

GENERAL TERMS & CONDITIONS

GENERAL TERMS AND CONDITIONS – EXPONEA PLATFORM

Version: 2.7, GTC Effective Date: 14th October 2019

1. INITIAL PROVISIONS

- 1.1. The provisions of these General Terms and Conditions shall apply to all Agreements concluded between Exponea's Affiliate as defined in the respective Agreement (“Exponea”) and whoever is using Services provided by Exponea (“Customer”).
- 1.2. The General Terms and Conditions are published on the Exponea website www.exponea.com.
- 1.3. This version of the General Terms and Conditions is valid and effective from the GTC Effective Date and is applicable to any and all usage of Exponea’s Services. These General Terms and Conditions completely replace any prior terms and conditions, including any previous version of the General Terms and Conditions, Terms of Platform, Terms of Use, Data Handling Policy and IP Terms.

2. DEFINITIONS

- 2.1. In these General Terms and Conditions, unless the context requires otherwise, the words and expressions set out in this clause 2.1 shall have the meaning ascribed to them herein:

- “Account” means the account created and/or authorised for a Customer based on the Agreement in order to utilise the Services;
- “Affiliate(s)” means any person or entity which, directly or indirectly, is in control of, is controlled by, or is under common control with such entity; for the purpose of this definition, "control" of an entity means the power, directly or indirectly, to either: (a) vote 10% or more of the securities having ordinary voting power for the election of directors of such entity; or (b) direct or cause the direction of the management and policies of such entity whether by contract or otherwise;
- “Agreement” means an order form, reseller agreement, cooperation agreement or any other agreement concluded between Exponea and the Customer based on which Services shall be provided by Exponea to Customer; by concluding the Agreement, Exponea and the Customer undertake to be bound by the General Terms and Conditions;
- “Business Day” means a business day on which banks are open in the country of Exponea's registration;
- “Confidential Information” means technical and non-technical information including patents, copyright, trade secrets, proprietary information, techniques, sketches, drawings, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software, source documents, and formulas related to the current, future and proposed products and services, research, experimental work, development, design details and specifications, engineering, and information marked “confidential” or “proprietary” or which the recipient knows or has reason to know that the information shall be deemed confidential; for the avoidance of doubt, this term does not include any information that the receiving party may demonstrate by its written records: (a) was known to it prior to its disclosure by the disclosing party; (b) is or has become known through no wrongful act of the receiving party; (c) has been rightfully received from a third party authorised to make such disclosure; (d) has been independently developed by the receiving party; (e) has been approved for release with the written authorisation of the disclosing party; or (f) has been disclosed

by court order or as otherwise required by law, provided that the party required to disclose the information provides prompt notice to enable the other party to seek a protective order or otherwise prevent such disclosure;

- “Customer Data” means the data of the clients of the Customer (and the respective Customer’s data, where relevant) to be provided by the Customer to Exponea for the purpose of the provision of the Services;
- “Effective Date” means the date specified in the respective Agreement as the date from which the Services are provided by Exponea to the Customer; in the absence of such date, the Services are provided from conclusion of the Agreement;
- “Event” means any user interaction with content processed, tracked or generated in connection with the Services, including but not limited to e-mail or SMS notifications, page views, transactions or data input;
- “Fees” means the Subscription Fees, fees for Setup, fees for On-demand Services, fees for emailing services, fees for SMS services, and any other types of fees that may be agreed in the Agreement;
- “General Terms and Conditions” means these General Terms and Conditions – Exponea Platform which are also available on the relevant Exponea’s website;
- “GTC Effective Date” means the date specified in the heading of these General Terms and Conditions;
- “Guides” means user guides, cookbook, technical documentation and FAQs designed for some or all of the Services as may be provided to the Customer and/or published by Exponea on <https://docs.exponea.com>;
- “Legislation” means all generally binding legal regulations of the country of registration of Exponea, legal regulations of the European Union, provided that such regulation directly and/or indirectly applies to the Parties’ legal relationships, the Products and/or trading with the Parties;
- “On-demand Services” means additional services provided by Exponea to the Customer along with the Subscription Services on the basis of the Agreement; the On-Demand Services are for example setup consulting, business planning, training, other consulting (either pre-paid or on-demand), implementation or maintenance, and testing.
- “Parties” jointly refers to Exponea and the Customer;
- “Service(s)” means Subscription Services, On-demand Services and any other service(s) provided based on any and all software products developed as a result of the activities of Exponea and as published and provided by Exponea;
- “Subscription Fee(s)” means fees for the usage of the Subscription Services as stipulated in the Agreement;
- “Subscription Services” means software as a service as specified in the respective Agreement that shall be provided by Exponea to the Customer;
- “Territory” means the territory of the UK and European Economic Area, unless otherwise agreed in the Agreement; if Customer's country of incorporation is the United States of America, Territory means the territory of the United States of America, unless otherwise agreed in the Agreement;

“Term” means both Initial Term and Renewal Term as specified in Section 11 of these General Terms and Conditions;

“Usage Allowances” means any limitations that Services are or may be subject to, including, but not limited to, the maximum Event capacity, the number of users, campaign actions contacts, e-mails/SMS, IP addresses, scenarios, imports or any other limitations pursuant to the respective Agreement or Guides. If the Agreement does not stipulate the maximum Event capacity, a limitation of one hundred million Events shall apply.

3. SERVICES, AVAILABILITY AND SUPPORT

3.1. Subscription Services. Subject to these General Terms and Conditions and in accordance with any Usage Allowances, Exponea shall make the Subscription Services available to the Customer and provide the Customer (in addition to the Subscription Services) with other Services as stipulated in the Agreement. The Customer shall pay Exponea the Fees set forth in the Agreement in line with the payment terms set out in clause 4 of these General Terms and Conditions. Customer shall use the Services in compliance with the Acceptable Use Policy available at <https://exponea.com/terms-of-service/acceptable-use-policy.pdf>. The Acceptable Use Policy shall form an integral part of these General Terms and Conditions.

3.2. Account. As part of the registration process, the Customer shall identify an administrative user name and password for the Customer’s Account with Exponea.

3.3. Trial version. Before concluding the Agreement Exponea can, at its sole discretion, make available a free trial version of the Subscription Services to the Customer for limited use. Prior to using the trial version of the Subscription Services, the Customer needs to sign up for an Account and accept the General Terms and Conditions. The provision of the trial version of the Subscription Services shall last 14 (fourteen) days. The Customer agrees that during the trial period only limited Subscription Services shall be provided to the Customer and for the sole purpose of testing and trying the Subscription Services. After the lapse of the 14-day trial period, the Customer and Exponea shall (a) enter into the Agreement, or (b) the Customer shall cease to use its Account and Services for any purpose. Should Customer not cease to use its Account and Services after the lapse of 14-day trial period, the Customer shall be obliged to pay for the Services the Fees subject to then-current price list. Exponea shall have the right any time during and/or after the 14-day trial period to stop providing the Services to Customer.

3.4. Availability. Exponea shall provide the Customer with the Subscription Services within the Territory. The Services shall be made available by Exponea subject to any unavailability caused by circumstances beyond Exponea’s reasonable control, including any *force majeure* events, any computer, communications, Internet service or hosting facility failures or delays involving hardware, software, power or other systems not within Exponea’s possession or reasonable control, or denial of service attacks. The Customer acknowledges that availability of the Services depends on the Customer’s compliance with the Usage Allowances stipulated in the Agreement. Therefore, exceeding of the Usage Allowances may result in limitation or unavailability of the Services. The Subscription Services may be temporarily limited or interrupted due to maintenance, repair, modifications, upgrades or relocation. Exponea shall undertake reasonable endeavours to notify the Customer of scheduled and unscheduled outages that are expected to take more than four (4) hours and that may affect the Subscription Services.

3.5. Equipment. The Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including but not limited to modems, hardware, servers, software, operating systems, networking, web

servers and the like (collectively, "Equipment"). The Customer shall also be responsible for maintaining the security of the Equipment, Account, passwords (including but not limited to administrative and user passwords) and files, and for all use of the Account or the Equipment.

- 3.6. API – third party services. As part of the Services provided, Exponea may also provide certain services aimed at connecting the Customer to the services of other providers (such as e-mail or SMS provided by providers of messaging platforms). Unless agreed otherwise in the respective Agreement, Exponea provides only integration and not service itself. In such cases and unless explicitly specified otherwise in the Agreement, Exponea only provides API services for connecting these third-party services to the Services provided by Exponea and under the Terms of use for the third party integrations available at https://exponea.com/terms-of-service/terms_of_use_for_third_party_intergrations.pdf. The Terms of use for the third party integrations shall form an integral part of these General Terms and Conditions.
- 3.7. Subcontractors. Exponea may also use the subcontractors to provide certain parts of the Services, if ordered by the Customer. Certain Services may be subject to additional terms, for instance:
- (a) Mailing. This clause 3.7 (a) applies only if the Agreement specifically stipulates that Exponea will provide mailing services. The Customer shall be solely responsible for the content of e-mail messages sent as part of the Services. The Customer acknowledges that Exponea uses a third-party provider for mailing services, whose details are available in the list available at https://exponea.com/terms-of-service/list_of_sub-processors_and_sub-contractors.pdf. The List of sub-processors and sub-contractors shall form an integral part of these General Terms and Conditions.
 - (b) SMS. This clause 3.7 (b) applies only if the Agreement specifically stipulates that Exponea will provide SMS services. The Customer shall be solely responsible for the content of SMS messages sent as part of the Services. The Customer acknowledges that Exponea uses a third-party provider for SMS services, whose details are available in the list available at https://exponea.com/terms-of-service/list_of_sub-processors_and_sub-contractors.pdf.
 - (c) Hosting. The Customer acknowledges that Exponea uses a third-party provider for hosting services under the terms and conditions stipulated in the Sub-processors & Webhosting Policy available at https://exponea.com/terms-of-service/sub-processors_and_webhosting_policy.pdf. The Sub-processors & Webhosting Policy shall form an integral part of these General Terms and Conditions.
 - (d) Mailing via Mailjet. This clause 3.7 (d) applies only if Parties specifically agree in the Agreement that Exponea provides mailing services via Mailjet SAS or if Customer during the Term integrates with emailing platform provided by Exponea's sub-contractor Mailjet SAS. The Specific Terms for Customer Using Mailjet are available at https://exponea.com/terms-of-service/specific_terms_for_customers_using_mailjet.pdf shall form an integral part of these General Terms and Conditions.
- 3.8. Usage Allowances. The Customer shall use the Services within the Usage Allowances stipulated in the Agreement. Any warranties, including any warranties related to performance of the Services or any SLAs (if agreed), provided by Exponea in the Agreement shall be subject to Customer's compliance with the Usage Allowances stipulated in the Agreement and the Acceptable Use Policy available at <https://exponea.com/terms-of-service/acceptable-use-policy.pdf>.

4. PRICING POLICY, PAYMENT TERMS AND TAXES

- 4.1. Fees. The Customer shall pay all Fees specified in the Agreement. Except as otherwise specified in the Agreement, (a) the Subscription Fees are based on the respective Usage Allowances agreed in the Agreement and not on actual usage, (b) the fees for SMS services and mailing services are calculated on the basis of actual usage, and (c) unless agreed otherwise in a specific case, payment obligations are non-cancellable and the Fees paid are non-refundable. Exponea reserves the right to increase and/or decrease the fees for SMS services and mailing services subject to change in prices by a relevant sub-contractor.
- 4.2. Payment terms. Subscription Fees(s) shall be prepaid on an annual basis in advance based on invoice issued, electronically or otherwise, by Exponea no later than fourteen (14) days from the Effective Date or from start of any Renewal Term based on clause 11.1 hereof. The fees for SMS services and mailing services shall be paid monthly in arrears (i.e. monthly post-payment) based on the invoice issued, electronically or otherwise, by Exponea no later than fourteen (14) days after the end of the respective month. Setup fee shall be paid based on the invoice issued, electronically or otherwise, by Exponea no later than fourteen (14) days from the Effective Date. All payments hereunder shall be due in full within fourteen (14) days of the invoice date. All amounts under the Agreement are payable in currency stipulated in the Agreement. Any amounts not paid when due shall accrue default interest at the rate of 0.1% per day. If such amount would exceed maximum default interest possible under the applicable law, then the Customer shall be obliged to pay only such maximum default interest. If specifically agreed between Exponea and Customer in the Agreement, Exponea (or its payment provider) shall be authorised to withdraw the respective funds from a payment instrument saved and pre-authorized in the Customer's account pursuant to clause 3.2 of this General Terms and Conditions; in such case, Exponea shall issue a standard invoice promptly after the payment is credited to the Exponea bank account.
- 4.3. Taxes. Unless otherwise stated, the Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, goods and services, harmonised, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction ("**Taxes**"). The Customer is responsible for paying all Taxes associated with its purchases pursuant to the Agreement. If Exponea has a legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by the Customer, unless the Customer provides Exponea with a valid tax exemption certificate authorised by the appropriate taxing authority.

5. CONFIDENTIALITY

- 5.1. Neither Party will use any Confidential Information of the disclosing party except as necessary to exercise its rights or perform its obligations pursuant to the Agreement or as expressly authorised in writing by the other Party. Each Party shall use the same degree of care to protect the disclosing party's Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances shall each Party use less than reasonable care. Neither Party shall disclose the other Party's Confidential Information to any person or entity other than its officers, employees, consultants, contractors and legal advisors who need access to such Confidential Information in order to effect the intent of the Agreement and who have entered into confidentiality agreements as least as restrictive as the requirements in this clause.

6. DELIVERY AND WARRANTY

- 6.1. Access/Delivery of the Services. Exponea shall provide the Services in the scope agreed in the Agreement by creating and/or authorising an already existing Account for the Customer.

6.2. No Warranty. Unless stipulated otherwise in any relevant Agreement, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES, GUIDES AND EXPONEA'S CONTENT ARE PROVIDED "AS IS," AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, EXPONEA EXPLICITLY DISCLAIMS ALL EXPRESS AND IMPLIED, STATUTORY, OR OTHERWISE CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. EXPONEA MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE SERVICES, GUIDES, OR ANY EXPONEA'S CONTENT. Exponea makes no warranty that the Services, Guides or any Exponea's content will meet the Customer's requirements or be available on an uninterrupted, secure, virus-free or error-free basis. Exponea makes no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness or reliability of the Services, any service levels with respect to Services (unless agreed otherwise in an SLA), Guides or any Exponea's content. The Customer acknowledges and agrees that if the Customer relies on any Services, any service levels with respect to Services (unless agreed otherwise in an SLA), Guides, or any Exponea's content, the Customer does so solely at its own risk.

7. LIABILITY

- 7.1. Force majeure. Neither Party will be in violation of the Agreement or liable for damages if the failure to perform the obligation is due to an event beyond its control, including without limitation to, failure of power grid, failure of the Internet, natural disaster, weather event, war, riot, insurrection, epidemic, strikes, floods, acts of terror, a third party breach, failures, downtime or delays by an internet service provider or hosting provider, or labor action, terrorism, denial of service attacks or other events beyond such party's reasonable control.
- 7.2. Relief Events. Where Exponea's provision of any Service, or performance of any obligation set out herein, is prevented as a direct or indirect result of any act or omission by the Customer (a "**Relief Event**") then Exponea shall be granted an extension to all affected deadlines equal to the length of delay caused by the relevant Relief Event.
- 7.3. Information duty. The Customer shall without any undue delay inform Exponea about the occurrence of any event that may affect the due fulfilment of the obligation set out herein and shall undertake its best endeavours to cooperate with Exponea to overcome such events.
- 7.4. Liability limitation. UNLESS EXPLICITLY STIPULATED OTHERWISE IN THE AGREEMENT, NEITHER EXPONEA, ITS AFFILIATES, CONTRACTORS, NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT COSTS OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, LITIGATION COSTS, LOSS OF DATA OR GOODWILL OR PRODUCTION, OR BUSINESS OPPORTUNITIES, OR REPUTATION, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS GENERAL TERMS AND CONDITIONS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT EXPONEA HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. In no event shall Exponea be liable to the Customer for more than greater of (i) the amount of any actual direct damages up to the amount paid by the Customer hereunder for the Services giving rise to liability in the twelve (12) months preceding the first incident from which the liability arose, or (ii) 10,000 EUR (ten thousand euro). The Parties agree that this clause represents a reasonable allocation of

risks. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER. HOWEVER, IN THESE JURISDICTIONS, THE FOREGOING EXCLUSIONS AND LIMITATIONS WILL BE ENFORCED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

8. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 8.1. Intellectual Property. Exponea, and its suppliers and/or licensors if applicable, shall retain all rights (including but not limited to all patent rights, trademark rights, copyright, trade secrets and any other intellectual property rights) in and to the Services and any Guides. The Customer agrees that only Exponea (or its Affiliates) shall have the right to enhance or otherwise modify the Services. If the Customer provides Exponea with any reports of defects and/or suggests modifications (“**Report**”), Exponea shall have the right to use such Report, including incorporating such Report into its Services or other software products, without any obligation to the Customer. Unless specifically agreed otherwise in writing, Exponea reserves all rights and grants the Customer no licences of any kind, whether by implication or otherwise. Exponea shall own and retain all right, title and interest in and to (a) the Services and all improvements, enhancements or modifications thereto; (b) any software, applications, inventions or other technology developed in connection with implementation Services or support by Exponea; and (c) information derived from aggregated and anonymised data, and (d) all intellectual property rights related to any of the foregoing.
- 8.2. Data protection. The Data protection is governed by the specific Data Processing Addendum which forms the integral part of the Agreement. The Data Processing Addendum is available at https://exponea.com/terms-of-service/data_processing_adendum.pdf
- 8.3. Artificial intelligence services. Notwithstanding anything to the contrary in the Agreement, Exponea shall have the right to collect and analyse data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (i.e. anonymized aggregate information derived from Customer Data), and Exponea will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and all capabilities of artificial intelligence that will increase the performance and effectiveness of the Customers’ campaigns or for other development, diagnostic and corrective purposes in connection with the Services and other Exponea’s offerings (or offering of its Affiliates), and (ii) make such data available in the aggregated and anonymized form, i.e. via so-called anonymized industry standard trends.

9. REPRESENTATION, WARRANTIES AND RESTRICTIONS

- 9.1. General. Each Party represents and warrants to the other Party that: (a) such Party is duly incorporated and validly existing under the laws of the jurisdiction of its incorporation; and the execution, delivery and performance of the Agreement constitutes the legal, valid and binding obligation of such Party; and (b) such Party has all requisite corporate power and financial capacity, and authority to execute, deliver, and perform its obligations under the Agreement.
- 9.2. Restrictions. The Customer shall not (and shall not authorise any third party to): (a) modify, translate, reverse engineer, decompile, disassemble or create any derivative works based on the Services, except to the extent that enforcement of the foregoing restrictions is prohibited by applicable Legislation; (b) circumvent any user limits, Usage Allowances , or other timing, use or functionality restrictions built into the Services; (c) remove any proprietary notices, labels, or marks from the Services; (d) frame or mirror any content forming part of the Services; (e) access the Services in order to (i) build a competitive product or service, or (ii) copy any ideas, modules, functions, or graphics of the Services; (f) register, directly or indirectly make it possible to register or anyhow support the third party registration of trademarks, business names or other

designations of Exponea (or related or similar business names or other designations); or (g) use Exponea’s intellectual property rights (or any related or similar logos and/or trademarks of Exponea) for its benefit, e.g., by combination of Exponea logos and/or trademarks with its own business name and/or company name or its own products or services; (h) use the Services in a way that is prohibited by the Acceptable Use Policy available at <https://exponea.com/terms-of-service/acceptable-use-policy.pdf>.

10. COMMUNICATION AND DELIVERY

- 10.1. Addresses of the Customer. For the purposes of delivery, Exponea has been notified of the Customer’s mail and e-mail addresses identified within its registration process or as may be amended within the Customer’s profile in its Account. Unless the Agreement states otherwise, the Customer agrees that any communication from Exponea with respect to the Agreement may be delivered electronically to the Customer’s Account or to the e-mail address specified therein.
- 10.2. Customer references. Exponea shall be entitled to publicly refer to the Customer as a user of the Services, and use Customer's trademark and logo in accordance with any guidelines which may be provided to Exponea by Customer for this purpose.

11. TERM, SUSPENSION AND TERMINATION

- 11.1. Term. Unless the Agreement stipulates otherwise, the initial term of the Agreement shall be one (1) year from the Effective Date (“**Initial Term**”). This Agreement shall be automatically renewed for additional periods equal to the Initial Term (“**Renewal Term**”) unless either Party provides written notice of intent not to renew at least thirty (30) days prior to the expiration date of the Initial Term or the then-current Renewal Term, if any (both Initial Term and Renewal Term hereinafter referred to as “**Term**”). Unless otherwise stated in the Agreement, renewal of promotional (i.e. discounted) Fees provided to the Customer in the Initial Term shall be subject to the consent of Exponea.
- 11.2. Suspension and termination for non-payment. If any amount owed by the Customer under the Agreement is overdue, Exponea shall send a notification to the Customer either via email or via In-App. If the Customer does not pay the Fees when due, Exponea may, without limiting its other rights and remedies, suspend the provision of the Services to the Customer until the owed amounts are paid in full. The suspension may take several forms: (i) soft-lock or (ii) hard-lock of the Customer’s Account. When the Account is soft-locked, the Customer does not have access to the Account, however, the data will be processed. When the Account is hard-locked, the Customer does not have access to the Account, and the data will not be processed. If, following the process pursuant to this clause 11.2, the respective payment is not paid in full, Exponea may, at its sole and exclusive discretion, terminate the Agreement.
- 11.3. Termination for change of General Terms and Conditions. If the Customer does not agree with a new version of the General Terms and Conditions communicated to the Customer pursuant to the clause 13.8 hereof and such change to the General Terms and Conditions constitutes the Substantial Deprecation of the Services (as defined below), the Customer shall have the right terminate the Agreement in respect to the particular substantially deprecated part of the Services by delivering a termination notice to Exponea within thirty (30) days after the effective date of such new version of General Terms and Conditions. For the avoidance of doubt, the following situations shall be considered as “Substantial Deprecation” of the Services: (i) The feature has been replaced by less powerful alternative feature; (ii) a future version of the Exponea tool will make major structural changes, making it impossible (or impractical) to support older features. In such case, the Agreement is terminated in respect to the particular part of the Services at the end of the thirty (30) day period provided for the delivery of the termination notice. In case the Fees are stipulated in the manner that it cannot be divided into parts, the Parties undertake to negotiate about alternative services, that Exponea can offer to the Customer instead of the substantially deprecated part. If no termination notice of the

Customer is served and delivered to Exponea within the thirty (30) day deadline, the Customer is deemed to have accepted the new version of the General Terms and Conditions. After expiry of this deadline, the Customer is not entitled to terminate the Agreement for the reason specified in this clause 11.3.

- 11.4. Termination. The Agreement may, in addition to the reasons stipulated in clauses 11.2 and 11.3, be terminated as follows: (a) if either Party breaches any material term or condition of the Agreement and fails to cure such breach within thirty (30) days after receiving notice of the breach, the non-breaching Party may terminate the Agreement on notice at any time following the end of such thirty (30) day period; (b) if either Party becomes insolvent on the basis of a respective court order, then the other Party may terminate the Agreement immediately upon notice; (c) if the Customer breaches the Code of Conduct published on www.exponea.com, Exponea may terminate the Agreement immediately upon notice; or (d) if change of control in Customer occurs, the Customer shall inform Exponea within thirty (30) days, and Exponea may terminate the Agreement within additional thirty (30) days after the information about the change of control is delivered. In case the Customer does not inform Exponea about the occurrence of the change of control, and Exponea finds out independently, Exponea may terminate the Agreement within thirty (30) days after it gets familiar with the change of control; (e) if the Customer breaches the Acceptable Use Policy published at <https://exponea.com/terms-of-service/acceptable-use-policy.pdf>, Exponea may terminate the Agreement immediately upon notice; Exponea shall notify the Customer of breach of the Acceptable Use Policy prior to termination provided such notification is reasonable considering the nature of the Customer's breach and potential damages that may be caused by such breach. For the avoidance of doubts, neither Party is entitled to terminate this Agreement without cause. Upon expiration or termination of the Agreement, the Customer shall cease all use of the Services, and shall promptly return all copies of the Guides to Exponea or otherwise destroy those copies and provide assurances (signed by an officer of the Customer) to Exponea that it has done so if requested by Exponea.
- 11.5. Termination for exceeding the Usage Allowances. If the Customer exceeds the Usage Allowances stipulated in the Agreement, Exponea may work with the Customer to seek to reduce the usage of the Services so that it conforms to the agreed limit. Exponea may also send a written notice (email suffices) to the Customer determining the deadline within which the Customer shall conform to the Usage Allowances agreed in the Agreement. Exponea shall have the right to terminate the Agreement with immediate effect, if the Customer, despite being notified of exceeding the Usage Allowances, does not start using the Services within the agreed Usage Allowances before the deadline communicated the Customer in the respective notice.
- 11.6. Return of data. Upon the request of the Customer that is made (i) any time during the Term, or (ii) within thirty (30) days after the effective date of termination or the expiration of the Agreement, Exponea will make such Customer Data available to the Customer in a file for download in (.json) format together with any attachments in their native format. After such thirty (30) day period, Exponea shall have no obligation to maintain or provide any such Customer Data and may thereafter, unless legally prohibited from doing so, delete all such Customer Data in Exponea's systems, under Exponea's control or otherwise in Exponea's possession. Upon instruction of the Customer, Exponea shall, unless and to the extent legally prohibited from doing so, (i) delete all Customer Data in Exponea's system, which were requested by the Customer, in accordance with applicable law within commercially reasonable time; and (ii) instruct all subcontractors listed at <https://exponea.com/terms-of-service/list-of-sub-processors-and-sub-contractors.pdf>, if applicable in the case of the respective Customer to delete Customer Data from the subcontractor's system. The Customer acknowledges that for the hosting services, the Sub-processors & Webhosting Policy available at <https://exponea.com/terms-of-service/sub-processors-and-webhosting-policy.pdf> applies.

For the avoidance of doubt, the Customer acknowledges that this clause 11.6 shall not apply to the following: (a) Customer Data in logs; (b) aggregated data and (c) data stored for the statistical purposes.

12 SPECIFIC CONDITIONS FOR ON-DEMAND SERVICES

- 12.1. Applicability. Apart from the provision of the Subscription Services, Exponea may, on the basis of a mutual agreement with the Customer, also provide On-demand Services to the Customer. This Section 12 of the General Terms and Conditions shall apply exclusively for the provision of the On-Demand Services (as defined below).
- 12.2. Ordering On-demand Services. Any On-demand Services (including any deliverables) to be provided by Exponea to the Customer must be agreed to by both Parties by virtue of the Agreement. Consulting services may be ordered by the Customer in different modes: (a) consulting required for the proper onboarding of the Customer to other Services of the Customer (“Setup”); (b) pre-paid consulting services for more beneficial hourly rates; and (c) standard consulting services.
- 12.3. Types of On-Demand Services. Exponea may provide the Customer in particular but not exclusively with the following On-Demand Service:
- (a) dedicated support – means paid support provided via Intercom by any of Exponea's consultants in regards to ad-hoc tasks (eg. campaign creation, analytics reporting).
 - (b) dedicated consultant – means paid support provided by a dedicated consultant for the agreed number of hours to help with any ad-hoc tasks (eg. campaign creation, analytics, reporting, training); such support does not include a development of a specific project plan with goals & deliverables;
 - (c) project scope – paid consultancy support focused on meeting specific business goals/priorities of the Customer within a specific period of time as stipulated in the project scope agreed between the Parties; the provision of such support is managed by a dedicated value delivery manager of Exponea
- 12.4. Manner. Exponea shall provide the On-demand Services and develop any related deliverables for the Customer described in the respective Agreement agreed by the Parties. Exponea shall provide these On-demand Services in a reasonable, professional manner in keeping with professional standards and practices. Unless agreed otherwise in the respective Agreement, Exponea shall be entitled to, at its sole discretion, determine the methods and means for performing the On-demand Services and developing any related deliverables.
- 12.5. Subcontractors. The Customer undertakes and agrees that Exponea may utilise the services of independent consultants (“Subcontractors”) from time to time to perform, or to assist Exponea in performing, the On-demand Services and develop the deliverables. Personnel of Exponea and of the Subcontractors shall remain under the control of Exponea.
- 12.6. Cooperation. The Customer acknowledges and agrees that performance of the On-demand Services is heavily dependent on the information and responses to be provided by the Customer. Accordingly, in addition to any specific responsibilities set out in the respective Agreement, the Customer shall: (a) provide the appropriate and necessary resources, and timely and accurate information and documentation, as reasonably required by Exponea; (b) carry out reviews and respond to requests for approval and information on a timely basis; and (c) make available to Exponea all equipment, material, information, data, network access and/or facilities that Exponea may reasonably require to carry out its obligations. The Customer acknowledges that any delay on its part in the performance of its obligations may have an impact on Exponea’s

performance of its activities under the Agreement, and Exponea shall not be liable for any delay to the extent caused by Customer's failure to fulfil any of its requirements under the Agreement.

- 12.7. Fees and Payment for On-demand Services. The Customer shall pay the Fees as agreed in the respective Agreement, either on a time spent basis (e.g. on-demand consulting) or on a fixed fee basis (e.g. fee for Setup). The Parties acknowledge that any pre-paid On-demand Services shall not be reimbursed, even if not utilised by the Customer, due to their typically lower price per unit. Any Fees for On-demand Services are payable in line with the Agreement. The Customer shall reimburse Exponea for all reasonable out-of-pocket expenses incurred by Exponea in the performance of the On-demand Services, provided that such expenses are approved by the Customer.
- 12.8. Term and Termination. This clause 12 shall remain in effect only during the Term of the Agreement pursuant to clause 11 of this General Terms and Conditions. Unless provided otherwise in the Agreement, if the Customer terminates the Agreement (or a part thereof) pursuant to clause 11.4 (d) of this General Terms and Conditions, the Customer shall pay Exponea the full Fee for On-demand Services performed (including all other costs for which Exponea has the right to reimbursement) up to the effective date of the termination of the relevant part of the Agreement; provided that if the Fee for any deliverables are based on identified milestones being achieved by Exponea, the Customer shall pay Exponea the pro-rated fee for the next scheduled milestone with such pro-rated fee to be determined based on the percentage of time between the commencement of work on such milestone and the effective date of termination.
- 12.9. Intellectual Property Rights. Unless otherwise stipulated in the Agreement, Exponea shall own all rights in any and all intellectual property rights to any deliverables created by Exponea pursuant to this clause 12 of this General Terms and Conditions. Exponea shall retain all right, title and interest and all intellectual property rights to any and all of Exponea's proprietary information and software (including but not limited to any modifications to the Services and/or the Guides). Subject to the payment of the applicable Fees set forth in the Agreement, Exponea grants to the Customer a worldwide, fully-paid (such payment is already included in the Fees), non-exclusive, non-transferrable licence to use the deliverables created pursuant to this clause 12 for the purposes described in the accompanying Agreement.
- 12.10. No Legal Services. No warranty of any kind whatsoever, express or implied, is made or intended in connection with the consultations on marketing standards and/or data protection practices provided by Exponea's consultants, employees, officers, or other cooperating persons ("Consultants") to the Customer, as the Consultants cannot assess the implications of such consultations in the context of all Customers' activities. Such consultations represent possible alternatives how to solve the particular issue, whereas the Customer is advised and encouraged to consult any further steps that should be based on such recommendations with their legal counsel. Neither Exponea nor Consultants shall be liable for any incorrect advice, judgement, or consultation based on any inaccurate information furnished by the Customer, the Customer's agents or other Customer's consultants.
- 12.11. Acceptance and Takeover. Takeover of the On-demand Services of Exponea by the Customer shall follow the acceptance procedure set out in this clause 12.11. of this General Terms and Conditions. The acceptance procedure involves comparing the basic properties of the respective On-demand Services with the criteria specified in the respective Agreement ("Acceptance Criteria"). If no such Acceptance Criteria are agreed, then the respective On-demand Services are deemed to be accepted by the Customer immediately following their delivery by Exponea. If the On-demand Services do not satisfy the Acceptance Criteria, then: (a) the Customer shall itemise in writing each failure to satisfy the Acceptance Criteria without any undue delay but by no more than five (5) Business Days after delivery of such On-demand

Services or their part (otherwise such On-demand Services are deemed to be accepted by the Customer); the formulation of the Customer's comments must always contain at least the following elements: (i) the name of the output to which the comment applies; (ii) the content of the comments should be specifically formulated, i.e. so that it is clear in where the corrections lie to be able to incorporate it within such On-demand Services; (iii) guidelines detailing the progress of the implementation of the comments, or the characteristics of targets or the target state after the incorporation of comments; (b) Exponea shall use its best efforts to correct the On-demand Services and to deliver the On-demand Services to the Customer for re-testing and acceptance; and (c) the acceptance period shall be halted while Exponea is working on the corrections to the On-demand Services as part of the acceptance procedure. The period shall continue after the failure specified by Customer is corrected by Exponea. For the avoidance of doubt, (i) if at any time the Customer commences with the live operation of the whole or any part of the respective On-demand Services, then Customer shall be deemed to have accepted such On-demand Services; and (ii) any shortcomings that have no material effect on the standard functionality of the On-demand Services do not impede the delivery thereof and the deemed acceptance of the Services pursuant to this clause.

13 FINAL PROVISIONS

- 13.1. Salvatory clause. If any provision in this Agreement is shown to be (or later becomes) invalid or inefficient or inapplicable, it will not affect other provisions hereof that will remain valid and effective. The Parties undertake to replace an invalid or ineffective provision with a new provision that best corresponds to the originally intended purpose of the invalid or ineffective provision within the period of thirty (30) days from the date of the delivery of the call of one Party to the other Party; otherwise a new provision will be determined by the respective court upon the proposal of one of the Parties.
- 13.2. Set-off. The Customer is not authorised to offset any of its claims against any of Exponea's claims nor is it authorised to retain payments, in any manner, intended for Exponea regardless of the nature and/or purpose of such payments. Exponea is authorised to offset its claims against claims of the Customer if the Customer is informed in advance of Exponea's intention to offset; in the event of such offsetting, Exponea will notify the Customer of the reason for the offsetting as well as the identification of the claims to which the offsetting will apply, and the amounts of the claims and their due dates.
- 13.3. Assignment. Customer may assign the Agreement or any of its rights, interests, or obligations under the Agreement to any third party exclusively with the prior written approval of Exponea. Customer hereby grants its consent to Exponea to assign the Agreement or any of its rights, interests, or obligations under the Agreement to any Exponea Affiliate or third party.
- 13.4. Severability. The provisions of this General Terms and Conditions are severable, and if any part of them is held to be illegal or unenforceable, the validity or enforceability of the remainder of them will not be affected.
- 13.5. Waiver. Neither Party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under the Agreement.
- 13.6. No Third-Party Beneficiaries. The provisions of the Agreement are for the sole benefit of the Parties and their successors and permitted assigns, and they will not be construed as conferring any rights to any third party.
- 13.7. Entire agreement. The Agreement contains the entire agreement and understanding amongst the Parties hereto with respect to the subject matter hereof, and supersedes all prior and

contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof.

- 13.8. Applicable law. The Agreement and any disputes and claims arising out of or in connection with its subject matter are governed and construed in accordance with the laws of the country of registration of Exponea (as defined in the Agreement), without regard to conflict-of-law provisions. If the contracting party to the Agreement is Exponea, Inc. (US), the Agreement and any disputes and claims arising out of or in connection with its subject matter are governed and construed in accordance with the laws of the State of Delaware, without regard to conflict-of-law provisions.
- 13.9. Jurisdiction. Any dispute arising from or in connection with the Agreement, including a dispute regarding the existence, validity or termination of the Agreement or the consequences of its nullity shall be finally decided by competent courts of the country of registration of Exponea (as defined in the Agreement). If the contracting party to the Agreement is Exponea, Inc. (US), any dispute arising from or in connection with the Agreement, including a dispute regarding the existence, validity or termination of the Agreement or the consequences of its nullity shall be finally decided by competent Delaware courts.
- 13.10. Change of the General Terms and Conditions. Exponea may from time to time at its sole discretion issue new version of the General Terms and Conditions. In such case, Exponea shall notify the Customer on e-mail address identified within the registration process or in the Agreement. If the Customer does not agree with a new version of the General Terms and Conditions, the Customer shall notify Exponea within thirty (30) days of being notified by Exponea about the new version of the General Terms and Conditions, that it does not wish to be bound by the new version of the General Terms and Conditions. In such case, subject to clause 11.3, the Agreement remains to be governed by the then current version of the General Terms and Conditions until the end of the Initial Term or the then-current Renewal Term (if applicable). Once a new Renewal Term commences, the Agreement shall be governed by the new version of the General Term and Conditions regardless of any objection given by the Customer against the new version of the General Term and Conditions.
- 13.11. Prolongation of Notice Period. Any time during which a 30-day notification period runs pursuant to Art. 13.8 hereof, Exponea shall have the right to prolong the notification period if Exponea reasonably believes that the prolongation is for the benefit of the Customer. In such case, Exponea shall have the obligation to notify the Customer via the e-mail address identified within the registration process. If the Customer does not agree with the prolongation of the notification period, the Customer shall notify Exponea within thirty (30) days, from receipt of the notification informing about the prolongation, that the Customer does not agree with the prolongation. In such case, the initial 30-day notification period applies.