

## 1. Scope of Application

These standard terms of sale and service (**hereinafter the "ToS"**) shall apply between Libertify (a French *société à responsabilité limitée* with capital of €15,155, having its registered office at 118 rue Lauriston, 75016 Paris, registered with the R.C.S. of Paris under 880 473 459) or any successor company that may be substituted for it (**hereinafter "Libertify", "Provider", "we", "us", or "our"**) and the company placing an Order for use of the Service, for business purposes only (**hereinafter "Customer", "you" or "your"**).

Upon placing an Order, first use of the Service, or connecting to the Platform, you are deemed to have read and understood these ToS in their entirety, as they exist at the time of such action, and to expressly and unconditionally agree to be bound by them.

Accordingly, you agree to comply without restriction with these ToS, and to ensure compliance with same by your Users or any other person for whom you are responsible. You therefore waive any right to assert the non-enforceability of these ToS.

These ToS, together with the contract documents listed below, form an agreement between us and you, as regards the Service covered by your Order (**hereinafter the "Agreement" or "Subscription"**).

## 2. Purpose

The purpose of these ToS is to govern the general terms and conditions of use of the Service offered by us. The Order shall specify the period, price, and scope of the Subscription as per the Offer, and any possible requests by you for optional and/or additional Software-Powered Services and/or Human-Powered Services.

## 3. Warning

**3.1. Standard Service and Platform.** You acknowledge that you have freely decided to subscribe to our Service, and that you have read and understood the Catalogue of Features of the Platform and Application Services, and the technical conditions of use, before placing an Order.

You represent having received all necessary precontractual information and entering into this Agreement in full knowledge of the restrictions and constraints in connection with the Service and the Platform.

You are informed that the Service is offered as a standard Service and is therefore designed to meet the needs of as many customers as possible. It is therefore up to you (i) to ensure, before placing an Order and under your own responsibility, that it meets your requirements; and (ii) to adapt, as necessary, your organization and processes to the Service; or (iii) to request a quotation, where appropriate, for the supply of optional or "custom" Services offered by us. Accordingly, no cancellation or refund of the Order will be accepted, unless otherwise expressly provided for in the ToS or with our specific written consent.

### 3.2. Checking requirements by Customer, no warranties by Libertify.

Neither Libertify, nor the Platform, assume your duty of care, verification, and diligent checking, nor your professional expertise, in relation to your own Data or Platform-Generated Content. We have neither the knowledge, nor the ability, nor even the ambition, to verify the relevance and completeness of the informational content of the Generated Data and Content. The purpose of the Libertify Service is to technically ensure secure remote access to the Platform to enable you and your Users to use the application Services and Features as per the Documentation. The Platform uses AI to automate processes and offers "tools" to you that you can use for your business activity should you so wish. Neither the Platform, nor Libertify, carry out any prior or

subsequent verification nor validation: all Data, and all Generated Content needs to be checked and validated by you and your Users at your sole risk and liability.

## 4. Contract documents

All Orders are subject to the application of the following contract documents, listed in decreasing order of priority:

- ToS
- Libertify Offer / Proposal

In the event of conflict or question of interpretation between the contract documents, the higher-ranking document shall be controlling.

In the event you transmit a set of specifications to Libertify for a Specific Development request, functional specifications and/or "project" documentation may be prepared by Libertify or by a Publisher: in such case they shall be controlling over your set of specifications for the relevant product or Service.

Your terms of purchase or sale and those of your Users are expressly excluded from the contractual scope.

## 5. Definitions

The terms and expressions defined below have the following meanings when used in the contract documents, whether in the singular or plural. These definitions may be supplemented in the sections to which they refer, or in the Order:

**Agreement:** refers to the contract documents binding the Parties as regards the Service and Human-Powered Services covered by the Order, including those restrictively listed in the "Contract Documents" section.

**AI:** refers to the Platform's AI functionality for the algorithmic and automatic generation and management of Content and other Software-Powered Services.

**Avatar:** refers to the virtual character you choose to graphically represent one of your Users based on a Photo or a sound recording, input into the Platform as "Data".

**Back-Office:** refers to the Platform's administrator interface that can be accessed by you and your internal Users to obtain access to the remote Service.

**Catalogue:** refers to the list of Features, Standard Content, Connectors and other available products, standard or customized, under the Service, whether included or not in the Subscription, or available as optional add-ons depending on the number of Credits.

**Chatbot:** refers to the Platform's AI-powered conversation tool used to generate automatic Responses.

**Connectors or APIs:** refers to programming interfaces that may be offered in the Catalogue as a Feature.

**Credit:** refers to a unit of measurement for calculating Subscription fees and Features ordered (as a "package" or individually). Credits not used are carried over to the following month, up to a limit of six (6) months (or other duration agreed in the Order), as long as the Subscription is still active. Credits are automatically counted by the Platform. Back-Office tracking is available. Credits not used by the end of the Subscription will no longer be valid. All Credits ordered are due in full.

**Customer/you:** refers to the legal entity which, for the sole purposes of its business requirements, uses the Service and is identified as such in the Order.

**Data:** refers to any and all documents, information, content, Photos, Prompts, and data of Customer and Users, regardless of the medium, transmitted, stored, published, imported by you and a User on the

Platform, under your sole risk and liability, for processing as part of the Service. Data originating from you is the only informational source of the Generated Content. Unless the Data is transmitted in the requested format (pdf, html page, json, e-mail), quality, and quantity, we will be unable to provide the Service.

**Documentation:** refers to all demos, media, Catalogue(s), information and documents of any type and in any paper or electronic format regarding the Service and the Platform, which you can access from our website, on the Platform, or on request.

**Environment (Customer):** refers to the IT system, the IT Environment, hardware, software and network you and your Users use for the Service.

**Experience or "AI Ready":** refers to an audio-visual sequence made up of information, documents, texts, images and animations, including the Avatar, whose content and duration are entirely checked and validated by you before it is made accessible, from your Environment and outside the Platform, to your external Users.

**Features:** refers to the features, products, Software-Powered Services, applications, Generated Content and, more generally, all of the devices offered in the Catalogue and corresponding to a number of Credits. All or some of these Features can be included in your Subscription, or offered as individual modules (Optional Add-On), depending on the subscription chosen.

**Generated Content:** refers to content generated automatically by you using the Platform's AI tools, from a data source exclusively comprising Data originating from you and/or your Users. The typology, number and volume of Generated Content included or not in the Subscription or on an individual optional basis, are specified in the Order. This may correspond in particular to: an Avatar, an Experience, a Response or a "quiz". All Generated Content is fully checked and validated by you and your Users, under your sole risk and liability.

**Human-Powered Services:** refers to the intellectual services and human interventions carried out by us on an optional basis as part of the Service (such as specific development or customization services, if so provided by the Catalogue or the Order).

**Initial Term:** means the minimum commitment period of the Subscription during which you may not cancel the Subscription, unless you pay us an early termination fee equal to the amount of the Subscription through to the initially agreed term. By default, the Initial Term is three (3) months during the Trial, or, in the absence of a Trial, one (1) month for the monthly Subscription, or twelve (12) months for the annual Subscription, unless otherwise provided in the Offer.

**Interaction:** refers to the real-time exchanges during a Session between a User and the Platform Chatbot, which provides one (1) Response per Prompt.

**License:** refers to the rights of remote access and use of the Platform in SaaS mode, granted to you by Libertify, allowing you to provide your Users with the benefits thereof, within the limits and conditions set forth in the Agreement.

**Login Credentials:** refers to the personal and confidential login credentials provided to you by Libertify, and by you to each authorized User under your responsibility, providing access to the Platform and the Service.

**Offer (Proposal or Quote):** refers to our (technical and/or commercial) proposal, made available by any means, detailing the Service, the Subscription plan, the number of Credits and associated Features included or not, which may take the form of a quotation in paper or pdf format, or of a 100% online subscription offer on our [www.libertify.com](http://www.libertify.com) website, on the Platform, or other dedicated platform.

**Order:** refers to your Subscription to the Service, as per the terms and conditions offered by Libertify. To formalize your Order, you can sign it electronically or manually, or place it 100% online from our website / the Platform. If, at the end of the Trial, you continue to use the Platform, or have not given timely notice of your decision not to continue with your

Subscription, the Order shall be firm and final for the Initial Term, as per the 1<sup>st</sup> level Offer, without any other formality being required.

**Party(ies):** refers to Libertify and Customer taken individually or collectively, which are the sole parties to the Agreement, to the exclusion of Users, Publishers and any other third parties.

**Personal Data:** refers to you and your Users' Personal Data, within the meaning of applicable data protection legislation (GDPR and French laws).

**Photo:** refers to the image of a User, imported to the Platform by you, to create an Avatar. For the purposes hereof, a Photo is a piece of "Data". However, photos/images/voices chosen by you from among the standard models in our database form an integral part of the Platform and are not "Data".

**Platform:** refers to our SaaS solution covered by the Agreement, based on AI and "machine learning" ("ML") tools and implementing the Service remotely accessed by you and your Users from the Environment and on the Territory, depending on the Subscription taken out.

**Prompt:** refers to the prompt put to the Chatbot by a User, during a Session, which counts as an Interaction if it elicits a Response. For the purposes hereof, a Prompt is a piece of "Data".

**Publisher:** refers to the third-party company marketing and operating certain software packages, software, bricks and components used in the Service. For example, the Platform integrates components from third-party Publishers.

**Response:** refers to the response given by the Chatbot to a Prompt by a User during a Session, generated automatically based on all Data sets previously submitted by you at time T.

**Service (SaaS):** refers to the standard service allowing, via a Subscription or an Order for an Optional Add-On, remote access to the functions offered by the Platform, as per the contractual thresholds (including the Features and the number of Credits) provided in the Catalogue and in the Offer, as per the License.

**Session:** refers to the period indicated in the Order, during which you are authorized to provide your external Users access to the Experiences and Interactions (or other applicable Features) via the technical arrangements proposed by us.

**Specific Developments:** refers to software developments, configurations, settings, Connectors created specifically by us either as part of the set-up fee or as an option, depending on the Offer. By default, Specific Developments are not subject to any transfer of ownership to you, unless expressly provided otherwise in the Order.

**Subscription:** refers to the flat-rate subscription taken out upon placing the Order for access to the Platform, and to Features corresponding to a number of Credits predefined in the Offer. Features not included in the Subscription are always available as Optional Add-Ons.

**Trial:** refers to the period whose duration is indicated at the time of the Order, during which you have access to the Service should you wish to test it.

**User:** means (i) "internal" Users exclusively composed of employees of your organization who have Back-Office access, on this basis, to the Service from and (ii) "external" Users authorized by you to have temporary access to the Experiences so as to take part in the Interactions (thanks to an iframe webpage and a URL communicated to you, or through any other technical means of our choice). Internal and external Users are referred to collectively as "Users" in these ToS.

## 6. ORDERING PROCESS

You subscribe to the Offer as per the terms and conditions proposed by us at the time the Order is placed. It is specified that the Back-Office is an operational tool that also permits making changes to your Subscription depending on the Offer taken out, or else placing an Order for new individual Features. No change shall be effective until the end of the Initial Term or the 1<sup>st</sup> day of the following month, depending on

what is indicated on the Platform when the request is made.

## 7. Description of Libertify service

**7.1. Trial.** You have the choice of having access to the Service to test it before committing to a Subscription, for a fixed and final period indicated in the Order. Once the Trial ends, you will be automatically subscribed for the Initial Term, unless you give notice at least seven (7) business days before the scheduled end date, via the Back-Office, of your decision to the contrary.

Alternatively, if you choose to Order a Subscription without a Trial, this decision cannot, under any circumstances, be used as grounds to request cancellation of your Subscription, including if the Service does not meet your needs

In all other cases, we shall send you, by any means, a notice of commissioning of the Platform, on the basis of which the Service is activated as per the Subscription. If not, the Service is deemed to be activated on the same day as the Order for the Initial Period.

**7.2. Method of access.** Remote access is carried out using the Login Credentials which you independently create, assign, and activate in your Back-Office. If you do not activate the Login Credentials and/or do not grant access to the Users specified in the Order, for reasons ascribable to you, you will still be required to pay the full amount agreed upon in the Order. It is the responsibility of each Customer/User to change their password if they wish. In such a case, you guarantee, on your own behalf and that of your Users, that the new password is sufficiently complex to prevent any unauthorized access by third parties. You must maintain the confidentiality of the Login Credentials and passwords and ensure that your Users do likewise. To ensure Data security, Login Credentials and passwords can only be used to permit your authorized Users to access the Software-Powered Services. Login Credentials and passwords must not be shared with third parties. You are solely and fully responsible for the use and confidentiality of the Login Credentials and passwords. In general, you assume full responsibility for the security of individual workstations and all devices accessing the SaaS Service. In the event you become aware of or suspect unauthorized access to the SaaS Service and/or in case of loss or theft of the Login Credentials, you must put an end to the unauthorized action, immediately cancel the affected Login Credentials, and generate new ones via your Back-Office, it being specified that we may limit the renewal of Login Credentials if we suspect misuse of the Service. Such a situation may also constitute negligence on your part, which may warrant suspension of the Service, or even termination of the Agreement for breach exclusively attributable to you, in application of the provisions of the Agreement.

## 7.3 Operation of the Subscription, Credits and Features

**7.3.1. Standard Software-Powered Services and Features included in the Subscription.** Subject to changes to the Service and updates of the Catalogue at the time of the Order, the Platform allows: (i) loading Data onto the Platform, to constitute the exclusive source of the Generated Content, subject to compliance with the number, format, and technical and informational characteristics required by us and/or agreed in the Order; (ii) creating Experiences based on your own Data (Once validated by you in Back-Office, the Experience generated is "fixed" and deducted from your Credit consumption. The arrangements whereby you implement the Experience in your information system / Environment and share it with your Users, take place outside the Platform and under your sole liability); (iii) opening Sessions, presented by an Avatar of your choice, for your external Users to participate in and carry out Interactions (A Session is automatically deactivated when the

contractually defined period elapses. At the end of a Session, no User will continue to have access to the Platform, unless you have placed an additional Order); (iv) accessing Back-Office dashboards and statistics presented ergonomically; (v) accessing Features depending on their availability in the Catalogue as specified in the Offer and the Order or unblocked from the Platform.

In a general way: Generated Content is created based on the Data sets loaded by you, to the exclusion of public sources and in particular the Internet. Except for Responses, all Generated Content is previously controlled, checked, and validated by you; only some Generated Content benefits from the "publish", "import", "export" or "copy/paste" feature. As applicable, you may implement them in your own Environment, tools, and information systems of your choice. External Users shall never have direct access thereto from the Platform, except if you decide to share them with such external Users, through your own means and at your sole risk and liability.

The Software-Powered Services and Features included in the Subscription are indicated in the Order, depending on the Subscription basis chosen. In case Features are added, or changes are made to the Software-Powered Services and Features (e.g. to add Experiences; provide for Connectors; order support tickets for User assistance, etc.), you must purchase additional Credits. Credits cannot be offset against each other.

It is specified that we are a technical service provider which is in no way involved in the contractual relationship between you and the Users and disclaim any and all liability in this respect. If, during the course of the Service and for the purposes of the Agreement, we are exceptionally required to have direct contact with Users, such contact shall only be made in your name and on your behalf.

**7.3.2. Hosting and maintenance.** As a SaaS Service, the Platform is and will remain hosted on our shared servers (or those of our technical sub-processors) in the Cloud. We shall make our best efforts to ensure that the Platform is available 24 hours a day/7 days a week, with a target monthly availability rate of 99.00%. In this respect, we shall ensure the technical and application maintenance of the Platform. Technical maintenance work may disrupt the use of the Service, but we will do our best to minimize any inconvenience caused. We may also carry out updates and version upgrades at our discretion to fix detected bugs, or to add or modify certain features and Software-Powered application Services. You may not refuse to use or deploy an update or a new version, which, except in rare cases, are mandatory. In the event of refusal, you acknowledge and accept that the maintenance Service will no longer be provided or, subject to our explicit agreement, will only be provided for the last version released within the past three (3) months, with potential risks of regression or Service degradation.

## 8. Optional Software-Powered/Human-Powered Services

All Software-Powered Services and Human-Powered Services not offered on a standard basis and/or which exceed the scope specified in the Order are, by default, considered "optional". The examples given below are indicative. If they are not offered on a standard or optional basis, or if they fall under the exclusions provided for in the ToS, they are, by definition, excluded from the Catalogue and cannot be provided. You are invited to contact Libertify for any requests related to this. The number of Credits applicable to each additional Service or product is specified in the Catalogue, in the Offer, or upon simple request. The terms applicable to these Optional Human-Powered/Software-Powered Services will be subject to a specific agreement between the Parties and will remain subject to these ToS.



Examples of these optional Services include the Human-Powered "support" Services that may require us to intervene remotely to correct a reproducible bug via the agreed ticketing tool, as per the terms specified in the Offer; Human-Powered integration Services that may require us to provide Human-Powered support Services, advice, warnings, technical or operational assistance; Human-Powered Specific Development Services that may require us to create new Platform modules.

## 9. TERM

**9.1. Initial Term.** All Offers shall be subscribed for a fixed period. The length of your commitment, the package of Features, and the number of applicable Credits shall be specified in the Offer, depending on Catalogue availability on the date of the Order. Throughout the Initial Term, you agree to pay the agreed flat-rate Subscription. Credits included in your Subscription are automatically recharged from month to month in case of an annual Subscription or of an automatically renewable monthly Subscription, even if the Credits of the previous month have not been used up. They will remain valid for a further six (6) months and will be added to the current ones. If Credits are exhausted, you can always switch to the next higher Subscription plan or place an Order for new Optional Add-on Credits. When you take out a new Subscription, the Initial Term will start to run once again from the date of your Order. When you purchase new Optional Add-on Credits, but without changing your Subscription plan, the Initial Term remains unchanged.

**9.2. Automatic renewal / Notice of Termination.** At the end of the Initial Term, your Subscription is automatically renewed for the same Initial Term, unless you give notice at least seven (7) days before expiration of the agreed term, via the Back-Office, of your decision to terminate it. Receipt of this notice shall be confirmed by any means, on average within twenty-four hours (24h). Absent confirmation, you will need to follow up by resending this notice immediately. Only the date indicated on our acknowledgement of receipt of your notice is valid. The same terms shall apply to all Renewal Periods. Early termination of the Agreement during the Trial or the Subscription shall not give rise to any refund or credit and shall require you to pay us the full value of your Order through to the initially agreed term. In all cases of renewal, the Agreement shall remain a fixed-term Agreement for the same duration as the Initial Term, by mutual agreement between the Parties, by express waiver of section 1214 of the French Civil Code.

**9.3. Suspension.** We may temporarily suspend access to the Platform and to the Services at any time and without any formalities being required, or give notice of termination of the Agreement, by giving prior notice of at least fifteen (15) days, in case you fail to comply with any of the provisions of the Agreement, and in particular in case of non-payment of the Order, breach of the License, or any infringement whatsoever of the Platform, by you and/or your Users, without prejudice to any damages that may be claimed by us on this basis. Termination of the Agreement under the above conditions shall automatically end the License and access by Users, without you or the Users being entitled to any compensation on this basis.

**9.4. Termination for breach.** Unless expressly provided otherwise in the Agreement, either Party may terminate the Agreement in case of contractual breach upon prior notice sent by registered mail with delivery confirmation at least fifteen (15) days before the date of termination. The termination will have effect for the future only (regardless of whether the word "résolution" or "rescission" is used in French), which means that no refund or return would be accepted. In case of material breach, compromising the security of the Platform or involving unlawful Data for instance, Libertify will have the right to terminate the Agreement immediately and without prior notice.

**9.5. Reversibility.** For a period of one (1) month after the end of your Subscription for whatsoever reason, you may retrieve a copy of your Data from the Platform, in a standard format and free of charge, either directly from the Platform, or upon request to us. Beyond that period, we may elect to invoice you for reversibility assistance at our then current rate, based on a prior Offer. Your ability to export/export/retrieve your Data is without prejudice to the rights granted to us under the "Reuse of Generated Data and Content" section of these ToS. It is agreed between the Parties, in all circumstances, that we shall delete your raw Data within three (3) months of the end of the Subscription.

Generated Content for which the "export", "import" or "copy/paste" feature is available (using a dedicated button on the Platform), will have to be exported/imported/copied during the Subscription. Otherwise, we do not warrant that they will still be accessible once the Back-Office is closed.

## 10. RESTRICTIONS ON USE/SERVICE LIMITS

The Platform and the Software-Powered application Services seek to enhance the "customer experience" of external Users, by simplifying and synthesizing the topics and themes addressed in the Data applicable to your field of activity (via Experiences in particular) and by cultivating relationships and communication (via Sessions and Interactions in particular).

However, we in no way warrant that the Platform, the Service, and the Generated Content will be free from errors, inaccuracies, or omissions, nor that your intended objectives, performance, or results will be achieved.

This is especially the case since:

- The Generated Content, including the Responses, is produced using the Data provided by you and your internal Users, in respect of which we do not carry out any prior screening or checks.
- You are systematically required to validate the Generated Content, except for real-time Responses, before they are made available to your external Users;
- You agree not to take, and to ensure that your Users do not take, the slightest decision, or rely on the Responses, without carrying out additional analyses and checks with official sources or obtaining support from the specialists of your choice.

Neither the Platform, the Service, nor the Generated Content shall be construed as providing advice, analyses, assessments or opinions, nor as a substitute for the skills and experience of you and your Users, nor as being responsible for ensuring compliance with professional and legal obligations by you and your Users.

Accordingly, any use and/or implementation whatsoever of Generated Content, is a matter to be decided by you and/or your Users alone, and in respect of which we disclaim any and all liability.

We do not provide any advisory, and/or legal, and/or regulatory support service.

In the event Responses contain advice or recommendations, depending on the nature and type of Prompt, Users should not rely on such advice or recommendations without first verifying it, or should do so at their own risk and peril, in full knowledge of the limitations of a standard AI-powered Service.

We do not warrant that our Platform and Service operate and will continue to operate without interruption, despite all reasonable efforts to provide quality service.

We also do not provide any remote or in-person training. By placing an Order, you (i) acknowledge having received all necessary information, either during the Trial and through the Documentation, or through your own research, (ii) and commit, on your own behalf and that of your Users, to using the Service in a completely independent manner.

It is explicitly brought to your attention that you are also responsible for protecting against the risk of destruction or deterioration of your files or programs. The hosting of the Platform and of the Data by Libertify or its partners in no way exonerates you from having to make regular backups of your own Data, whether on-premises or off-site, either on your own or through a qualified professional. If your Data is particularly strategic, or involves a large volume of Personal Data, you are strongly advised to use backup, restoration and retrieval solutions adapted by computer backup professionals, to guard against the risks of unavailability, damage or loss of your Data in respect of which we decline any and all liability.

## 11. INTELLECTUAL PROPERTY

**11.1. Standard SaaS license.** You acknowledge and accept that none of our ownership rights are conveyed to you under this Agreement to our Platform, Software-Powered Services and Human-Powered Services, with the sole exception of Generated Content for which the "export", "import" or "copy/paste" feature is available (via a dedicated button on the Platform), as provided in Article 11.2 below.

Subject to your compliance with the provisions of this Agreement and in particular payment of all amounts owed, we grant you a personal, nonexclusive, non-assignable and nontransferable right to access and use the Platform and the Software-Powered Services remotely, in SaaS mode, under the conditions set forth below, from the Territory and for the term of the Agreement.

By exception, some Customers may be authorized to monetize access to the Experiences and Interactions, or to other Features, with their external Users: the operational and financial terms applicable in this specific case will be set out in a dedicated Offer proposed by Libertify.

Specific Developments, configurations, adaptations, interfaces, patches, updates and new versions provided as part of the Service, are also subject to this License.

The right of use includes the right for you to use the Platform and the Software-Powered Services remotely, from your Environment and those of your Users within the limits of the License subscribed, namely:

- By your Users for Back-Office access the Service, under your responsibility;
- By your external Users to access the Experience from the Customer Environment;
- By your internal and external Users to participate in Sessions, via the technical means proposed by Libertify;
- Within the limit of the number of Users and the volumes indicated in the Order;
- Within the limit of any other contractual thresholds that may be indicated in the Order (number of Generated Content, number of Credits, etc.);
- Within the limit of the authorized access time for Generated Content by External Users.

You shall name, from among your internal Users, a main administrator of the Agreement and of your Back-Office to whom Login Credentials shall be given.

By taking out a License, you agree not to directly or indirectly infringe our rights or those of our partners, and in particular not to:

- Copy or reproduce the Platform in whole or in part;
- Assign, lend, rent, license or sub-license the Platform, whether free of charge or against payment, or to exploit it commercially, without prejudice to the right of access and use granted to authorized Users;
- Decompile, disassemble or otherwise attempt to reverse engineer the source code of the software made available;
- Modify, translate, arrange or create derivative works from the Platform;
- Make any corrections or modifications to the Platform, or offer related services to Users such as maintenance, support, training, etc. Only we, our assigns or authorized sub-processors have the right to enhance or in any way modify the Platform or the Software-Powered Services, and/or offer associated services, including for the purposes of maintenance or error correction;
- Modify the Platform's programs or interfaces, including to fix errors that may affect the Platform and the Software-Powered Services, inasmuch as the right to correct such errors is reserved to us;
- Reproduce or translate the code (even if you shall have no access thereto under any circumstances) in view of obtaining the information necessary to the interoperability of the Platform and its components, with other independently developed software;
- Attempt, or permit your agents, Users, or any third party to take any of the above actions;
- Remove Credits such as "powered by Libertify" identifying us as the designer.

Unless the Parties have entered into a specific agreement authorizing you to monetize access to some Features, you are prohibited from receiving any license fees or other forms of remuneration in consideration of access to the Platform from Users, it being specified that any service offer to third parties other than the Users is strictly prohibited.

### 11.2. Physical ownership of the copy of some Generated Content.

The physical medium of each Generated Content for which the "export", "import" or "copy paste" feature is available on the Platform, shall become your physical property upon payment in full of the agreed price. You will assume responsibility for this issue in your relationship with your Users, if you wish to retain ownership or organize a right of use with them, with the express guarantee that the arrangements made will in all cases permit us to use and reuse them as per the Agreement and will not infringe our intellectual property rights.

You acknowledge and accept that similar Generated Content (including the Experience), using the same format, the same structure, and the same model, will be offered to other customers of the Platform as having been designed and produced using standard predefined standard features from its Catalogue. Background and information content may also be similar, depending on the datasets transmitted by other customers.

**11.3. License to use third-party Publisher solutions and Features.** If the Platform / Service includes components from third-party Publishers, you shall comply with the terms and conditions set out in

the applicable user license of the third-party Publisher concerned. If that license, depending on the third-party Publisher, appears directly on the User's screen, you acknowledge and accept that if the User does not accept the license terms, User may not use the relevant software or platforms, and shall not have any right to compensation or refund of the Order. No right other than those covered in the third-party license is granted to you.

You acknowledge and accept that, in a general way, some Features (such as, for example, the library of standard images and voices proposed to enable you to create an Avatar) might no longer be marketed by third-party Publishers. In such case, we shall make our best efforts to propose equivalent Features but do not guarantee that we will be able to, if the Agreement is still in effect. In any case, you shall immediately cease all use of the elements concerned.

**11.4. Open-Source License.** We reserve the possibility of using solutions, bricks, modules, and libraries under open-source or free licenses. Where applicable, you undertake to comply with any applicable open source or free licenses. These will be made known to you on express request. You warrant that you will familiarize yourself with these licenses and will comply with them in full and that you will hold us fully harmless from and against all of the consequences arising from any violation of the licenses by you or your Users.

**11.5. Reservation of rights.** All rights not expressly assigned by the Agreement are and shall remain the full and undivided property of Libertify, the Publisher or third-party partner, as applicable, and of Customer. In this respect, the Libertify name and brands, as well as, all trademarks, whether figurative or not, as well as illustrations, images, and logos appearing and accessible through the Software-Powered Services, whether registered or not ("Elements"), are and shall remain the property of their respective owners. Any total or partial reproduction, modification, or use of these Elements, for any purpose and on any medium, without the express prior consent of Libertify or the respective owners, is strictly prohibited and constitutes an act of infringement and/or unfair competition or passing off. The same applies to any copyrights, designs, models, and patents. In general, the rights granted by us to you do not extend to the means or tools used by us or the Publisher, whether or not they are subject to specific protection (copyright, patent, trademark, etc.), nor to inventions, processes, know-how used, created, or developed in connection with the service provision, nor to pre-existing works belonging to us, our processors, or third parties

**11.6. License manager and other consumption control solutions integrated into the Platform.** You acknowledge and accept that the Platform is equipped with a monitoring and control solution for Customer and User consumption, as well as real-time connections from the Platform. The recorded results shall be deemed accurate and may be used as grounds for us to require a true-up or to automatically block access to the Platform in the event of non-compliance with the Order, without any right to compensation for you. We may also, on an exceptional basis, conduct a more comprehensive audit of the terms of use of the Software-Powered Services and compliance with the scope of the License and usage thresholds. Without prejudice to our right to terminate the Agreement due to breach by you, any overage identified following this audit shall be retroactively billed by us as per the rates in effect at the time the invoice is issued, and payment shall be immediately due from you.

**11.7. User rights granted to Libertify.** Without prejudice to any other rights contemplated in the ToS, you authorize us to store, host, reproduce, perform/display your content and Data, made available or transmitted by you or a User, as well as the Generated Content, strictly

for the purposes of the Service. You also authorize us to reuse these elements, within the limits and according to the terms agreed in the section "Reuse of Data and Documents of Customer and Users".

## **12. REUSE OF GENERATED DATA AND CONTENT**

You can always find your Experiences (drafts or validated) in your Back-Office during the length of your Subscription. At the end of the Subscription, we shall retain a copy of the Data and Experiences in our databases to enable us to feed the machine learning tools necessary for the Platform's operation. We agree, however, not to disclose Generated Content and Data to other customers or to enable the Data and Generated Content to be directly connected to you or your Users.

Subject to our compliance with our confidentiality and data protection obligations, you authorize us to reuse, during the course of the Agreement and subsequently, irrevocably and without limitation in time, the Generated Data and Content in aggregated form only, in particular to allow us to improve our offerings and to generate reports and statistics, as well as to feed our machine learning tools needed to train the algorithms and the AI, without you, the data subjects, and your Users being directly identified.

This authorization shall survive the end of the Agreement, including in case of termination. You shall be responsible for obtaining the same consent from your Users.

This authorization does not entail any transfer of ownership, including of intellectual property rights (i) over your raw Data or that of your Users to our benefit, (ii) or, reciprocally, over our work and results on the basis of such reuse to your benefit.

To implement this right of re-use and allow us the necessary time to carry out such work, you acknowledge and accept that we will securely store the raw Data and Generated Content for a period of three (3) months following the last transmission or the end of the Agreement, whichever is longer.

This section is without prejudice to our intellectual property rights in and to the Generated Content, which we exploit freely and without restriction, and in respect of which we retain all intellectual property rights.

## **13. RESERVATION OF TITLE**

Any grant of License rights or transfer of ownership rights, as the case may be, will be suspended until we have received full payment of the price (in principal and ancillary costs), regardless of payment extensions. By express agreement, we may enforce our rights under this retention of title clause in respect of any of our claims. We reserve our right to seek compensation for all unpaid invoices, in addition to our right to terminate/rescind current Agreements and pursue legal action for payment. Any cost or expense arising out from this section shall be borne by you. This clause does not prevent the risks of the Agreement from being transferred to you immediately upon the Platform being made available to you.

## **14. FINANCIAL TERMS**

**14.1. Price.** We offer Software-Powered Services at the rates applicable when the Order is placed, and which depend on: the length of the Subscription; number of Experiences; number of Credits consumed by the Interactions; number of internal and external Users; conditions of access to the Service, via a Connector or not; Human-Powered Configuration Services and Specific Developments; and options.



All Orders are firm and final: if you subscribe to Software-Powered Services, Human-Powered Services and options which you do not ultimately use, you will not receive a credit note, price reduction or refund, nor will your consumption be carried forward. If, however, you have consumed more than your usage-based subscription plan, your Subscription will be automatically readjusted and the corresponding price supplement will be automatically billed and due, without the need for an additional Order, based on our metrics and recordings.

You can monitor your consumption from your Back-Office dashboards.

Prices are expressed in Euros, excl. VAT and incl. VAT, and excluding delivery costs. VAT at the rate in effect on the date the Order is placed will be added to the price.

**14.2. Agreement on price revision.** The price of an annual Subscription may be revised yearly, with an increase ranging between 0% and 5%, plus inflation based on the INSEE's metrics for the current year, compared to the rates in effect applied the previous year. This price revision, agreed upon in advance, does not prevent the renewal of the Agreement, which is renewed under the same conditions as previously, except for this revision, as you hereby expressly acknowledge and accept.

**14.3. Terms of payment.** Unless otherwise indicated in the Proposal, we shall issue our invoice on the same date as the Order. The price is payable in cash and in advance, for the entire Initial Term on the date of the Order, then on the first day of each anniversary date in the event of Renewal of "Subscription" plans. Payment is made via secure payment channels, using the means of payment indicated at the time of the Order. **Credits.** Credit packages or single Features will be paid for on the date of the Order and are not refundable, even if not consumed. They may, however, be carried forward for the period indicated in the Catalogue. **True-Ups of Licenses and contractual thresholds.** If the above consumption checks reveal a discrepancy between the price of the Order and the actual consumption of the Platform, to our detriment, we shall issue a true-up invoice, which shall be payable on receipt, based on the metrics recorded by the tools implemented by us. **Electronic invoicing.** We reserve the right to transmit or make available to you invoices in electronic format by any means of our choice.

**14.4. Late payment or nonpayment.** In case of late payment or nonpayment on the payment due date, we reserve the right to suspend, terminate or cancel the Order without any refund of previously paid amounts, 15 (fifteen) days after our unsuccessful final payment notice, and without prejudice to our right to recover the sums due and possible damages. Termination will concern not only the relevant Order but also all previous unpaid Orders, whether or not payment is due. Similarly, where payments are staggered, non-payment of a single instalment will trigger immediate acceleration of the entire debt, whether due or not, without prior formal notice being required. Under no circumstances may payments be suspended or offset in any way without our prior written consent. Any partial payment will be applied first to the non-preferential part of the claim, then to the sums that have been due the longest. No subsequent payment shall extend the Agreement's renewal anniversary date. If an invoice is disputed, payment of the disputed invoice remains due. **Late payment and collection costs.** In accordance with section 441-6 of the French Commercial Code, any amount past due on its payment due date shall carry, without exception, late payment interest at the rate applied by the European Central Bank to its most recent refinancing operation plus 10 percentage points. You shall also be automatically liable to pay a statutory flat indemnity payment for collection costs of an amount of €40 per unpaid invoice. If we have to take legal action to collect

payment, you will be responsible for refunding us for all of the costs incurred, including the fees of court officers. These penalties will be payable on simple request by us.

#### **15. LIBERTIFY'S LIABILITY**

We commit to exercising the utmost diligence, in accordance with best practices, in providing the Service and maintaining the quality of the Platform, based on a duty of best efforts.

We shall only be liable for compensating the financial consequences of damages that are (i) direct, (ii) tangible, and (iii) foreseeable, arising out of proven poor performance (or non-performance) by us of the Service for reasons solely attributable to us.

Under no circumstances shall we incur any liability in respect of:

- Indirect, consequential or unforeseeable damages within the meaning of sections 1231-3 and 1231-4 of the French Civil Code, including, but not limited to, lost profits, commercial loss, loss of sales or profits, loss of customers, loss of an opportunity, inaccuracy or corruption of files or data, the cost of obtaining a substitute solution, software, service or technology and any damage to your property, Environment or Data;
- The relationship between you and your Users;
- The consequences of any breach whatsoever by you or the Users of the ToS and the Agreement, in particular if you or they have engaged in "prompt engineering" to mislead the AI, or if reliance is made on the Generated Content without prior checks or screening;
- Any suspension or interruption of the Service or blocking of the License by us due to your failure to comply with the Agreement;
- Damages falling within the scope of the contractual warranty and liability disclaimers and exclusions;
- The conditions of access to the Internet, telecommunication problems, or any unavailability of the Internet, phone networks, or of the Platform;
- The informational and intellectual content of the Data and Generated Content,
- Damage not covered by any obligation assumed by us under the Agreement or in respect of which we have expressly disclaimed any and all liability;
- Any failure by the Service to comply with your professional, legal or regulatory obligations or those of the Users;
- Total or partial discontinuation of the marketing of the Service, including components of the Platform / Features proposed by third-party Publishers.

Except in cases of gross negligence, wilful misconduct, or personal injury, our entire and aggregate liability per contractual year, all claims combined, shall not exceed the amount we have invoiced you in the 6 (six) months preceding the damage.

For the avoidance of doubt, "aggregate liability" means the limit on our liability per contractual year, which is determined by combining the compensation for one or more claims of damage, whether arising from one or multiple distinct causes, in the year in which the damage occurred.

The limitations and exclusions of liability set out in the ToS reflect a fair balance between our obligations, the maximum aggregate liability we assume in case of claims, and the terms of our professional liability policy. You acknowledge that the price of the Agreement has also been set considering the limitation of liability set forth in this section.

Neither Party shall be liable in case of the occurrence of an event of force majeure as defined in these ToS.

This clause shall survive the invalidity, rescission or termination of this Agreement.

## **16. CUSTOMER'S LIABILITY AND WARRANTIES**

In addition to paying the agreed price, you acknowledge that our ability to provide the Software-Powered Services and fulfil our obligations under the Agreement depends on your compliance with your obligations hereunder, which also apply, mutatis mutandis, to the Users, and you warrant their compliance. Accordingly, our liability cannot be asserted in case of breach of your own commitments by you or your Users.

**16.1. Duty of cooperation.** You agree to actively cooperate with us at all times during the Agreement, in particular:

- By providing and making available to us any element, information and/or document, required for the Service and in particular: your visual guidelines for Platform customization purposes;
- By carrying out, or having carried out, all the tests and configurations required for connection to and use of the Platform and the Service within the agreed deadlines;
- By validating said tests and configurations under your own responsibility;
- By ensuring that you have all the necessary skills and resources, and that your personnel have received appropriate training to contribute to the smooth performance of the Agreement;
- By appointing one or more competent, dedicated contact persons to act as a single point of contact with us during the entire term of the Agreement;
- By meeting any deadlines that may be imparted to you;
- By carrying out preliminary checks and taking an active part in the acceptance procedure for elements ordered, where applicable;
- By applying for and obtaining all legal, administrative, regulatory and/or contractual authorizations necessary for the performance of the Agreement, for any obligations incumbent upon you;
- By protecting against any damage the Data, files, software, hardware and all documents supplied by you for the purposes of the Agreement.

You also agree to take the necessary measures to ensure, under your own responsibility, that the Data is backed up at the intervals and in the ways defined by you, and to ensure that your Users comply with this commitment in respect of their own Data

**16.2. Compliance with prerequisites and recommendations.** You have sole responsibility for ensuring that the configuration of your Environment or that of your Users is compatible with use of the Platform, as per our prerequisites and recommendations. By signing your Order, you warrant that the prerequisites listed therein have been met or will be met in the event of a change in prerequisites, subject to a transition period to be agreed between the Parties.

Otherwise, you acknowledge and accept that we shall be unable to provide you the Service, even if you have placed an Order. We reserve the right not to fulfil your Order, to require a new Order or payment of additional fees, if we are still unable to start the Service within the agreed timeframe.

It is therefore your responsibility to ensure that the equipment used by you and your Users, under your/their responsibility, to access the Software-Powered Services, including the query software (browsers) or connection methods, operate at the level of performance required by the Service.

You assume full responsibility for implementing suitable security and quality screening processes for the Data processed by the Software-Powered Services, including Data restarts and recovery in case of the malfunction of your information system.

For example, you are required to implement antivirus updates, minor corrections or operating system patches.

**16.3. Choice of Internet Service Provider.** We are not responsible for the choice of telecommunications operator made by you or Users for the purposes of the Agreement and make no warranty whatsoever to you in that respect, our role being strictly limited to stipulating the technical constraints the operator in question needs to respect. You are therefore responsible for ensuring that all technical prerequisites are met by your operator. Under no circumstances may we be held liable for any network downtime, regardless of which operator is chosen and by whom. We particularly draw your attention to the importance of the choice of operator, and in particular to the back-up option it may offer by setting up a parallel line in the event of network downtime. Lastly, you will be responsible for all costs associated with establishing and maintaining access to the Service via the Internet, including (without limitation) phone expenses, the costs of Internet service providers, the cost of your own equipment (modems, IT equipment, etc.), or other expenses you may incur in accessing the Service.

**16.4. Responsibility for Login Credentials and equipment.** You agree to comply with the terms of access to the Software-Powered Services, and to ensure the security and confidentiality of your Login Credentials and of the Login Credentials provided to Users.

**16.5. Customer's liability vis-à-vis Users.** You warrant compliance by your Users with the obligations set forth herein. You shall ensure that your Environment and that of your Users presents sufficient assurances, and warrant that all physical and logical security measures you take meet best practices in order not to impair the Platform, the Software-Powered Application Services and their proper functioning, as well as the Data processed. You expressly agree not to grant Back-Office access to any external User who is not or is no longer an employee.

Subject to the terms set out in the ToS / Personal Data policy, We will not process any request made directly by Users.

**16.6. Image rights authorization.** By submitting the Photo and sound recording of the voice of one of your Platform Users, to enable the generation of the Avatar in their image that will be used for an Experience, and which will come to life to present (virtually) the Sessions, you warrant having obtained all prior authorizations from the data subject for us be able to: use, record, and process the visual / voice for the purposes of the Agreement, and for the entire duration of the Subscription. We agree not to reuse the Photo/voice or the corresponding Avatar for other Customers, or for other purposes outside the Agreement, and to delete the Image and the corresponding Avatar, within three (3) months of the end of the Subscription, even if we keep a copy of the Experience in our databases. You shall hold us fully harmless from and against any claims or complaints in connection with the use of the Photo/voice to the extent such use is compliant herewith.

**16.7. Data-related liability.** The Data you would like to have analysed and processed by the Platform for the creation of Generated Content, must respect the formats, volumes and topics indicated in the Order, as well as all of the prerequisites indicated therein, failing which it will not be possible to provide you the Service or only partially. Also, and without prejudice to your obligations as a Controller in case your Data



is Personal Data, you warrant, and are solely responsible for the accuracy, quality, integrity, lawfulness, reliability and relevance of all your Data. You further undertake to ensure that your Data and, in general, all use of the Service:

- Does not constitute spam;
- Does not constitute data that violates applicable laws and regulations and/or is contrary to decency;
- Does not constitute information that is obscene, threatening, defamatory, which infringes the protection of minors or generally incites racial hatred, nor does it constitute information or content of any kind that is unlawful;
- Does not constitute an act of infringement, of unfair competition or passing off, nor does it infringe third-party rights;
- Does not contain any viruses, Trojan horses or other harmful computer code, files, scripts or programs likely to impair the integrity of the Platform or smooth operation of the Software-Powered Services;
- Is not likely to interfere with or disrupt the performance of the Platform or of the Software-Powered Services;
- Is not the subject of any prohibition or restriction on use by Libertify or its partners involved in the supply of the Service;
- You warrant and agree to hold us fully harmless for all consequences in connection with noncompliance with this section. In this respect, you warrant that you will take out an insurance policy covering your professional civil liability, as well as a "cyber-risk" policy adapted to the Agreement.

#### **16.8. Miscellaneous.** You shall also remain liable towards us for:

- Any unauthorized use of the Service and any resulting harm or loss;
- Any hardware and software you provide or make available to us, and all associated risks, and are the sole party responsible for any damage caused to yourself, to your personnel, to your Users or to third parties, including for any consequences that may result from malfunctions of the Service, if such malfunctions are attributable to the elements supplied by you;
- Any use of the Software-Powered Services, in whole or in part, after we have recommended that you suspend use due to any difficulty or any other reason whatsoever;
- Use of the Software-Powered Services in an Environment or configuration that does not comply with our technical prerequisites, or with third-party programs or data not expressly approved by us.

#### **17. FORCE MAJEURE**

Neither Party shall incur any liability if the non-performance or delay in performance of any of their obligations is due to force majeure or an act of God. Force majeure includes strikes of any kind, supply problems or delays affecting Libertify, termination of agreements with the Publishers if not exclusively ascribable to Libertify, fire, embargoes, poor weather conditions, flooding, Internet connection problems, war, riots, social unrest, work stoppages, production stoppages due to accidental breakdowns, malicious attacks, and, provided Libertify has implemented measures to avoid them as per the Agreement, computer viruses, and denial of service attacks.

The Party whose performance is affected by the event of force majeure shall inform the other Party in writing. If the event of force majeure continues for more than sixty (60) successive days, either Party may terminate the Agreement for the future by providing the other Party one (1) month's notice of termination, sent by registered mail with acknowledgement of receipt, effective from the date of the notice."

#### **18. WARRANTY OF NON-INFRINGEMENT**

We warrant that the Platform (excluding Generated Content) and the Software-Powered Services (hereinafter the "Elements") does not, to the best of our knowledge, infringe the rights of any third parties or any pre-existing work.

We agree to hold you harmless from and against any claim in infringement that may be brought against you by any individual or legal entity asserting an intellectual property right in and to the Elements, provided that all of the following conditions are cumulatively met:

- We are informed without delay of any threat, complaint or action by a third party alleging that the Elements infringe any of its intellectual property rights, whether such complaint is directed against you or one of your Users;
- You assist us and give us the opportunity to assume sole control over any negotiation in view of a possible settlement with the third party asserting that the Elements infringe its intellectual property rights.
- You agree not to settle the dispute with the third party alleging that the Elements infringe its intellectual property rights on your own. In the event of a settlement being reached, in an amount agreed upon between us and the third party alleging infringement by the Elements of its intellectual property rights, we will assume responsibility for the entire amount payable to the third party that may be imposed on you under the settlement, as well as reasonable attorney's fees, upon presentation of paid invoices of fees, which shall have been previously approved by us.
- If we are unable to reach such a settlement, we will assume, under our control and direction, with your assistance, the legal defence against the third party alleging infringement by the Elements of its intellectual property rights.
- You agree not to conduct the legal defence against the claim brought against you by the third party alleging infringement by the Elements of its intellectual property rights on your own, and accordingly agree to promptly implead us.
- If a court rules that the Elements infringe the third party's intellectual property rights, and that ruling is final and res judicata on the merits, resulting in a monetary award being entered against you, we will indemnify you for the amount of (i) the award of damages in principal and interest, subject to proof of receipt by the third party of the amount of the award paid by you, (ii) reasonable attorney's and bailiff's fees upon presentation of paid invoices approved in advance by us.

The warranty of non-infringement referred to above shall not apply to elements or components:

- not supplied by us or for which we are not the Publisher;
- whose infringement is attributable to your equipment or that of your Users;
- subject to third-party licenses, whether open-source or free;
- that are Generated Content, based on your own Data or that of your Users,
- which are combined with third-party software, hardware or equipment when the alleged infringement relates to such a combination;

- when you continue the allegedly infringing activity despite the conclusion of a settlement, or service of a court ruling that is final and res judicate on the merits;
- when the infringement is caused by your failure to make the changes recommended by us that would have avoided the infringement.

## 19. WARRANTY DISCLAIMERS

We provide no warranty as to the performance or results expected by you or the Users in using the Software-Powered Services. We also do not warrant that the Platform and the Software-Powered Services are suitable for your needs, it being your responsibility to carry out all prior checks before placing your Order. The Parties further acknowledge that software, algorithms or AI-generated content may contain errors, and that it is not economically feasible to rectify all errors, nor is it always necessary to correct them. Accordingly, we do not warrant that all failures or errors in the Software-Powered Services are not only not detected or detectable, let alone corrected, since it is your responsibility at all times to carry out the checks and verifications incumbent upon you.

Third-party software is provided "as is" without any warranty other than that granted by their respective Publishers.

## 20. TECHNICAL PROTECTION MEASURES

You are informed and expressly agree that in accordance with the applicable rules of law: the Platform includes technical devices required for connected services which, particularly when connected to the Internet, enable information to be sent to us concerning your identification (Company name, address, phone, Siret, IP address), and the context of use (number of connected Users, type of application used, number of documents created). We can also use the information we obtain thanks to these technical devices for the purpose of fighting infringement, and for detecting and preventing any unlawful or noncompliant use of the Service. In case the product is equipped with such a device, and the device needs to be activated by you, you agree to activate it upon our request. Any circumvention or attempt to circumvent these technical devices is prohibited and is punishable by immediate termination of the Agreement due to breach on your part, with the possibility for us to sue you for damages. Also, in case you or your Users use any feature or option for which you have not acquired the rights, as evidenced by the protection measures put in place, we will bill you additional fees as per our current rates.

## 21. PROTECTION OF PERSONAL DATA

The Parties agree to comply with all data and privacy protection legislation.

The terms and conditions on which we process the Personal Data of Users are set out in our privacy policy available on our website.

You agree to respect Users' right to information and to obtain all prior authorizations from the data subjects concerning the processing of Personal Data carried out as part of the Service.

## 22. ASSIGNMENT OF AGREEMENT

You agree not to assign or transfer to any third party, including any of your subsidiaries, even free of charge, all or part of your rights and/or obligations under the Agreement.

We reserve the right to use the services of any sub-processors of our choice. In this respect, you authorize us to subcontract all or part of the performance of the Agreement subject to informing you.

We also reserve the right to assign the Agreement without any formalities being required, subject to prior notice to you. The assignee will be substituted for us with effect from the date of the assignment. The assignee will become your contracting party, which you acknowledge and accept; the assignee undertaking to assume in full the rights and obligations arising under this Agreement.

## 23. NO SOLICITATION OF LIBERTIFY PERSONNEL OR PARTNERS

You shall not directly or indirectly solicit, poach, offer employment to, hire or cause to be employed any of our employees, partners or agents without our prior written consent, even if the initial solicitation is made by such persons themselves. This prohibition applies for the duration of the Agreement and for twelve (12) months following its cessation for any reason whatsoever. Any breach of these prohibitions will automatically entail payment by you of compensation equal to twelve (12) times the last gross monthly salary or remuneration of the employee/partner/agent concerned.

## 24. MISCELLANEOUS

**24.1. Evidence Agreement.** In addition to the legal provisions recognizing the evidentiary value of digital documents, the Parties acknowledge the validity and probative value of electronic mails, SMS text messages, notices made by the Parties and digital documents exchanged between them within the framework of the Service, as well as all electronic and digital data generated by the Platform, or produced and/or retained by us during the term of the Agreement, including via our ticketing tool and solution for "counting" Licenses, number of Credits, and usage thresholds, where applicable. In the event of conflict, the said data established and/or retained by us / generated by the Platform and the Software-Powered Services, shall be controlling.

**24.2. Survival of certain clauses.** As per section 1230 of the French Civil Code, termination of the Agreement does not affect its provisions on dispute resolution, or those intended to continue producing their effect, such as confidentiality and non-competition clauses. By mutual agreement between the Parties, they further agree that the "intellectual property", "confidentiality", "reservation of title", "warranty of no infringement", "warranty disclaimers", "liability", "protection of personal data", and "no solicitation" clauses shall survive unconditionally and without restriction upon the cessation of the Agreement for any reason whatsoever, including in case of rescission.

**24.3. Reciprocal waiver of the doctrine of hardship.** Each Party declares that they expressly waive their right to invoke the provisions of section 1195 of the French Civil Code and the rules on hardship contained therein and undertakes to fulfil their obligations even if the contractual balance is upset by circumstances that were unforeseeable when the Agreement was concluded, and even if their performance entails excessive hardship, and to bear all the economic and financial consequences thereof.

**24.4. Changes to ToS.** We reserve the right to make changes to these ToS at any time. In case of changes to the ToS, the ToS applicable are those in force at the time the Order is placed. In the event of changes during the Order, the previous ToS remain in force until the next Order. You will be given prior notice of any change to the ToS. If you do not object within fifteen (15) days of such notice, or if you place a new Order following such notice, you shall be deemed to have accepted such changes.

**24.5. Limitation period.** Our liability cannot be incurred after a contractual limitation period of 2 (two) years from the occurrence of the proven damage exclusively attributable to us.

**24.6. References.** We may use your name and reference the collaboration between us publicly, in particular on our website, publications and all communication media, technical and commercial proposals to you, our communications with our personnel, our internal management documents, and in our annual report to shareholders. You accept that we may reproduce your name, company name, logo and trademarks for this purpose. However, you may inform us by any written means and at any time of your refusal and/or request the removal of the aforementioned reference, subject to a minimum notice period of one (1) month, except when this reference is imposed on us under a legal, administrative or regulatory obligation.

**24.7. No Waiver.** No failure by us to enforce any provision of the Agreement at any time shall be construed as a waiver of any subsequent enforcement of such provision or of our rights.

**24.8. Interpretation.** In the event of doubt as to the interpretation of a clause, or in the absence of any indication of the extent of Libertify's obligations, Customer acknowledges that Libertify's obligations are to be construed as a best efforts obligation.

**24.9. Severability.** If any provision of these ToS or other contract documents is held to be invalid or unenforceable, in particular by a court of law, such provision shall be severed from the remaining provisions, which shall remain in full force and effect.

**24.10. Language.** If the Agreement is translated into other languages, only the French-language version shall be controlling in the event of any conflict with the translated version, regardless of Customer's nationality.

**24.11. Powers.** The signatory of the Agreement warrants having full authority to bind you. Otherwise, the theory of apparent authority shall apply to our benefit.

**24.12. Entire Agreement.** The Parties acknowledge that the Agreement and all its appendices and/or amendments, as well as all other terms and conditions incorporated by reference herein, constitute the entire agreement between them relating to the subject matter of the Agreement and supersede all prior oral and/or written undertakings between the Parties relating to the same subject matter.

**24.13. Election of domicile.** The Parties elect domicile at the addresses listed at the top of this document and in the Order, to which all notices must be sent, except in the case of a change of address, of which prompt notice must be given. In case of a change of address, any notice sent to the addresses mentioned in the notice or to the last notified address shall be deemed valid, unless it can be proven that the Party issuing the notice was aware of the recipient Party's actual address.

**24.14. Independence.** The Parties acknowledge that they are acting as independent co-contractors. This Agreement does not have the effect of creating a partnership, joint venture, or other form of association between the Parties. Moreover, this Agreement does not establish any legal relationship between the us and Customer's Users or contractors, regardless of the technical support services provided in Customer's name and behalf.

## **25. GOVERNING LAW AND JURISDICTION**

The law applicable to the Agreement (including any prior exchanges and subsequent matters) is the law of France.

The Parties undertake to attempt to resolve their dispute amicably, and will meet to this end on the prior written invitation, with reasonable notice, of the more diligent Party. The Parties will hold discussions in an attempt to find a solution, during at least 60 (sixty) days, failing which any subsequent claims at law will be inadmissible.

**FAILING AN AMICABLE SOLUTION WITHIN THAT TIMEFRAME, ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT MAY BE SUBMITTED TO THE COURTS OF EXCLUSIVE JURISDICTION OF PARIS, INCLUDING IN SUMMARY PROCEEDINGS, INTERIM OR PROTECTIVE MEASURES, AND INCLUDING IN CASE OF IMPEADER OR MULTIPLE DEFENDANTS.**