting provider for the SaaS Trial Services
Zendesk, Inc.	USA	Ticketing system for Support and Maintenance Services

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Annex B - Elimity SaaS Security Program

Elimity has implemented and shall maintain a commercially reasonable information security program, which shall include technical and organizational measures designed to ensure an appropriate level of security for Customer Data taking into account the risks presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, or unauthorized disclosure of, or access to Customer Data, and the nature of the Customer Data to be protected having regard to the state of the art and the cost of implementation.

Appendix A. Your role as customer

A.1 Responsible disclosure: Elimity is committed to working with our community to verify, reproduce, respond to, legitimate, and implement appropriate solutions for the reported vulnerabilities. If you happen to find any, it is your duty to submit these issues by mail at support@elimity.com.

A.2 Customer controls for security: As a customer you can perform the following list of activities to ensure security from your end:

- If possible, employ single sign-on with your preferred identity provider. This identity provider should have at least two-factor (if not triple-factor) authentication enabled. If single sign-on is not possible, choose a unique, strong password for all your Elimity accounts and protect it.
- Use the latest browser versions and desktop OS to ensure they are patched against vulnerabilities and to use the latest security features.
- Encrypt your endpoint devices, install and maintain anti-virus software and exercise reasonable precautions while sharing data downloaded from our SaaS application.
- Monitor devices linked to your Elimity tenant account, active web sessions, and third-party access to spot anomalies in activities on your account, and actively manage roles and privileges to your Elimity tenant account with least privilege in mind.
- Be aware of phishing and malware threats by looking out for unfamiliar emails, websites, and links that may exploit your sensitive information by impersonating Elimity or other services you trust.

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