

General Terms and Conditions for Delighted Services (“GTC”)

1. Definitions.

- 1.1 “**Affiliate**” of a party means any legal entity in which such party, directly or indirectly, holds more than 50% of the entity’s shares or voting rights, as long as that interest is maintained.
- 1.2 “**Agreement**” means an Order Form and documents incorporated into an Order Form, including this GTC.
- 1.3 “**Authorized User**” means any individual that Customer authorizes to use the Cloud Service that is an employee, agent, contractor, or representative of Customer or Customer’s Affiliates.
- 1.4 “**Cloud Service**” means any distinct, subscription-based, hosted, supported, and operated on-demand solution provided by Delighted under an Order Form.
- 1.5 “**Cloud Materials**” means any materials provided or developed by Delighted (independently or with Customer’s cooperation) in the course of performance under the Agreement, including Analyses and materials provided or developed in the delivery of any support or Professional Services to Customer. Cloud Materials do not include Customer Data, Customer Confidential Information, or the Cloud Service.
- 1.6 “**Confidential Information**” means all information that the disclosing party protects against unrestricted disclosure to others that (a) the disclosing party or its representatives designate as confidential, internal, or proprietary at the time of disclosure, or (b) should reasonably be understood to be confidential at the time of disclosure given the nature of the information and the circumstances surrounding its disclosure.
- 1.7 “**Customer**” means the customer set forth in the Order Form.
- 1.8 “**Customer Data**” means any content, materials, data, and information that Authorized Users enter or collect into the production system of the Cloud Service or that Customer derives from its use of and stores in the Cloud Service (e.g., Customer-specific reports). Customer Data and its derivatives will not include Delighted’s Confidential Information.
- 1.9 “**Delighted**” means Delighted, LLC, or the affiliate thereof set forth in the Order Form.
- 1.10 “**Documentation**” means Delighted’s then-current technical and functional documentation, including any roles and responsibilities descriptions relating to the Cloud Services, that Delighted makes available to Customer under the Agreement.
- 1.11 “**Export Laws**” means all import, export control, and sanctions laws of the United States.
- 1.12 “**Feedback**” means input, comments, or suggestions regarding Delighted’s business and technology direction and the possible creation, modification, correction, improvement, or enhancement of the Cloud Service or Cloud Materials.
- 1.13 “**Order Form**” means the medium by which the parties agree to Customer’s purchase of the Cloud Service or Professional Service, including, as applicable, an ordering document that references the GTC.
- 1.14 “**Product Terms**” means the product terms relating to Customer’s use of the Cloud Service as set forth in an Order Form.
- 1.15 “**Professional Services**” means implementation services, consulting services, or other related services provided under an Order Form.
- 1.16 “**Subscription Term**” means the term of the Cloud Service subscription identified in the applicable Order Form, including all renewals.
- 1.17 “**Taxes**” means all transactional taxes, levies, and similar charges (and any related interest and penalties), such as federal, state, or local sales tax; value added tax; goods and services tax; use tax; excise tax; service tax; or similar taxes.
- 1.18 “**Usage Metric**” means the standard of measurement for determining the permitted use and calculating the fees due for the Cloud Service as set forth in an Order Form.

2. Usage Rights and Restrictions.

- 2.1 Grant of Rights.** As set forth in the Order Form, Delighted grants to Customer a non-exclusive and non-transferable right to use the Cloud Service, Cloud Materials, and Documentation solely for Customer's and its Affiliates' internal business purposes, including collecting information from third parties for such internal business purposes. Customer may use the Cloud Service worldwide except from countries or regions where such use is prohibited by Export Laws or as set forth in an Order Form. Permitted uses and restrictions of the Cloud Service also apply to Cloud Materials and Documentation.
- 2.2 Authorized Users.** Customer may permit Authorized Users to use the Cloud Service. Usage is limited to the Usage Metrics and volumes stated in the Order Form. Customer will not permit an Authorized User's access credentials for the Cloud Service to be used by more than one individual but may permit them to be transferred from one individual to another if the original user is no longer permitted to use the Cloud Service. Customer is responsible for breaches of the Agreement caused by Authorized Users.
- 2.3 Acceptable Use Policy.** Customer will not:
- (a) copy, translate, disassemble, decompile, make derivative works of, or reverse engineer the Cloud Service or Cloud Materials (or attempt any of the foregoing);
 - (b) enter, store, collect, or transfer any content or data on or through the Cloud Service that is unlawful or infringes any intellectual property, privacy, publicity, or other rights;
 - (c) use the Cloud Service in a way that circumvents Usage Metrics or Product Terms;
 - (d) access the Cloud Service through unauthorized means (e.g., scraping, crawling, or penetration testing);
 - (e) circumvent or endanger the operation or security of the Cloud Service; or
 - (f) remove Delighted's copyright and authorship notices from the Cloud Service or Cloud Materials.
- 2.4 Verification of Use.** Delighted may monitor use to the extent necessary to verify compliance with Usage Metrics, volume, and the Agreement.
- 2.5 Suspension of Cloud Service.** Delighted may suspend or limit use of the Cloud Service if continued use breaches Section 2.3 or may result in material harm to the Cloud Service or its users. Delighted will promptly notify Customer of the suspension or limitation and will limit a suspension or limitation in time and scope as reasonably possible under the circumstances.
- 2.6 Third-Party Web Services.** Through the Cloud Service, Customer may access integrations with web services made available by third parties and subject to terms and conditions with those third parties. These third-party web services are not part of the Cloud Service, and the Agreement does not apply to them.

3. Delighted Responsibilities.

- 3.1 Provisioning.** Delighted provides access to the Cloud Service as described in the Agreement.
- 3.2 Support.** Delighted provides support for the Cloud Service as referenced in the Order Form or the Documentation.
- 3.3 Security.** Delighted will implement and maintain technical and organizational measures to protect the personal data processed by Delighted as part of the Cloud Service as described in the Data Processing Agreement attached hereto as Exhibit A ("DPA").
- 3.4 Modifications.**
- (a) Delighted may modify the Cloud Service if such modification does not materially degrade the Cloud Service. Delighted will inform Customer of modifications by email, the support portal, Documentation, or the Cloud Service. Modifications may include optional new features for the Cloud Service, which Customer may use subject to the then-current Documentation.
 - (b) If a modification materially degrades the Cloud Service, Customer may, by notifying Delighted in writing within 30 days after receiving Delighted's informational notice, terminate its subscription to the affected Cloud Service and receive a refund as set forth in Section 6.3.

3.5 **Analyses.**

- (a) Delighted or Delighted's Affiliates may create analyses using, in part, Customer Data and information derived from Customer's use of the Cloud Service and Professional Services, as set forth below ("**Analyses**"). Delighted will anonymize and aggregate information included in Analyses, and Analyses will not include any personal data.
- (b) Analyses may be used for the following purposes:
 - (1) product improvement (in particular, product features and functionality, workflows, and user interfaces) and development of new Delighted products and services,
 - (2) improving resource allocation and support,
 - (3) internal demand planning,
 - (4) training and developing machine learning algorithms,
 - (5) improving product performance, and
 - (6) identification of industry trends and developments, creation of indices and anonymous benchmarking.

4. **Customer and Personal Data.**

- 4.1 **Customer Data.** As between the parties, Customer is responsible for the content and accuracy of the Customer Data and for entering it into the Cloud Service.
- 4.2 **Personal Data.** Customer will collect and maintain all personal data contained in the Customer Data in compliance with applicable data privacy and protection laws. The DPA will govern the processing of any personal data in the Cloud Service.
- 4.3 **Security.** Customer will maintain reasonable security standards for its Authorized Users' use of the Cloud Service. Customer will not conduct or authorize penetration tests of the Cloud Service without Delighted's prior written consent.
- 4.4 **Access to Customer Data.**
 - (a) During the Subscription Term, Customer may access Customer Data at any time and may export and retrieve Customer Data in a standard format. If Customer is unable to retrieve Customer Data, then upon Customer's request, Delighted and Customer will find an alternative reasonable method to allow Customer access to Customer Data, which may include Delighted delivering an export to Customer.
 - (b) After the end of the Agreement, Delighted will delete all Customer Data remaining on servers hosting the Cloud Service unless applicable law requires retention. Retained data is subject to the confidentiality provisions of the Agreement.
 - (c) If Customer requires Delighted's assistance in connection with third-party legal proceedings relating to the Customer Data, Delighted will cooperate with Customer and comply with applicable law (both at Customer's expense) with respect to handling of the Customer Data.

5. **Fees and Taxes.**

- 5.1 **Fees and Payment.** Customer will pay fees as agreed in the Order Form. If Customer does not pay fees in accordance with the terms of the Agreement, then, after prior written notice, Delighted may suspend Customer's use of the applicable Cloud Service until payment is made. Any fees not paid when due will accrue interest at the maximum legal rate. If Customer disputes any fees in good faith, then the parties will use commercially reasonable efforts to promptly resolve such dispute. Customer will not withhold, reduce, or set off fees owed nor reduce Usage Metrics during the Subscription Term. Except as set forth in the Agreement, all Order Forms are non-cancellable and all fees are non-refundable.

5.2 **Taxes.**

- (a) Fees and other charges imposed under an Order Form will not include Taxes. Customer is responsible for all Taxes. Customer will provide to Delighted any direct pay permits or valid tax-

exempt certificates prior to signing an Order Form. If Delighted is required to pay Taxes, Customer will reimburse Delighted for those amounts and related costs paid or payable by Delighted attributable to those Taxes.

- (b) If Customer is required by law to withhold income or corporate income tax or a similar tax from any gross payment to Delighted under this Agreement, Customer may withhold or deduct such tax (at the lowest rate permitted by applicable law) from the gross amount to be paid to Delighted if Customer provides to Delighted a valid withholding tax certificate as prescribed by applicable law. If Customer does not provide this certificate within a reasonable time, Customer will reimburse Delighted for the amount deducted.

6. Term and Termination.

6.1 Term. The Subscription Term is as stated in the Order Form.

6.2 Termination. A party may terminate the Agreement:

- (a) upon 30 days' prior written notice if the other party materially breaches the Agreement unless the breach is cured during that 30-day period,
- (b) as permitted under any other section herein (with termination effective 30 days after receipt of notice in each of these cases unless a different period is specified), or
- (c) immediately if the other party files for bankruptcy, becomes insolvent, makes an assignment for the benefit of creditors, or materially breaches Sections 11 or 12.6.

6.3 Refund and Payments. For termination by Customer or an 8.1(c) termination by Delighted, Customer will be entitled to:

- (a) a pro-rata refund in the amount of the unused portion of prepaid fees for the terminated subscription calculated as of the effective date of termination, and
- (b) a release from the obligation to pay fees due for periods after the effective date of termination.

6.4 Effect of Expiration or Termination. Upon the effective date of expiration or termination of the Agreement:

- (a) Customer's right to use the Cloud Service and all Delighted Confidential Information will end, and
- (b) Confidential Information of the disclosing party will be retained, returned, or destroyed as required by the Agreement or applicable law.

6.5 Survival. Sections 1, 5, 6.3, 6.4, 6.5, 8, 9, 10, 11, and 12 will survive the expiration or termination of the Agreement.

7. Warranties.

7.1 Compliance with Law. Each party warrants its current and continuing compliance with all laws and regulations applicable to it in connection with:

- (a) for Delighted, the operation of Delighted's business as it relates to the Cloud Service, and
- (b) for Customer, the Customer Data and Customer's use of the Cloud Service.

7.2 Good Industry Practices. Delighted warrants that it will provide the Cloud Service:

- (a) in substantial conformance with the Documentation; and
- (b) with the degree of skill and care reasonably expected from a skilled and experienced global supplier of services substantially similar to the nature and complexity of the Cloud Service.

7.3 Warranty Exclusions. The warranties in Section 7.2 will not apply if:

- (a) the Cloud Service is not used in accordance with the Agreement or Documentation,
- (b) any non-conformity is caused by Customer or by any product or service not provided by Delighted, or
- (c) the Cloud Service was provided for no fee.

7.4 Disclaimer. Except as expressly provided in the Agreement, Delighted makes no representations or warranties, express or implied, statutory or otherwise, regarding any matter, including non-infringement or merchantability, suitability, originality, or fitness for a particular use or purpose. Customer acknowledges that it is not relying on delivery of future functionality, public comments, advertising of Delighted, or product roadmaps in obtaining subscriptions for any Cloud Service.

8. Third-Party Claims.

8.1 Claims Brought Against Customer.

- (a) Delighted will defend and indemnify (as set forth in the next sentence) Customer against claims brought against Customer and its Affiliates by any third party alleging that Customer's or its Affiliates' use of the Cloud Service infringes or misappropriates a patent claim, copyright, or trade secret right. Delighted will indemnify Customer against all damages and costs awarded against Customer and its Affiliates (or the amount of any settlement Delighted enters into) with respect to these claims.
- (b) Delighted's obligations under Section 8.1 will not apply if the claim results from (1) use of the Cloud Service not permitted under the Agreement, (2) use of the Cloud Service in conjunction with any product or service not provided by Delighted, or (3) use of the Cloud Service provided for no fee.
- (c) If a third party makes a claim, or in Delighted's reasonable opinion is likely to make such a claim, Delighted may at its expense (1) procure for Customer the right to continue using the Cloud Service under the terms of the Agreement, or (2) replace or modify the Cloud Service to be non-infringing without a material decrease in functionality. If these options are not reasonably available, Delighted or Customer may terminate Customer's subscription to the affected Cloud Service upon written notice to the other, in which case Customer may receive a refund as set forth in Section 6.3.

8.2 Claims Brought Against Delighted. Customer will defend and indemnify (as set forth in the next sentence) Delighted against claims brought against Delighted and its Affiliates and subcontractors by any third party related to Customer Data. Customer will indemnify Delighted against all damages and costs awarded against Delighted and its Affiliates and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

8.3 Third-Party Claim Procedure. All third-party claims under Section 8 will be conducted as follows:

- (a) the party against whom a third-party claim is brought (the "**Indemnified Party**") will timely notify the other party (the "**Indemnifying Party**") in writing of any claim and will reasonably cooperate in the defense of such claim;
- (b) the Indemnifying Party will have the right to fully control the defense;
- (c) subject to Section 8.3(b), the Indemnified Party may appear (at its own expense) through counsel reasonably acceptable to the Indemnifying Party;
- (d) any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the Indemnified Party; and
- (e) the Indemnifying Party's obligations will not apply if the Indemnified Party's failure to timely notify the Indemnifying Party in writing of any such claim prejudices the Indemnifying Party.

8.4 Exclusive Remedy. The provisions of Section 8 state the sole, exclusive, and entire liability of the parties and their Affiliates and subcontractors to the other party, and is the other party's sole remedy, with respect to covered third-party claims and to the infringement or misappropriation of third-party intellectual property rights.

9. Limitation of Liability.

9.1 Unlimited Liability. Neither party's liability is limited with respect to:

- (a) the parties' obligations under Section 8.1(a) and 8.2,
- (b) death or bodily injury arising from either party's gross negligence or willful misconduct, or
- (c) Customer's failure to pay any fees due under the Agreement.

9.2 Liability Cap. Subject to Section 9.1, the maximum aggregate liability of either party (or its respective Affiliates or Delighted's subcontractors) to the other or any other person or entity for all events (or series of connected events) arising in any 12-month period will not exceed the annual fees paid for the applicable Cloud Service or Professional Service associated with the damages for that 12-month period. Any "12-month period" commences on the Subscription Term start date or any of its yearly anniversaries.

9.3 Exclusion of Damages. Subject to Section 9.1, in no case will either party (or its respective Affiliates or Delighted's subcontractors) be liable to the other party for any special, incidental, consequential, or indirect damages, loss of goodwill or business profits, work stoppage, or for exemplary or punitive damages.

10. Intellectual Property Rights.

10.1 Delighted Ownership. Except for any rights expressly granted to Customer under the Agreement, Delighted or Delighted's Affiliates or licensors own all intellectual property rights in and related to the Cloud Service, Cloud Materials, Documentation, Professional Services, design contributions, related knowledge or processes, and any derivative works of them.

10.2 Customer Ownership. Customer retains all rights in and related to the Customer Data.

11. Confidentiality.

11.1 Use of Confidential Information.

- (a) The receiving party will:
 - (1) maintain all Confidential Information of the disclosing party in strict confidence, taking steps to protect the disclosing party's Confidential Information substantially similar to those steps that the receiving party takes to protect its own Confidential Information, which will not be less than a reasonable standard of care;
 - (2) not disclose any Confidential Information of the disclosing party to any person other than its Affiliates, employees, contractors, agents, legal representatives, accountants, or other professional advisors, in each case whose access is necessary to enable it to exercise its rights or perform its obligations under the Agreement and who are under obligations of confidentiality no less onerous than those in this Section;
 - (3) not use or reproduce any Confidential Information of the disclosing party for any purpose outside the scope of the Agreement; and
 - (4) retain any confidential, internal, or proprietary notices or legends that appear on the original and on any reproductions.
- (b) Confidential Information of either party disclosed prior to execution of the Agreement will be subject to this Section.
- (c) The receiving party may disclose the disclosing party's Confidential Information to the extent required by law, regulation, court order, or regulatory agency, on the condition that the receiving party uses reasonable efforts to give the disclosing party reasonable prior notice of such required disclosure (to the extent legally permitted) and provides reasonable assistance in contesting the required disclosure, at the request and cost of the disclosing party. The receiving party will use commercially reasonable efforts to disclose only that portion of the Confidential

Information that is legally requested to be disclosed and will request that all Confidential Information that is so disclosed be accorded confidential treatment.

11.2 Exceptions. The restrictions on use or disclosure of Confidential Information will not apply to any Confidential Information that:

- (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information,
- (b) has become generally known or available to the public through no act or omission by the receiving party,
- (c) at the time of disclosure, was known to the receiving party free of confidentiality restrictions,
- (d) is lawfully acquired free of restriction by the receiving party from a third party having the right to furnish such Confidential Information, or
- (e) the disclosing party agrees in writing is free of confidentiality restrictions.

11.3 Destruction of Confidential Information. Upon the disclosing party's request, the receiving party will promptly destroy or return the disclosing party's Confidential Information, including copies and reproductions thereof. The obligation to destroy or return Confidential Information will not apply:

- (a) to Confidential Information that the receiving party is legally required to retain, including because legal proceedings related to the Confidential Information prohibit its return or destruction, until the proceedings are settled or a final judgment is rendered;
- (b) to Confidential Information held in archive or back-up systems under general systems archiving or backup policies.

12. Miscellaneous.

12.1 Severability. If any provision of the Agreement is held to be wholly or in part invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Agreement.

12.2 No Waiver; Amendment. A waiver of any breach of the Agreement is not deemed a waiver of any other breach. The Agreement may be modified solely in writing signed by both parties, except as permitted under the Agreement.

12.3 Counterparts. The Agreement may be signed in counterparts, each of which is an original and together constitute one Agreement. Electronic signatures that comply with applicable law are deemed original signatures.

12.4 Trade Compliance.

- (a) Delighted and Customer will comply with Export Laws in the performance of the Agreement, with Customer being responsible for obtaining any export authorizations required for sharing Customer Data.
- (b) Customer is not (and will not use nor permit use of the Cloud Service in connection with any person that is):
 - (1) located, organized, or resident in a country or region that is subject to comprehensive economic sanctions (currently Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, and the Donetsk People's Republic (DNR) and Luhansk People's Republic (LNR) regions of Ukraine), or
 - (2) a designated, denied, or otherwise restricted party under Export Laws.

12.5 Notices. All notices will be in writing and deemed given when delivered, (a) for Delighted, to notice@qualtrics.com with a physical copy to Delighted, Attn: Legal, 333 W River Park Dr, Provo UT 84604, USA, or, (b) for Customer, to the email or physical address set forth in an Order Form or Agreement or by an electronic notice to Customer's authorized representative or administrator. Delighted may provide system notifications and information relating to the operation, hosting, or support of the Cloud Service within the Cloud Service or make such notifications available through the

Delighted support portal. Customer will maintain up-to-date notice contact information within the Cloud Service.

- 12.6 Assignment.** Without Delighted's prior written consent, Customer will not assign, delegate, or transfer the Agreement (or any of its rights or obligations) to any party. Delighted may assign the Agreement to Delighted's Affiliates.
- 12.7 Subcontracting.** Delighted may subcontract parts of the Cloud Service or Professional Services to third parties. Delighted is responsible for its subcontractors' performance under the Agreement to the same extent it is responsible for its own performance.
- 12.8 Relationship of the Parties.** The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties is created by the Agreement.
- 12.9 Force Majeure.** Any delay in performance (other than for the payment of amounts due) caused by conditions beyond the reasonable control of the performing party is not a breach of the Agreement. For such a delay, the time for performance will be extended for a period equal to the duration of the conditions preventing performance.
- 12.10 Governing Law and Disputes.** The Agreement and any claims arising out of or in connection with the Agreement and its subject matter will be governed by and construed under the laws of the State of Delaware, without reference to its conflicts of law principles. The parties submit to the exclusive jurisdiction of, and the exclusive venue for any disputes arising under the Agreement will be in, the courts located in Wilmington, Delaware. Each party waives (a) any objections to the venue or jurisdictions identified in this provision, and (b) any right it may have to a jury trial for any claim or cause of action relating to the Agreement. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement. Each party hereby forfeits any claim it may have relating to the Agreement that is not initiated within one year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim.
- 12.11 Entire Agreement.** The Agreement constitutes the complete and exclusive statement of the agreement between Delighted and Customer in connection with the parties' business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement, and the parties disclaim any reliance on them. Terms and conditions of any Customer-issued purchase order will have no force and effect.
- 12.12 Feedback.** Customer may in its sole discretion provide Delighted with Feedback, in which case Delighted and its Affiliates may retain and freely use such Feedback without restriction, compensation, or attribution to the source of the Feedback. Customer is not responsible for Delighted's use of any Feedback.

Exhibit A
Data Processing Agreement (“DPA”)

Personal Data Processing Agreement for Delighted Services

1. Definitions.

- 1.1** “**Controller**” means the natural or legal person, public authority, agency, or other body that, alone or jointly with others, determines the purposes and means of the processing of Personal Data. For the purposes of this DPA, if Customer acts as processor for another controller, Customer will, in relation to Delighted, be deemed as an additional and independent Controller with the controller rights and obligations under this DPA.
- 1.2** “**Customer Instructions**” means Customer’s documented processing instructions (a) as set forth in the Agreement (including the applicable Order Form and this DPA); (b) as reflected by Customer’s use of the Cloud Service; and (c) as otherwise reasonably provided to Delighted.
- 1.3** “**Data Protection Law**” means the applicable legislation protecting the fundamental rights and freedoms of natural persons and their right to privacy with regard to the processing of Personal Data under the Agreement.
- 1.4** “**Data Subject**” means an identified or identifiable natural person as defined by Data Protection Law.
- 1.5** “**Permitted Controllers**” means any other Controller permitted by Customer to use the Cloud Service in accordance with the Agreement.
- 1.6** “**Personal Data**” means any information relating to a Data Subject that is protected under Data Protection Law. For the purposes of the DPA, it includes only personal data that is (a) entered by Customer or its Authorized Users into or derived from their use of the Cloud Service; or (b) supplied to or accessed by Delighted or its Subprocessors to provide support under the Agreement. Personal Data is a subset of Customer Data (as defined under the Agreement).
- 1.7** “**Personal Data Breach**” means a breach of security that leads to a confirmed accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unauthorized third-party access to Personal Data, in each case for which a Controller is required under Data Protection Law to provide notice to competent data protection authorities or Data Subjects.
- 1.8** “**Processor**” means a natural or legal person, public authority, agency, or other body that processes personal data on behalf of the controller.
- 1.9** “**Subprocessor**” or “**sub-processor**” means any third party authorized by Delighted to process Personal Data in accordance with this DPA.
- 1.10** “**Technical and Organizational Measures**” means the technical and organizational measures set forth in Schedule 2 for the Cloud Service.

2. Background.

2.1 Purpose and Application.

- (a) This DPA is incorporated into the Agreement and forms part of a written (including in electronic form) contract between Delighted and Customer.
- (b) This DPA applies to Personal Data processed by Delighted and its Subprocessors in connection with its provision of the Cloud Service.
- (c) This DPA does not apply to non-production environments of the Cloud Service if such environments are made available by Delighted. Delighted will only provide Customer with access to a non-production environment on request and will clearly indicate that such environment is a non-production environment. Customer will not store Personal Data in such environments.

(d) The subject matter and details of the processing of Personal Data are described in Schedule 1.

2.2 Governance.

(a) Delighted acts as a Processor, and Customer and Permitted Controllers act as Controllers under the DPA.

(b) Customer will ensure that it has established all necessary lawful bases under Data Protection Laws to enable Delighted to lawfully process Personal Data for the purposes contemplated by the Agreement (including this DPA), including, as applicable, by obtaining all necessary consents from, and giving all necessary notices to, Data Subjects. Customer acts as a single point of contact for Permitted Controllers in accordance with this DPA. If Customer provides authorizations, consent, instructions, or permissions, these are also provided on behalf of any Permitted Controllers. If Delighted informs or gives notice to Customer, such information or notice is deemed received by Permitted Controllers, and Customer will forward such information and notices to the relevant Permitted Controllers.

3. Security of Processing.

3.1 Applicability of the Technical and Organizational Measures. Delighted has implemented and will apply the Technical and Organizational Measures. Customer has reviewed such measures and acknowledges that, as to the Cloud Service selected by Customer in the Order Form, the measures are appropriate taking into account the state of the art, the costs of implementation, and the nature, scope, context, and purposes of the processing of Personal Data.

3.2 Changes. Delighted may change the Technical and Organizational Measures at any time without notice so long as it maintains a comparable or better level of security. Delighted will publish updated versions of the Technical and Organizational Measures at www.delighted.com/terms.

4. Delighted Obligations.

4.1 Instructions from Customer. Delighted will process Personal Data only in accordance with (a) Customer Instructions or (b) Section 4.2. For any Customer Instructions not made in the Agreement (including this DPA) or through Customer's use of the Cloud Service, Delighted will use reasonable efforts to follow such instructions to the extent they are required by Data Protection Law, technically feasible, and do not require changes to the Cloud Service. If Delighted cannot comply with an instruction or is of the opinion that an instruction infringes Data Protection Law, Delighted will immediately notify Customer (email permitted).

4.2 Processing on Legal Requirement. Delighted may also process Personal Data if required to do so by applicable law, in which case Delighted will notify Customer of that legal requirement before processing unless that law prohibits such notification.

4.3 Personnel. To process Personal Data, Delighted and its Subprocessors will only grant access to authorized personnel who have committed themselves to confidentiality. Delighted and its Subprocessors will regularly train personnel having access to Personal Data in applicable data security and data privacy measures.

4.4 Cooperation.

(a) Except to the extent required by applicable law, at Customer's request, Delighted will reasonably cooperate with Customer and Permitted Controllers in dealing with requests from Data Subjects or regulatory authorities regarding Delighted's processing of Personal Data or any Personal Data Breach.

(b) If Delighted receives a request from a Data Subject in relation to Personal Data, Delighted will promptly notify Customer (if the Data Subject has provided information to identify Customer and if such notification is permitted by applicable law) by email and will not respond to such request itself but instead ask the Data Subject to redirect its request to Customer.

- (c) In the event of a dispute with a Data Subject as it relates to Delighted's processing of Personal Data, the parties will keep each other informed and, if appropriate, reasonably cooperate with the aim of resolving the dispute amicably with the Data Subject, to the extent permitted by applicable law.
- (d) Delighted will provide functionality that supports Customer's ability to correct, delete, or anonymize Personal Data within a Cloud Service, or to restrict its processing in line with Data Protection Law. If such functionality is not provided, Delighted will assist Customer to correct, delete, or anonymize any Personal Data, or restrict its processing, in accordance with the Customer's instruction and Data Protection Law.

4.5 Personal Data Breach Notification. Delighted will notify Customer without undue delay after becoming aware of any Personal Data Breach and provide reasonable information in its possession to assist Customer to meet Customer's obligations to report a Personal Data Breach as required under Data Protection Law. Delighted may provide such information in phases as it becomes available. Such notification will not be interpreted or construed as an admission of fault or liability by Delighted. Except to the extent required by applicable law, neither party will notify any third party or make any public announcement regarding an incident involving Personal Data or any Personal Data Breach in a manner that would identify the other party without the other party's written consent (not to be unreasonably withheld).

4.6 Data Protection Impact Assessment. If Data Protection Law requires Customer or Permitted Controllers to perform a data protection impact assessment or prior consultation with a regulator, then, at Customer's request, Delighted will provide such documents as are generally available for the Cloud Service (for example, this DPA, the Agreement, and audit reports and certifications). The parties, acting reasonably and in good faith, will agree on any additional assistance.

5. Data Export and Deletion.

5.1 Export and Retrieval by Customer. During the Subscription Term and subject to the Agreement, Customer may access Personal Data at any time and may export and retrieve Personal Data in a standard format (such export constituting a "return" of Personal Data). If Customer is unable to retrieve Personal Data, then upon Customer's request, Delighted and Customer will find a reasonable method to allow Customer access to Personal Data, which may include Delighted delivering an export to Customer.

5.2 Deletion. At the end of the Subscription Term, Customer hereby instructs Delighted to delete all Personal Data remaining on servers hosting the Cloud Service within a reasonable time in line with Data Protection Law (not to exceed six months) unless applicable law requires retention.

6. Certifications and Audits.

6.1 Customer Audit. Customer or its independent third-party auditor reasonably acceptable to Delighted (which will not include any third-party auditors who are either a competitor of Delighted or not suitably qualified or independent) may audit Delighted's control environment and security practices relevant to Personal Data only if:

- (a) Delighted has not provided sufficient evidence of its compliance with the Technical and Organizational Measures through providing either: (1) public-facing security documentation detailing the technical and organizational measures; (2) a certification as to compliance with ISO 27001 or other standards (scope as defined in the certificate); or (3) a valid SOC1-3 attestation report;
- (b) a Personal Data Breach has occurred;
- (c) an audit is formally requested by Customer's data protection authority; or
- (d) Data Protection Law grants Customer a direct audit right, in which case Customer will only audit once in any 12-month period unless Data Protection Law requires more frequent audits.

- 6.2 Permitted Controller Audit.** Any Permitted Controller may assume Customer's rights under Section 6.1 only if it applies directly to the Permitted Controller and such audit is permitted and coordinated by Customer. Customer will use all reasonable means to combine audits of all Permitted Controllers to avoid multiple audits unless the audit must be undertaken by the Permitted Controller itself under Data Protection Law.
- 6.3 Scope of Audit.** Customer will provide at least 60 days' advance notice of any audit unless Data Protection Law or a competent data protection authority requires shorter notice. The parties, acting reasonably and in good faith, will agree on the frequency and scope of any audits. Customer audits will be limited in time to a maximum of three business days. Beyond such restrictions, the parties will use current certifications or other audit reports to avoid or minimize repetitive audits. Customer will provide the results of any audit to Delighted and, to the extent permitted by applicable law, treat such results as Delighted's Confidential Information.
- 6.4 Cost of Audits.** Customer will bear the costs of any audit unless such audit reveals a material breach by Delighted of this DPA, in which case Delighted will bear its own costs. If an audit determines that Delighted has breached its obligations under the DPA, Delighted will promptly remedy the breach at its own cost.

7. Subprocessors.

7.1 Permitted Use.

- (a) Delighted is granted a general authorization to subcontract the processing of Personal Data to Subprocessors.
- (b) Delighted, or Delighted affiliates on its behalf, will engage Subprocessors under a written agreement consistent with the terms of this DPA in relation to the Subprocessor's processing of Personal Data. Delighted is responsible for the Subprocessor's performance under the Agreement to the same extent it is responsible for its own performance.
- (c) Delighted will evaluate the security, privacy, and confidentiality practices of a Subprocessor prior to selection to establish that it can provide the level of protection of Personal Data required by this DPA.
- (d) Delighted's list of Subprocessors in place on the effective date of the Agreement is published by Delighted at www.delighted.com/terms, or Delighted will make it available to Customer upon request, including the name, address, and role of each Subprocessor.

7.2 New Subprocessors; Objections.

- (a) Delighted will inform Customer in advance (by email, the support portal, Documentation, or the Cloud Service) of any intended additions or replacements to the list of Subprocessors, including the name, address, and role of the new Subprocessor.
- (b) If Customer objects to the new Subprocessor's processing of Personal Data based on reasonable data protection concerns, Customer may terminate the Agreement (limited to the Cloud Service for which the new Subprocessor is intended to be used) on written notice to Delighted. Such termination will take effect at the time determined by Customer, but no later than 30 days after the date of Delighted's notice to Customer informing Customer of the new Subprocessor. If Customer does not terminate within this period, Customer is deemed to have accepted the new Subprocessor.
- (c) Within the 30-day period after the date of Delighted's notice to Customer of the new Subprocessor, Customer may request that the parties discuss in good faith a resolution to the objection. Such discussions will not extend the period for termination and do not affect Delighted's right to use the new Subprocessor after the 30-day period.
- (d) Any termination under this Section will be deemed to be without fault by either party and will be subject to the terms of the Agreement.

- 7.3 Emergency Replacement.** Delighted may replace a Subprocessor without advance notice if the reason for the change is outside of Delighted's reasonable control and prompt replacement is required for security or other urgent reasons. Delighted will inform Customer of the replacement Subprocessor as soon as possible following its appointment, and the above objection and termination rights apply accordingly.
- 8. Processing Locations.**
- 8.1 Cross-Border Data Transfers.** Delighted may process Personal Data, including by using Subprocessors, outside the data center region selected by Customer as necessary to provide and support the Cloud Service. If processing hereunder results in a Restricted Transfer (as defined in Schedule 3), then the applicable terms in Schedule 3 will apply.
- 8.2 Region-Specific Terms.** If Customer believes that Data Protection Law requires specific data protection terms that are not included herein (e.g., due to the location of Customer's operations), Customer will notify Delighted, and Delighted will propose the appropriate terms to include in an amendment to this DPA (e.g., as a new Schedule 4) or will provide a reasonable explanation for why such terms are not required.
- 9. Documentation; Records of Processing.** If required under Data Protection Law, each party is responsible for complying with its obligation to maintain records of processing. Each party will reasonably assist the other party in such requirements, including by providing the information the other party needs from it in a manner reasonably requested by the other party (such as using an electronic system), to enable the other party to comply with any such obligations.

Schedule 1
Subject Matter and Details of Processing

Customer / 'Data Exporter' Details

Name:	Customer
Contact details for data protection:	Delighted will contact the contact person named in the applicable Order Form
Main address:	Customer address listed in the applicable Order Form
Customer activities:	Purchasing a license for Cloud Services as described in the applicable Order Form
Role:	Controller

Provider / 'Data Importer' Details

Name:	Delighted
Contact details for data protection:	Data Protection Officer, privacy@Delighted.com
Main address:	333 W River Park Drive, Provo, Utah 84604, USA
Provider activities:	Delivery of Cloud Services and associated services (if applicable) as described in the applicable Order Form
Role:	Processor

Details of Processing

Categories of Data Subjects:	Determined by Customer or Permitted Controllers. Unless otherwise indicated by Customer or Permitted Controller, transferred Personal Data relates to the Data Subjects having Personal Data stored in the Cloud Service, transmitted to, made available to, accessed by, or otherwise processed by the data importer.
Categories of Personal Data:	Determined by Customer or Permitted Controllers. Customer or Permitted Controllers may configure the data fields during implementation of the Cloud Service or as otherwise provided by the Cloud Service. The transferred Personal Data typically relates to the following categories of data: name, phone numbers, email address, address data, system access / usage / authorization data, company name, contract data, invoice data, and any application-specific data that Authorized Users transfer or enter into the Cloud Service.
Special Categories of Personal Data and additional associated restrictions/safeguards:	Determined by Customer or Permitted Controllers. If Customer or a Permitted Controller intends to collect Special Categories of Personal Data, it will be specified in the applicable Order Form. For purposes hereof, "Special Categories of Personal Data" means 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 purpose of uniquely identifying a natural person, data concerning health, or data concerning a natural person's sex life or sexual orientation.

	<p>Delighted has taken Technical and Organizational Measures as set out in Schedule 2 to ensure a level of security appropriate to protect also Special Categories of Personal Data. The transfer of Special Categories of Personal Data may trigger the application of the following additional restrictions or safeguards if necessary, to take into consideration the nature of the data and the risk of varying likelihood and severity for the rights and freedoms of natural persons (if applicable):</p> <ol style="list-style-type: none"> 1. training of personnel; 2. encryption of data in transit and at rest; 3. system access logging and general data access logging. <p>In addition, the Cloud Service may provide measures for handling Special Categories of Personal Data as described in the Documentation.</p>
Frequency of transfer:	Personal Data will be transferred on an ongoing basis for the duration of the Agreement.
Nature of the Processing:	<p>The transferred Personal Data is subject to the following basic processing activities:</p> <ol style="list-style-type: none"> 1. use of Personal Data to set up, operate, monitor, and provide the Cloud Service (including operational and technical support); 2. provision of professional services; 3. communication to Authorized Users; 4. storage of Personal Data in dedicated data centers (multi-tenant architecture); 5. release, development, and upload of any fixes or upgrades to the Cloud Service; 6. back up and restoration of Personal Data stored in the Cloud Service; 7. computer processing of Personal Data, including data transmission, data retrieval, and data access; 8. network access to allow Personal Data transfer; 9. monitoring, troubleshooting, and administering the underlying Cloud Service infrastructure and database; 10. security monitoring, network-based intrusion detection support, and penetration testing; and 11. execution of instructions of Customer in accordance with the Agreement.
Purpose of the Processing:	The purpose of the transfer is to provide and support the Cloud Service and any associated services. Delighted and its Subprocessors may support the Cloud Service data centers remotely.
Duration of Processing / retention period:	Personal Data will be retained for the duration of the Agreement and subject to Section 5 of the DPA.
Transfers to Subprocessors:	Transfers to Subprocessors will be on the same basis as set out in the DPA.

Schedule 2 Technical and Organizational Measures

This Schedule 2 describes the applicable technical and organizational measures for the purposes of the EU Standard Contractual Clauses and applicable Data Protection Law.

Delighted will apply and maintain the Technical and Organizational Measures.

To the extent that the provisioning of the Cloud Service involves Restricted Transfers, the Technical and Organizational Measures set forth in Schedule 2 describe the measures and safeguards that have been taken to fully take into consideration the nature of the personal data and the risks involved.

1. TECHNICAL AND ORGANIZATIONAL MEASURES

1.1 Physical Access Control. Unauthorized persons are prevented from gaining physical access to premises, buildings, or rooms where data processing systems that process or use Personal Data are located.

Measures:

- Delighted protects its assets and facilities using the appropriate means based on the Delighted security policy.
- In general, buildings are secured through access control systems (e.g., smart card access system).
- As a minimum requirement, the outermost entrance points of the building must be fitted with a certified key system including modern, active key management.
- Depending on the security classification, buildings, individual areas, and surrounding premises may be further protected by additional measures. These include specific access profiles, video surveillance, intruder alarm systems, and biometric access control systems.
- Access rights are granted to authorized persons on an individual basis according to the System and Data Access Control measures (see Section 1.2 and 1.3 below). This also applies to visitor access. Guests and visitors to Delighted buildings must register their names at reception and must be accompanied by authorized Delighted personnel.
- Delighted employees and external personnel must wear their ID cards at all Delighted locations.

Additional measures for Data Centers:

- All data centers adhere to strict security procedures enforced by guards, surveillance cameras, motion detectors, access control mechanisms, and other measures to prevent equipment and data center facilities from being compromised. Only authorized representatives have access to systems and infrastructure within the data center facilities. To protect proper functionality, physical security equipment (e.g., motion sensors, cameras, etc.) undergo maintenance on a regular basis.
- Delighted and all third-party data center providers log the names and times of authorized personnel entering Delighted's private areas within the data centers.

1.2 System Access Control. Data processing systems used to provide the Cloud Service must be prevented from being used without authorization.

Measures:

- Multiple authorization levels are used when granting access to sensitive systems, including those storing and processing Personal Data. Authorizations are managed through defined processes according to the Delighted security policy.

- All personnel access Delighted’s systems with a unique identifier (user ID).
- Delighted has procedures in place so that requested authorization changes are implemented only in accordance with the Delighted security policy (for example, no rights are granted without authorization). In case personnel leave the company, their access rights are revoked.
- Delighted has established a password policy that prohibits the sharing of passwords, governs responses to password disclosure, and requires passwords to be changed on a regular basis and default passwords to be altered. Personalized user IDs are assigned for authentication. All passwords must fulfill defined minimum requirements and are stored in encrypted form. For domain passwords, the system forces a password change every six months in compliance with the requirements for complex passwords. Each computer has a password-protected screensaver.
- The company network is protected from the public network by firewalls.
- Delighted uses up-to-date antivirus software at access points to the company network (for email accounts), as well as on all file servers and all workstations.
- Security patch management is implemented to provide regular and periodic deployment of relevant security updates. Full remote access to Delighted’s corporate network and critical infrastructure is protected by strong authentication.

1.3 Data Access Control. Persons entitled to use data processing systems gain access only to Personal Data that they have a right to access, and Personal Data must not be read, copied, modified, or removed without authorization in the course of processing, use, and storage.

Measures:

- As part of the Delighted security policy, Personal Data requires at least the same protection level as “confidential” information according to the Delighted information classification standard.
- Access to Personal Data is granted on a need-to-know basis. Personnel have access to the information that they require to fulfill their duty. Delighted uses authorization concepts that document grant processes and assigned roles per account (user ID). All Customer Data is protected in accordance with the Delighted security policy.
- All production servers are operated in the data centers or in secure server rooms. Security measures that protect applications processing Personal Data are regularly checked. To this end, Delighted conducts internal and external security checks and penetration tests on its IT systems.
- A Delighted security standard governs how data and data carriers are deleted or destroyed once they are no longer required.

1.4 Data Transmission Control. Except as necessary for the provision of the Cloud Services in accordance with the Agreement, Personal Data must not be read, copied, modified, or removed without authorization during transfer. If data carriers are physically transported, adequate measures are implemented at Delighted to provide the agreed-upon service levels (for example, encryption and lead-lined containers).

Measures:

- Personal Data in transfer over Delighted internal networks is protected according to the Delighted security policy.
- When data is transferred between Delighted and its customers, the protection measures for the transferred Personal Data are mutually agreed upon and made part of the relevant agreement. This applies to both physical and network-based data transfer. In any case, Customer assumes responsibility

for any data transfer once it is outside of Delighted-controlled systems (e.g., data being transmitted outside the firewall of the Delighted data center).

1.5 Data Input Control. It will be possible to retrospectively examine and establish whether and by whom Personal Data have been entered, modified, or removed from Delighted’s data processing systems.

Measures:

- Delighted only allows authorized personnel to access Personal Data as required in the course of their duty.
- Delighted has implemented a logging system for input, modification and deletion, or blocking of Personal Data by Delighted or its subprocessors within the Cloud Service to the extent technically possible.

1.6 Job Control. Personal Data being processed on commission (i.e., Personal Data processed on a customer’s behalf) is processed solely in accordance with the Agreement and related instructions of the customer.

Measures:

- Delighted uses controls and processes to monitor compliance with contracts between Delighted and its customers, subprocessors, or other service providers.
- As part of the Delighted security policy, Personal Data requires at least the same protection level as “confidential” information according to the Delighted Information Classification standard.
- All Delighted employees and contractual subprocessors or other service providers are contractually bound to respect the confidentiality of all sensitive information including trade secrets of Delighted’s customers and partners.

1.7 Availability Control. Personal Data will be protected against accidental or unauthorized destruction or loss.

Measures:

- Delighted employs regular backup processes to provide restoration of business-critical systems as and when necessary.
- Delighted uses uninterrupted power supplies (e.g., UPS, batteries, generators, etc.) to protect power availability to the data centers.
- Delighted has defined business contingency plans for business-critical processes and may offer disaster recovery strategies for business-critical services as further set forth in the Documentation or incorporated into the Order Form for the relevant Cloud Service.
- Emergency processes and systems are regularly tested.

1.8 Data Separation Control.

Measures:

- Delighted uses the technical capabilities of the deployed software (e.g., multi-tenancy, system landscapes) to achieve data separation among Personal Data originating from multiple customers.
- Customer (including Permitted Controllers) has access only to its own data.

1.9 Data Integrity Control. Personal Data will remain intact, complete, and current during processing activities.

Measures:

Delighted has implemented a multi-layered defense strategy as a protection against unauthorized modifications. In particular, Delighted uses the following to implement the control and measure sections described above:

- Firewalls;
- Security Monitoring Center;
- Antivirus software;
- Backup and recovery;
- External and internal penetration testing;
- Regular external audits to prove security measures.

Schedule 3 Restricted Transfers

1. Definitions.

- 1.1** “**EU Standard Contractual Clauses**” means the unchanged standard contractual clauses published by the European Commission, reference 2021/914, or any subsequent final version thereof as adopted by Delighted. For the avoidance of doubt, if the EU Standard Contractual Clauses apply, then Modules 2 and 3 will apply as set forth in Schedule 3.
- 1.2** “**FADP**” means the Swiss Federal Act on Data Protection.
- 1.3** “**GDPR**” means the General Data Protection Regulation 2016/679.
- 1.4** “**Restricted Transfer**” means a transfer (or an onward transfer) of Personal Data to any country, organization, or territory not acknowledged by the European Union under Article 45 of GDPR as a safe country with an adequate level of data protection if such transfer (a) requires an adequacy means pursuant to GDPR or other Data Protection Law and (b) such adequacy means may be met by the parties entering into the EU Standard Contractual Clauses.
- 1.5** “**Schedule**”, as used in the DPA and herein, means the numbered Annex with respect to the EU Standard Contractual Clauses.
- 1.6** “**Third Country**” means any country, organization, or territory not acknowledged by the European Union under Article 45 of GDPR as a safe country with an adequate level of data protection.
- 1.7** “**UK GDPR**” means the GDPR as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018.

2. Transfers.

- 2.1 EU Transfers.** If Personal Data is protected by GDPR and is subject to a Restricted Transfer, the following applies:
- (a) The EU Standard Contractual Clauses are hereby incorporated by reference as follows:
- (1) If Delighted is located in a Third Country:
 - (A) Customer is the “data exporter” and Delighted is the “data importer”;
 - (B) Module 2 (Controller to Processor) applies if Customer is a controller of Personal Data and Delighted is a processor of Personal Data;
 - (C) Module 3 (Processor to Processor) applies if Customer is a processor of Personal Data (on behalf of a third-party controller) and Delighted is a processor of Personal Data; and
 - (D) each party is deemed to have signed the EU Standard Contractual Clauses (including their Annexes) as of the effective date of the DPA by entering into this DPA, and Customer enters into the EU Standard Contractual Clauses on behalf of itself and Permitted Controllers (if any).
 - (2) For any Restricted Transfer from Delighted to its Subprocessors, Delighted and its Subprocessors have entered into the EU Standard Contractual Clauses.
- (b) For each Module (if applicable):
- (1) the optional docking clause in Clause 7 does not apply;
 - (2) in Clause 9, Option 2 will apply, the minimum time period for prior notice of Subprocessor changes will be as set out in the DPA, and Delighted will fulfill its notification obligations by notifying Customer of any Subprocessor changes in accordance with the DPA;
 - (3) in Clause 11, the optional language does not apply;
 - (4) in Clause 13(a), the second two paragraphs do not apply;

- (5) in Clause 17, Option 1 will apply, and the EU Standard Contractual Clauses will be governed by the laws of Ireland;
 - (6) in Clause 18(b), disputes will be resolved before the courts of Ireland;
 - (7) Schedule 1 (Subject Matter and Details of Processing) to the DPA contains the information required in Annex 1 of the EU Standard Contractual Clauses; and
 - (8) Schedule 2 (Technical and Organizational Measures) to the DPA contains the information required in Annex 2 of the EU Standard Contractual Clauses.
- (c) If context permits and requires, any reference in the DPA to the EU Standard Contractual Clauses will be read as a reference to the EU Standard Contractual Clauses as modified in the manner set forth in this section.
 - (d) Customer enters into the EU Standard Contractual Clauses on behalf of itself and Permitted Controllers (if any).
 - (e) If Customer is located in a Third Country and is acting as a data importer under Module 2 or Module 3 of the EU Standard Contractual Clauses, and Delighted is acting as Customer's sub-processor, the applicable data exporter will have the following third-party beneficiary right: If Customer has factually disappeared, ceased to exist in law, or has become insolvent (in all cases without a successor entity that has assumed the legal obligations of Customer by contract or by operation of law), the applicable data exporter may terminate the affected Cloud Service solely to the extent that the data exporter's Personal Data is processed, in which case the applicable data exporter also instructs Delighted to erase or return the Personal Data in accordance with the DPA.
 - (f) Nothing in the Agreement will be construed to prevail over any conflicting clause of the EU Standard Contractual Clauses. For the avoidance of doubt, the audit and subprocessor rules in the DPA also apply in relation to the EU Standard Contractual Clauses.

2.2 Swiss Transfers. If Personal Data is protected by the FADP and is subject to a Restricted Transfer, the EU Standard Contractual Clauses apply as set forth in Section 2.1 (EU Transfers) of this Schedule 3 with the following modifications:

- (a) in Clause 13, the competent supervisory authority will be the Swiss Federal Data Protection and Information Commissioner, or if both the FADP and the GDPR apply to such transfer, one of the competent data protection authorities under the EU Standard Contractual Clauses;
- (b) in Clause 17 (Option 1), the EU Standard Contractual Clauses will be governed by the laws of Switzerland;
- (c) in Clause 18(b), disputes will be resolved before the courts of Switzerland;
- (d) the terms used in the EU Standard Contractual Clauses that are defined in the FADP will be construed to have the meaning set forth in the FADP;
- (e) the term Member State must not be interpreted in such a way as to exclude Data Subjects in Switzerland from enforcing their rights in their place of habitual residence in accordance with Clause 18(c);
- (f) if the FADP protects legal entities as data subjects, the EU Standard Contractual Clauses will apply to data relating to identified or identifiable legal entities;
- (g) references to the law of the European Union or of a Member State in the EU Standard Contractual Clauses will be deemed to be a reference to the FADP; and
- (h) the references to a "Member State" in the EU Standard Contractual Clauses will be deemed to include Switzerland.

2.3 UK Transfers. If Personal Data is protected by the UK GDPR and is subject to a Restricted Transfer, the EU Standard Contractual Clauses apply as set forth in Section 2.1 (EU Transfers) of this Schedule 3 with the following modifications:

- (a) each party will be deemed to have signed the “UK Addendum to the EU Standard Contractual Clauses” (“**UK Addendum**”) issued by the Information Commissioner’s Office under section 119 (A) of the Data Protection Act 2018;
- (b) the EU Standard Contractual Clauses will be deemed amended as specified by the UK Addendum in respect of the transfer of Personal Data;
- (c) in Table 1 of the UK Addendum, the parties’ key contact information is located in Schedule 1 (Subject Matter and Details of Processing) to the DPA;
- (d) in Table 2 of the UK Addendum, information about the version of the EU Standard Contractual Clauses, modules, and selected clauses that this UK Addendum is appended to are located above in this Schedule 3;
- (e) in Table 3 of the UK Addendum:
 - (1) the list of parties is located in Schedule 1 (Subject Matter and Details of Processing) to the DPA;
 - (2) the description of transfer is located in Schedule 1 (Subject Matter and Details of Processing) to the DPA;
 - (3) Annex II is located in Schedule 2 (Technical and Organizational Measures) to the DPA and
 - (4) the list of Subprocessors is located in the DPA.
- (f) In Table 4 of the UK Addendum, the Importer may end the UK Addendum in accordance with its terms (and the applicable box is deemed checked); and
- (g) in Part 2: Part 2 - Mandatory Clauses of the Approved Addendum, being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with section 119 (A) of the Data Protection Act 2018 on 2 February 2022, as it is revised under section 18 of those Mandatory Clauses, will be deemed to apply.