

## Standard Terms and Conditions for Use of qbilon Software as a SaaS/Cloud Application

by and between the “Customer”

and

**qbilon GmbH**, Hermanstraße 5, 86150 Augsburg

- hereinafter referred to as “**qbilon**” -

The Customer and qbilon are also referred to individually as the “**Party**” and jointly as the “**Parties**”.

### Preamble

qbilon has developed a software solution that enables enterprises to automatically capture, monitor and analyze their IT landscape. The Customer would like to use the Software as a SaaS/Cloud application. Now, therefore the Parties enter into this Agreement on use of the qbilon Software as a SaaS/Cloud application (hereinafter: the “**Agreement**”).

### 1. Subject-Matter of Agreement

- 1.1. With the product “qbilonULTIMATE”, qbilon has developed a software solution that enables the automated capture and monitoring of the Customer’s IT assets by way of so-called “Connectors,” and their analysis by the Customer. The subject-matter of this Agreement is the provision of the qbilon Software to the Customer by qbilon as a SaaS/Cloud application that is hosted by qbilon on servers of a data center operator.
- 1.2. During the term of this Agreement qbilon shall make the qbilon Software including the selected standard Connectors, as specified in further detail in the relevant offer, available to the Customer against payment for use as a SaaS/Cloud application. The offer shall specify in further detail:
  - the software product constituting the subject-matter of this Agreement “qbilonULTIMATE” (referred to as the “**qbilon Software**”),
  - selected, contractual standard Connectors (referred to as “**Connectors**”),
  - contractual software packs specifying in further detail, inter alia, the contractually granted scope of use of the Software, the number of IT assets at the Customer’s covered by the Software, the term of the license and the licensing fees, and
  - core functions of the qbilon Software.

The qbilon Software and the Connectors are together referred to as the “**Software**”. The Software is a SaaS/Cloud application that is hosted on servers of a data center operator (currently Amazon Web

Services (AWS) or Microsoft Azure). The Customer will use the Software solely for internal purposes of the enterprise.

- 1.3. In addition to the core functions and the Connectors for the Software, the Software can be extended by additional standard Connectors and modules. "Modules" in this respect also includes essential new functions and enhancements to functions of the Software. The individual standard Connectors and modules available, their functional scope and the relevant additional license fee shall be notified to the Customer separately by qbilon on request, and the Customer may book corresponding standard Connectors and modules in addition to the Software and may use them in accordance with and during the term of this Agreement. In that case the additionally booked standard Connectors and modules are also covered by this Agreement and by the term "Software". The fees according to Clause 5 shall increase accordingly.
- 1.4. The Software and any updates, patches as well as any additionally booked standard Connectors and modules made available during the term of this Agreement shall be made available to the Customer solely as SaaS/Cloud applications. To this end qbilon shall make the Software available as a SaaS/Cloud application at the internet interconnection point of the data center where the server is located on which the SaaS/Cloud application is hosted. The establishment of a connection via the internet between the Customer and the interconnection point of the data center or via other networks not operated by qbilon alone, and successful access to the Software do not constitute part of qbilon's obligation to perform.
- 1.5. qbilon is entitled to adjust the Software to the current state of the art at any time during the term of this Agreement and to provide updates and patches where necessary, e.g., for the purpose of rectifying errors.
- 1.6. During the term of this Agreement qbilon shall also provide support services to the Customer to the extent specified in further detail in Schedule 1.
- 1.7. Insofar as the Customer requests development or consulting services from qbilon during the term of this Agreement, e.g., the development of a customer-specific adapter, qbilon shall submit a corresponding offer to the Customer based on the then current daily rates for developers and consultants. A developer and/or a consultant day consists of 8 hours. All development and consulting services shall be provided at the qbilon site or remotely (e.g., by web call), not on site at the Customer's.
- 1.8. qbilon is entitled to deploy sub-contractors for provision of the performance under this Agreement, without the Customer's consent being required.

## **2. Service Levels**

The Software is not available at any time and uninterruptedly, but, rather, shall be made available to the Customer as a SaaS/Cloud application in accordance with the Service Level in force at the interconnection point of the data center, such Service Levels being described in further detail in Schedule 1.

### 3. Customer's (Cooperation) Obligations, System Requirements

- 3.1. Before commencing use of the Software as a SaaS/Cloud application, the Customer has to register while providing its e-mail address and log-in data (user name and password) and has to set up a customer account in the SaaS/Cloud application. Having set up a customer account, the Customer can access the Software as a SaaS/Cloud application using its log-in data. The Customer must keep its log-in data secret, may not disclose it to third parties and has to use sufficiently safe passwords according to the relevant current state of the art.
- 3.2. The Customer requires a stable and sufficiently fast internet connection for use of the Software as a SaaS/Cloud application, for which connection the Customer itself is responsible. The internet is an insecure and unreliable transfer medium so that qbilon is not responsible for interruptions or delays in accessing the Software on the internet outside qbilon's sphere of responsibility.
- 3.3. The Customer shall comply with the system requirements regarding its IT infrastructure. These requirements can be viewed in their current version at any time at "<https://www.qbilon.io/faq/>".
- 3.4. The Customer shall duly back-up all programs and data within its system environment immediately before use of the Software commences and thereafter on a regular basis.
- 3.5. The Customer is not permitted to interfere without authorization or to cause unauthorized third parties to interfere with the Software or other computer programs or data-processing made available, operated or undertaken by qbilon, or to obtain unauthorized access to computer systems, data-processing facilities or data networks of qbilon.
- 3.6. The Customer shall cooperate with qbilon in a spirit of trust and shall provide regular feedback on the functioning, quality and performance of the Software to qbilon.

### 4. Use Rights

- 4.1. qbilon holds the copyright and all other intellectual property rights to the Software and reserves all rights to the Software unless they are expressly granted to the Customer in this Clause 4.
- 4.2. qbilon grants the Customer a non-exclusive, non-transferable and non-sub-licensable use right that is limited to the term of this Agreement, to use the Software solely for internal corporate purposes of the Customer, as a SaaS/Cloud application in the scope granted by contract. The Software shall not be made available to the Customer on a data medium. The Customer is not permitted to download the Software, to store it on its IT system or computers, or to install and/or use it on-premises.
- 4.3. In particular, the Customer is not permitted to reproduce, disseminate, rent or lease the Software in whole or in part above and beyond the use right granted under Clause 4.2, or to translate, adapt or otherwise rearrange the Software, or to communicate the Software to the public by wired or wireless means, including making it available such that it is accessible to members of the public from locations and at times of their choice. Nor is the Customer permitted to decompile, disassemble or reverse engineer the Software unless it is entitled to do so under the relevant mandatory provisions of copyright law.
- 4.4. All rights to the source code of the Software (including the Connectors) accrue to qbilon alone. The Customer has no claims or rights whatsoever to the source code nor the right to access or surrender

the source code of the Software (including the Connectors). Section 69e of the German Copyright Act (UrhG) shall remain unaffected.

## 5. Fees

- 5.1. The Customer shall pay to qbilon during the term of this Agreement the license fee determined in the offer for use of the Software as a SaaS/Cloud application, irrespective of whether or not the Customer actually uses the Software. The amount of the license fee depends inter alia on the complexity and dimensions of the Customer's IT landscape, the number of IT assets at the Customer's captured by the Software and on the type and number of Connectors.
- 5.2. The license fee shall be paid by the Customer to qbilon each month in advance in equal instalments.
- 5.3. Where the Customer adds additional standard Connectors and modules according to Clause 1.3, the monthly license fee shall be increased by the fees for the additional standard Connectors and modules booked. If the Customer adds standard Connectors or modules after the Agreement commences, such items shall then be charged pro rata temporis for the current contractual month.
- 5.4. Where the Customer requests additional development or consulting services according to Clause 1.7, qbilon shall invoice such development or consulting services retrospectively on a monthly basis.
- 5.5. The monthly instalments of the license fee according to Clause 5.2 shall be due for payment on the 1st of each calendar month. Other invoices are due for payment within 14 days of the invoice date.
- 5.6. All prices indicated are subject to statutory VAT as in force at any time.
- 5.7. A set-off by the Customer is excluded unless its counterclaim is undisputed or has been established with final force. The Customer has a right of retention only insofar as its counterclaim is based on the same contractual relationship.

## 6. Liability for Defects

- 6.1. qbilon warrants during the term of this Agreement that the Software essentially corresponds to the specifications set out in the offer and, where appropriate, to the specifications of any additional standard Connectors and modules booked and will be made available as a SaaS/Cloud application at the Service Levels set out in Schedule 1.
- 6.2. qbilon does not warrant that the Software will be available at any time and uninterruptedly as a SaaS/Cloud application, but, rather, solely its availability within the context of the Service Levels set out in Schedule 1. The internet is an insecure and unreliable transfer medium so that qbilon is not responsible for interruptions or delays in accessing the Software on the internet outside qbilon's sphere of responsibility and beyond its obligation to perform.
- 6.3. qbilon does not warrant that the Software corresponds to the Customer's requirements and qbilon does not assume liability for technical details or the suitability of the Software for a certain purpose unless such requirements of the Customer, technical details or a certain purpose were expressly agreed by the Parties.

- 6.4. Specifications set out in the offer or other documentation do not constitute guarantees unless they are expressly designated as such.
- 6.5. The Customer is obliged to notify qbilon promptly of any defects in the Software.
- 6.6. During the term of this Agreement any defects in the Software shall be rectified by qbilon within a reasonable period of time. qbilon is entitled to at least 2 attempts to rectify defects. If qbilon is unable to rectify a defect within a reasonable period of time, the Customer shall be entitled to reduce the contractually agreed fee (“Reduction in Price”) unless the defect is non-material. Insofar there is a material defect in the Software, instead of a Reduction in Price the Customer is also entitled to terminate the Agreement for good cause.
- 6.7. The Customer is not entitled to rectify a defect in the Software itself or by commissioning a third party and may not require qbilon to reimburse necessary expenses incurred.
- 6.8. Insofar as the Customer is entitled to damages or compensation for futile expenses owing to liability for defects, such claims are subject to the limitation of liability in Clause 7 below.

## **7. Limitation of Liability**

- 7.1. qbilon is not liable for damage, delays or obstructions of performance that lie outside qbilon’s sphere of influence.
- 7.2. qbilon is not liable for damage caused by inappropriate, incorrect or unintended use of the Software.
- 7.3. No-fault liability of qbilon owing to defects in the Software that already existed when the Agreement commenced, is excluded.
- 7.4. qbilon is liable to the Customer for its own culpable inferior performance only as follows:
  - 7.4.1. qbilon is liable without limitations for damage caused intentionally or through gross negligence and for damage caused culpably by qbilon due to injury to life, limb or health, where a warranty is not honored or if qbilon has fraudulently concealed a defect in the Software.
  - 7.4.2. qbilon is also liable for a breach of a material contractual obligation or material obligation in case of ordinary negligence, such liability is however limited to typical damage that is to be expected. A material obligation in the sense of this provision is an obligation of qbilon the satisfaction of which enables the proper performance of the Agreement in the first place, a breach of which jeopardizes achievement of the purpose of the Agreement and on satisfaction of which the Customer generally relies.
  - 7.4.3. qbilon’s liability under this Agreement for financial losses due to qbilon’s ordinary negligence is limited with regard to all claims, whether for a breach of contract, tort or on any other legal basis, to EUR 5,000.00 per event of loss and to EUR 25,000.00 in total per contractual year for all claims under the present contractual relationship.
- 7.5. In case of a loss of programs or data, qbilon is only liable for the expense necessary in order to restore the programs or data if the Customer has duly backed-up data in accordance with Clause 3.4. If the Customer has failed to back-up data, the liability of qbilon (except in case of intent) for the loss of programs or data is excluded owing to the Customer’s contributory negligence which supersedes liability.

7.6. Further liability of qbilon is excluded. Liability under the German Product Liability Act (*Produkthaftungsgesetz*) shall remain unaffected.

## 8. Confidentiality

8.1. Each Party agrees to keep secret all information of the other Party respectively that is received within the context of this contractual relationship, that is designated as being “confidential” or “secret” or bears an equivalent designation, or that is designated as being confidential in case of verbal communication, or that is evidently confidential due to its nature, especially business and trade secrets, know-how and the source code of computer programs including the Software (referred to collectively as “**Confidential Information**”), and to protect such Information against access by unauthorized third parties and to use it solely for the purposes of this Agreement.

8.2. Excluded from the confidentiality obligation is information

- that was provenly known to the other Party at the time of conclusion of this Agreement;
- that is or subsequently became publicly accessible;
- that was disclosed to the other Party by a third party not subject to a confidentiality obligation, or
- that has to be disclosed under statutory provisions or official or court orders; in that case the other Party has to be notified promptly of such disclosure.

8.3. This confidentiality obligation applies during the term of this Agreement and for a period of 5 years after this Agreement ends.

8.4. Each Party agrees to surrender promptly to the other Party on request after this Agreement ends all Confidential Information and copies of the other Party and/or - where electronically stored - to erase such Information and to provide prompt confirmation of the erasure to the other Party in text form.

## 9. Data Protection

Insofar as qbilon is to process and use personal data of the Customer upon the commission of and according to the Customer’s instructions within the context of use of the Software as a SaaS/Cloud application, the Agreement on Commissioned Data-Processing according to Schedule 2 shall apply.

## 10. Term, Notice of Termination and Termination of the Agreement

10.1. This Agreement commences upon commissioning of the relevant offer by the Customer and shall apply during the licensing term of the Software as specified in the offer. If the offer does not specify the licensing term of the Software, the initial licensing term shall be one year as of the date on which the Agreement commences.

10.2. After expiry of the initial licensing term as specified in the offer or in Clause 10.1, the licensing term of the Software shall be extended automatically by one further year in each case (“Renewal Period”) unless it is terminated by a Party with 3 months’ notice to the end of the initial licensing term or the relevant current Renewal Period.

- 10.3. The right to terminate the licensing term of the Software and this Agreement with immediate effect for good cause shall remain unaffected. There is good cause, in particular, if the Customer defaults on payment obligations for the monthly instalments of the license fee according to Clause 5.2 for two consecutive months or in an amount corresponding to the average amount of two monthly instalments.
- 10.4. Any notice of termination has to be in text form.
- 10.5. When the Agreement ends, the Customer is no longer entitled to use the Software. qbilon will block the Customer's access to the Software as a SaaS/Cloud application when the Agreement ends and will then erase all customer-specific data and information relating to the Customer's IT assets captured that are stored in the SaaS/Cloud application of the Software.
- 10.6. The Customer is responsible for storing elsewhere in due time before the Agreement ends all customer-specific data and information relating to the Customer's captured IT assets stored in the SaaS/Cloud application of the Software, if it requires such data and information after the Agreement ends.
- 10.7. qbilon shall assist the Customer with the migration of such customer-specific data and information upon a separate commission awarded before the Agreement ends and against additional remuneration.

## **11. Mentioning Reference Customers**

- 11.1. qbilon is entitled to mention the Customer as a reference customer together with its company name and logo, on qbilon's website and social media channels.
- 11.2. Furthermore, after the Agreement commences qbilon is entitled to write and publish a short success story about the contractual cooperation that mentions the Customer. qbilon shall provide the success story to the Customer in advance for its approval. Upon approval the Customer shall also provide a brief citation to qbilon for inclusion in the success story.

## **12. Final Provisions**

- 12.1. The Customer is not entitled to assign or transfer claims and/or obligations under this Agreement in whole or in part or to transfer this Agreement in its entirety to a third party, without the prior written consent of qbilon. Claims for money made by the Customer against qbilon are exempted from this ban on assignment.
- 12.2. This Agreement reflects the entire contractual relationship between the Parties with regard to its subject-matter. There are no oral covenants between the Parties. Terms of purchase and standard terms and conditions of the Customer that diverge from or conflict with this Agreement shall not apply; this also applies where qbilon does not explicitly object to such terms of the Customer.
- 12.3. Amendments and supplements to as well as termination of this Agreement must be in writing. This also applies to the amendment or waiver of this clause on written form.

- 12.4. The contractual relationship between the Parties and any disputes arising from or in connection with this contractual relationship are governed by the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 12.5. The exclusive venue for all disputes arising from or in connection with the contractual relationship between the Parties is Augsburg, Germany.
- 12.6. Should one or more provisions of this Agreement be or become invalid, this shall not affect the validity of the remaining provisions hereof. The Parties shall work together in order to replace invalid provisions with valid provisions that come as close as possible to the invalid provisions. The same applies in case of a gap in this Agreement.

### Schedules

- 1) Support and Service Levels
- 2) Agreement on Commissioned Data-Processing



Schedule 1

## Support and Service Levels

### 1. Availability

The availability for provision of the Software as a SaaS/Cloud application is 99% per year. This availability relates to making the Software available as a SaaS/Cloud application at the internet interconnection point of the data center where the server is located on which the SaaS/Cloud application is hosted. The availability does not relate to the accessibility of the servers and/or access to the Software as a SaaS/Cloud application since this takes place via the internet.

qbilon is entitled to perform maintenance work on the Software as a SaaS/Cloud application once a week for a period of one hour that is not taken into account when determining the above-mentioned availability provided such maintenance work is announced to the Customer in advance. Maintenance work shall preferably be performed outside the Service hours.

### 2. Notification of Faults

The Customer may provide notification of faults in the Software to qbilon using the following communication channels:

- via e-mail: [support@qbilon.io](mailto:support@qbilon.io)
- via a ticket system: <https://www.qbilon.io/support>
- via telephone: +49 821 71 04 09 70 (during the Service Hours mentioned in No. "3.")

### 3. Service Hours

Service hours are Monday - Friday (except for public holidays in Bavaria) between 09:00 hrs and 17:00 hrs. During these service hours qbilon shall accept notifications of faults relating to the Software from the Customer.

### 4. Response Times

qbilon shall respond to notifications of faults within 48 hours during service hours and shall provide a status notification to the Customer.

Schedule 2

## Agreement on Commissioned Data-Processing

### Preamble

This Schedule sets out in detail the obligations of the contracting parties as regards data privacy protection that arise from the commissioned data-processing described in detail in the relevant main Agreement. This Schedule applies to all activities in connection with this Agreement, where employees of the Contractor or persons commissioned by the Contractor process personal data (“Data”) of the Principal.

### Sec. 1 Subject-Matter, Duration and Specification of Commissioned Data-Processing

The subject-matter and duration of the commission as well as the nature and purpose of the data-processing are set out in the Agreement. In particular, the following data constitutes an integral part of the data-processing:

Type of data	Nature and purpose of data-processing	Categories of data subjects
Technical data and features of the “IT Landscape Assets” retrieved and/or captured by qbilon connectors (“Data Source Connectors”)	<ul style="list-style-type: none"> <li>• Core functions of qbilon Software: Capture and analysis of hybrid IT landscapes</li> <li>• Anonymized access figures</li> </ul>	Technically responsible employees of Assets
Data for identification of communications	<ul style="list-style-type: none"> <li>• Log analysis</li> <li>• Anonymized access figures</li> </ul>	Communication partners
Employee master data	<ul style="list-style-type: none"> <li>• Authentication</li> <li>• Authorization</li> </ul>	Solely employees and other persons who interact with the system

The term of this Schedule depends on the term of the Agreement unless further obligations arise from the provisions in this Schedule.

### Sec. 2 Scope of Application and Responsibilities

- (1) The Contractor processes personal data having been commissioned by the Principal. This includes activities that are specified in the Agreement and in the specifications of performance. The Principal bears sole responsibility for compliance with the statutory provisions of data privacy laws within the context of this Agreement, especially for the lawful nature of the transfer of data to the Contractor and for the lawful nature of the data-processing (“Controller” in the sense of Art. 4(7), GDPR).
- (2) Instructions shall initially be set out in the Agreement and may then be amended, supplemented or replaced by the Principal by individual instructions in written or electronic (text) form at the place indicated by the Contractor (Individual Instruction). Instructions not provided for in the Agreement shall be treated as a request for a modification of performance. Verbally issued instructions shall be confirmed promptly in writing or in text form.

### Sec. 3 Obligations of the Contractor

- (1) The Contractor may process data relating to data subjects solely within the context of the commission and the instructions issued by the Principal, unless there is an exceptional case in the sense of Art. 28(3)(a), GDPR. The Contractor shall inform the Principal promptly if it believes that an instruction is in breach of applicable laws. The Contractor may suspend implementation of the instruction until the instruction has been confirmed or amended by the Principal.
- (2) Within its area of responsibility the Contractor shall organize its operations so that they are in accordance with the particular requirements of data protection law. The Contractor shall take technical and organizational measures for the appropriate protection of the Principal's data, that meet the requirements of the GDPR (Art. 32 GDPR). The Contractor shall take technical and organizational measures that ensure the long-term confidentiality, integrity, availability and reliability of the systems and services relating to the processing. The Principal is aware of such technical and organizational measures and shall bear the responsibility for such measures providing an appropriate level of protection regarding the risks of the data to be processed. The Contractor is entitled to modify the security measures taken; however, the contractually agreed level of protection must be upheld.
- (3) The Contractor shall support the Principal, insofar as agreed and insofar as possible, in responding to the queries and in satisfying the claims of data subjects under Chapter III GDPR and in complying with the obligations set out in Arts. 33-36 GDPR.
- (4) The Contractor warrants that the employees involved in processing the Principal's data and other persons working for the Contractor are not permitted to process the data beyond the bounds of the instruction. The Contractor also warrants that the persons authorized to process the personal data have assumed a confidentiality obligation or are subject to an appropriate statutory duty of confidentiality. The confidentiality obligation shall survive beyond the end of the commission.
- (5) The Contractor shall notify the Principal promptly if it becomes aware of breaches of the protection of the Principal's personal data. The Contractor shall take the necessary measures to secure the data and to reduce potential detrimental consequences for data subjects, and to this end shall consult with the Principal promptly.
- (6) The Contractor shall notify the Principal of the contact person for data privacy issues arising within the context of the Agreement.
- (7) The Contractor shall ensure compliance with its obligations under Art. 32(1)(d) GDPR to set up a process for regularly verifying the effectiveness of technical and organizational measures for ensuring the security of the processing.
- (8) The Contractor shall correct or erase the data constituting the subject-matter hereof upon the instruction of the Principal, provided this is within the scope of the instructions. Where erasure or a corresponding restriction of data-processing under data protection law is not possible, the Contractor shall destroy data media and other material in accordance with data protection law on the basis of an individual commission issued by the Principal or shall return such data media to the Principal, unless the Agreement already stipulates this. (Please note: the Parties may agree on a remuneration provision in the Agreement.) In certain cases to be determined by the Principal, data media shall be kept and/or handed over; the relevant remuneration and protective measures shall be separately agreed unless they are already set out in the Agreement.
- (9) Data, data media and all other material shall be either surrendered or erased at the Principal's request after the commission ends.
- (10) If claims are made against the Principal by a data subject regarding claims based on Art. 82 GDPR, the Contractor shall support the Principal to the extent possible in defending itself against the claim. (Please note: the Parties may agree on a remuneration provision in the Agreement.)

### Sec. 4 Obligations of the Principal

- (1) The Principal shall inform the Contractor promptly and fully if it discovers errors or irregularities in the results of the commission that relate to the provisions on data privacy protection.
- (2) If recourse is had against the Principal by a data subject regarding claims based on Art. 82 GDPR, Sec. 3(10) hereof shall apply accordingly.
- (3) The Contractor shall inform the Principal of the contact person for data privacy issues arising within the context of the Agreement.

### Sec. 5 Inquiries made by Data Subjects

- (1) If a data subject addresses the Contractor with claims for correction, erasure or information, the Contractor shall direct the data subject to the Principal insofar as the matter can be attributed to the Principal based on the information provided by the data subject. The Contractor shall promptly forward the inquiry made by the data subject to the Principal. The Contractor shall support the Principal to the extent possible if instructed to do so, insofar as agreed. The Contractor is not liable where the inquiry made by the data subject is not answered, not answered correctly or in due time by the Principal.

## Sec. 6 Proof

- (1) The Contractor shall present appropriate proof of compliance with the obligations set out herein to the Principal.
- (2) Should inspections by the Principal or an inspector it commissions be necessary in an individual case, such inspections shall be conducted upon prior appointment during normal business hours without disturbing operations, while providing reasonable advance notice. The Contractor may make such an inspection subject to an appointment with reasonable advance notice and on signing of a confidentiality declaration regarding the data of other customers as well as the technical and organizational measures established. If the inspector commissioned by the Principal is in competition against the Contractor, the latter is entitled to raise objections to the inspector. The Contractor may charge a fee for providing support during an inspection conducted, insofar as agreed in the Agreement. As a matter of principle the expense of an inspection is limited to one day per calendar year.
- (3) Should an authority supervising data privacy protection or another sovereign supervisory authority of the Principal conduct an inspection, as a matter of principle para. 2 above shall apply accordingly. It is not necessary to sign a confidentiality obligation if the supervisory authority is subject to professional or statutory confidentiality obligations a breach of which is punishable under the German Criminal Code (*Strafgesetzbuch*).

## Sec. 7 Subcontractors (Other Processors)

- (1) The use of subcontractors as other processors is only permissible with the prior consent of the Principal.
- (2) Subcontracting subject to consent arises where the Contractor delegates to subcontractors the performance agreed in the Agreement, in whole or in part. The Contractor shall enter into agreements with such third parties to the extent necessary in order to ensure appropriate data privacy protection and information security measures. The Principal agrees that the Contractor may avail itself of subcontractors. The Contractor shall inform the Principal before availing itself of or replacing subcontractors. The Principal may raise objections to the amendment - within a reasonable set period - for good cause - with the office designated by the Principal. If no objections are raised within the set period, consent to the amendment shall be deemed granted. If there is good cause under data privacy protection law and insofar as the Parties are unable to agree on a solution, the Principal shall be entitled to terminate the Agreement (as an option).
- (3) Where the Contractor commissions subcontractors, it shall transfer its data privacy protection obligations hereunder to the subcontractor.

## Sec. 8 Obligations to Provide Information, Clause on Written Form, Choice of Law

- (1) Should data of the Principal be jeopardized at the Contractor's by attachment or seizure, by insolvency or settlement proceedings or by other occurrences or measures taken by third parties, the Contractor shall promptly notify the Principal accordingly. The Contractor shall promptly notify all persons responsible in this connection about the fact that data sovereignty and ownership lie solely with the Principal as the "Controller" in the sense of the GDPR.
- (2) Amendments and supplements to this Schedule and all its integral parts - including any assurances given by the Contractor - must be agreed in writing or in electronic form (text form), including an explicit reference to the fact that it is an amendment and/or supplement to these provisions. This also applies to a waiver of this clause requiring written form.
- (3) Should contradictions arise, the provisions of this Schedule on data protection shall take precedence over the terms of the Agreement. Should individual provisions of this Schedule be invalid, this shall not affect the validity of the remaining provisions hereof.
- (4) German law applies.

## Sec. 9 Liability and Damages

The Principal and the Contractor are liable in relation to data subjects in accordance with the provisions of Art. 82 GDPR.