

## UpAxis SaaS Terms and Conditions

These UpAxis SaaS Terms and Conditions (hereinafter the “T&C”) together with the applicable annexes, feature and pricing information provided by HQ Software Solutions UG (Haftungsbeschränkt), Böckmannstr. 15, 20099 Hamburg/Germany, (hereinafter “UpAxis” or “we”) govern the use of certain software provided by UpAxis as “software-as-a-service”. Each user will be referred to as “Client” or “you”. UpAxis and Client are each individually referred to as a “Party”, and together as the “Parties”.

### 1. General

1.1 UpAxis operates proprietary software under a software-as-a-service (“SaaS”) model (hereinafter the “Software”). The Software is provided as so-called software-as-a-service on a 24/7 basis with an availability of 99% per year excluding times of maintenance as customary in the industry.

1.2 UpAxis offers different Software products. The features of each software product are more particularly described in the features section on the UpAxis website. Additionally, UpAxis may provide consulting, customization and development services related to Client’s use of the Software. In the following, the Software and all related services provided by UpAxis will be referred to as the “Services”.

1.3 Clients agree to be bound by the terms of these T&C by agreeing to a package offered by UpAxis, either as written Service Order or by way of sign up on the UpAxis website. This procedure shall be referred to as “Sign-up”. The agreement between UpAxis and Client becomes effective when UpAxis confirms your Sign-up either executing a signed Service Order, or via email, or by starting to provide the requested Services to you, whichever is earlier. The Sign-up together with these T&C shall be referred to as the “Agreement”. We reserve the right to accept or reject Sign-up applications.

1.4 To create your account, we may contact you for further information. You agree to provide the necessary information, and that the information you provide will be complete and accurate. Once your account is ready, we will notify you and provide you with your account log-in details. You can now use the Services.

1.5 UpAxis reserves the right to modify the Software for example by adding, optimizing or removing certain features and functionalities as part of the continuous development of the Software and to keep up with technological and market requirements as well as legislative changes. Accordingly, Client’s right to use the Software is extended, but also limited, to the then-current version of the Software. If a modification is not reasonably acceptable for Client, Client has the right to terminate the Agreement. Such termination shall be the sole right of Client resulting from a modification of the Software by UpAxis. UpAxis will communicate upcoming updates reasonably in advance, i.e. three days for regular updates, and at least one hour in case of critical security updates.

1.6 The provision of our Services requires the processing of data including personal data. Both parties commit to full compliance with applicable privacy and data protection laws and regulations.

The Parties agree that when UpAxis processes personal data on behalf of Client, Client is the controller of the data and UpAxis is the processor as defined in applicable privacy laws and regulations. The data processing agreement stipulating the terms of the data processing agreed hereunder is attached to this Agreement as Annex DPA and forms an integral part of this Agreement.

1.7 UpAxis reserves the right to use third parties for the provision of the Services. Where such use of third parties requires the approval of Client under statutory law, such approval shall not be unreasonably withheld or delayed.

## **2. Term**

2.1 This Agreement commences on the date described in section 1.3 of this Agreement. It runs until is terminated by either Party with one month' written notice unless the Parties have agreed otherwise, for example on a Service Order.

2.2 The Parties' right under applicable law to terminate the Agreement extraordinarily for material reason remains unaffected.

2.3 Client acknowledges and agrees that UpAxis has no obligation to retain any content and data of Client following the termination of this Agreement.

## **3. Fees**

3.1 The fees payable by Client in consideration of the Services provided by UpAxis including the applicable currency are agreed between the Parties as part of the Sign-up procedure either individually in writing or by Client agreeing to the UpAxis pricing statement at <https://upaxis.com/#pricing>. Prices indicated are net excluding VAT or similar sales tax, as applicable, unless expressly stated otherwise.

3.2 Usage-based fees will be charged and invoiced at month's end. Regular recurring fees will be charged and invoiced in advance. Monthly fees will be pro-rated for incomplete months.

3.3 The Freemium package is limited to a maximum of 1 Million clicks, 1 User, 25 Partners or 50 Offers.

3.4 UpAxis is entitled, at his sole discretion, to limit or terminate a Client right to use the Services, including canceling and deleting a Client account and Client data after 30 days of inactivity.

3.5 Taxes. Each party shall be responsible for and pay its own income taxes, sales and use taxes, value added taxes, and any other taxes, license or registration fees, duties, and other similar assessments or charges levied or imposed by any jurisdiction as a result of the execution of this Agreement, the performance of any obligations under this agreement or the transfer of any property, rights or any other grant under the terms of this agreement.

#### 4. The Services

4.1 For the term of this Agreement, and subject to its terms, UpAxis grants to Client the non-exclusive, nontransferable, non-assignable, limited right to use the agreed Services. UpAxis retains all ownership and intellectual property rights to the Software including derivative works thereof. Client may not, and may not cause or permit others to:

- a) remove or modify any parts of, or modify, make derivative works of, disassemble, reverse compile, reverse engineer, reproduce, distribute, republish the Services, or remove or modify any notice of UpAxis proprietary rights;
- b) make available to third parties, resell, sub-license, or otherwise commercially exploit the Services for its own benefit except as agreed hereunder;
- c) gain unauthorized access to, manipulate or otherwise interfere with the Software and the operability of the underlying platform.

4.2 UpAxis offers additional onboarding, training, support and customization services. The Parties may already agree on certain of such Services during Signup. Additional services are subject to a separate offer by UpAxis at the request of Client.

4.3 The Services may enable Client to add links to third-party media, content, applications and other properties (hereinafter "Third-Party Properties"), and to access such properties of third parties including advertisers, publishers, affiliate networks and others. Furthermore, the use of the Services may require the use of and/or interaction with third-party software and hardware such as for example browser software, operating systems, network infrastructure and others (hereinafter "Third-Party Elements"). UpAxis assumes no responsibility for Third-Party Properties and Third-Party Elements. Client accesses and uses Third-Party Properties and Third-Party Elements at its own risk and therefore acknowledges and agrees that UpAxis is not liable for any damages incurred by Client from that use. UpAxis liability in cases where the relevant third-party acts as vicarious agent for UpAxis, or where UpAxis has acted as reseller of the relevant Third-Party Property or Third-Party Element, remains unaffected.

4.4 Client acknowledges and agrees that UpAxis will use contents and data provided by Client, or by third parties on behalf of Client, for the purposes of this Agreement, particularly for traffic analysis and service optimization and other agreed purposes.

4.5 The use of the UpAxis Services requires a password protected user account. Client ensures that access to its account and use of the password protected or secure areas of the UpAxis Services is restricted to authorized users only. Client is responsible for all activities that occur under the Client user accounts, and Client agrees to notify UpAxis of any unauthorized use promptly and without any undue delay. Furthermore, Client acknowledges and agrees that UpAxis staff has administrator access to Client user accounts for technical purposes.

4.6 It is the responsibility of Client to ensure that Client's use of the Services is lawful. Therefore, Client warrants and represents to have the right and authority to enter into this Agreement and

that its use of the Services will always be in accordance with applicable laws and regulations. UpAxis reserves the right to suspend Client's access to the Services where UpAxis reasonably suspects or believes that Client is in breach of this Section 4.6 and will notify Client without undue delay.

4.7 Where Client requests the development or enhancement of certain features, the following applies:

- a) If a requested feature fits into UpAxis development roadmap as to be determined by UpAxis, the feature will be developed free of charge to Client.
- b) If a requested feature does not fit into UpAxis development roadmap as to be determined by UpAxis, UpAxis will provide a cost estimate at the then applicable rates.

New features and enhancements become part of the Software and are therefore fully owned by UpAxis. Unless it is expressly agreed otherwise, UpAxis reserves the right to make available requested features to other Clients as all other parts of the Services.

## **5. Warranties**

5.1 UpAxis warrants and represents that it owns and/or controls the rights to the Software and that therefore, the use of the Services by Client as agreed hereunder will not infringe the rights of a third party.

5.2 Client represents and warrants that (a) in using the UpAxis Services, Client will comply with applicable laws and regulations, (b) Client has obtained all required end user consents and provided all required notifications to end users required for the processing of personal data as agreed hereunder, and (c) all content provided to UpAxis is lawful and will not infringe the rights of a third party.

## **6. Third Party Claims**

6.1 If a third party claims that Client's use of the Software as agreed hereunder infringes their copyright, patent or any other intellectual property right, then UpAxis will, at its reasonable discretion, either defend such claim while ensuring Client's continued use of the Services, or acquire the necessary rights to use, or replace or modify the Services so that Client's use becomes non-infringing and in a way that such replacement or modification does not result in any material degradation of the Services.

6.2 If UpAxis fails to continue or restore the provision of the Services, UpAxis shall be entitled to terminate the affected Services with immediate effect. Client is entitled to terminate the affected Services if UpAxis fails to continue or restore the provision of the Services within a reasonable period.

6.3 No fees are due from Client to the extent that the Services are not available.

6.4 Client agrees to notify UpAxis promptly of any such third-party claims stating all relevant circumstances. UpAxis will support Client's defense against such claims. Client will not make any

declarations, statements or enter into any agreements with such third parties that may foil or impair the defense against such claims.

6.5 The right of Client to claim damages in connection with such third-party claims in accordance with this agreement remains unaffected.

## **7. UpAxis Services Disclaimers and Exclusion of Warranties**

7.1 THE UPAXIS SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND UPAXIS HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES, GUARANTEES, AND CONDITIONS REGARDING (A) THE UPAXIS SERVICES, INCLUDING BUT NOT LIMITED TO SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR OTHER TECHNICAL ENVIRONMENTS AND (B) MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE.

7.2 UPAXIS DOES NOT GUARANTEE THAT (A) THE UPAXIS SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED AND THAT (B) THE UPAXIS SERVICES WILL FLAWLESSLY OPERATE IN COMBINATION WITH PARTNER SYSTEMS INCLUDING OTHER SOFTWARE, HARDWARE, EXTERNAL SYSTEMS, OR DATA; AND (D) THE UPAXIS SERVICES WILL MEET PARTNER REQUIREMENTS OR EXPECTATIONS.

7.3 PARTNER ACKNOWLEDGES THAT UPAXIS DOES NOT CONTROL, AND THEREFORE IS NOT RESPONSIBLE FOR, THE DATA TRANSFER OVER THE INTERNET AND OTHER COMMUNICATIONS FACILITIES, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES.

## **8. Confidentiality**

8.1 Each Party shall keep confidential and shall not without the prior consent in writing of the disclosing Party copy or disclose to any third party the content of any documents or information (whether of a commercial, financial or technical nature or which is identified as being confidential) acquired from the other Party. Each Party shall copy and use the same solely for the purposes of the Agreement.

8.2 The foregoing obligations shall not apply to any information which (a) is within the public domain at the time of disclosure or later becomes part of the public domain through no fault of the receiving Party; or; (b) was known to the receiving Party prior to disclosure by the disclosing Party as proven by the written records of the receiving Party; or (c) is disclosed to the receiving Party by a third party who did not obtain such information, directly or indirectly, from the disclosing Party.

8.3 Save that UpAxis shall be entitled to include Client's name in its list of references, product presentations and related material and documentation, the Parties agree that any other publication of the nature of this Agreement or any of its contents shall require separate written agreement.

## 9. Defects

Client shall notify UpAxis in writing about any malfunction or defect without undue delay. The notice should contain a sufficiently detailed description of the malfunction or of the defect. The correction requires that the malfunction or the defect can be reproduced or understood.

9.1 Defects will be remedied as follows:

(a) Defects of those parts of the Services that are subject to an acceptance procedure will be remedied by UpAxis at its choice by either correcting the respective defect or by providing a replacement within a reasonable time (supplementary performance, German: *Nacherfüllung*). Only when at least three attempts of supplementary performance have failed, the supplementary performance be considered failed. Possible damage claims due to defects shall be subject to supplementary performance having failed. Client shall not be entitled to remedy the defects on its own or to have the defect remedied by third parties.

(b) Defects of Client's right to use the Software are subject to the applicable defect laws of rental agreements.

(i) The termination right in accordance with § 543, subsection 2, first sentence, No. 1 of the German Civil Code (German: *Bürgerliches Gesetzbuch, BGB*) shall be excluded unless UpAxis has ultimately failed in enabling Client's contractually agreed use of the Software or parts thereof (German: *fehlgeschlagene Herstellung des vertragsgemäßen Gebrauchs*).

(ii) UpAxis is not responsible for defects and failures caused by third parties and particularly not for the availability of Third-Party Elements and Third-Party Properties unless they were resold by UpAxis or the third party acted as vicarious agent for UpAxis.

(iii) UpAxis will remedy defects within a reasonable time. All other rights of Clients under applicable laws, particularly any rights to mitigate the fees or to claim damages are excluded to the extent such exclusion is permitted by applicable law.

9.2 Notwithstanding the preceding provisions of Section 9.1, the rights of Client under any guarantees given and any specific qualities warranted (German:  *zugesicherte Eigenschaft*) by UpAxis under applicable laws shall remain unaffected. Statements about the Services made by UpAxis are specifications of the contractual obligations but shall not be construed as guarantees of quality or durability (German: *Beschaffenheits- oder Haltbarkeitsgarantie*) in the meaning of §§ 443, 444 or 639 of the German Civil Code, and not as an independent promise of guarantee (German: *selbständiges Garantieverprechen*). Furthermore, they do not increase the degree of care owed by UpAxis in the meaning of a stricter liability pursuant to § 280 subsection 1, second sentence and § 276 of the German Civil Code.

9.3 Claims for defects shall be excluded to the extent that Client has changed or altered the respective part of the Services without prior approval by UpAxis unless the defect has not been caused by such change or alteration.

9.4 The statute of limitations for claims of defects shall be one year following its commencement in accordance with applicable law.

## **10. Indemnification**

10.1 Each Party (as the case may be the “Indemnifying Party”) will defend, indemnify and hold the respective other Party (the “Indemnified Party”) harmless from and against any and all liabilities, losses, penalties, damages, costs, judgments and any other expenses (including reasonable legal fees such as attorneys’ fees, in-house counsel costs and appellate fees) associated with any third party claim brought against the Indemnified Party in connection with or related to a breach of the warranties given under this Agreement or otherwise a material breach of this Agreement.

10.2 Conditions to Indemnity. The obligations under section 10.1 above shall be terminated if and to the extent that the Indemnifying Party is prejudiced by the Indemnified Party: (a) failing to provide the Indemnifying Party with a written notice of any claim for which indemnification is sought; (b) failing to cooperate with the Indemnifying Party (at the Indemnifying Party’s expense); and/or (c) failing to allow the Indemnifying Party to control the defense and settlement of any claims. Nothing herein will prevent the Indemnified Party from procuring, at its own cost, separate counsel for its defense, provided that the Indemnified Party agrees that its separate counsel shall work with the Indemnifying Party’s counsel in good faith and cooperation.

## **11. Limitation of Liability**

11.1 IN NO EVENT SHALL UPAXIS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS, DATA, OR DATA USE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, EVEN IF UPAXIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 IN NO EVENT SHALL UPAXIS TOTAL LIABILITY TO PARTNER UNDER THIS AGREEMENT FOR ALL DAMAGES EXCEED THE AMOUNT OF FEES RECEIVED IN THE MONTH PRECEEDING THE INCIDENT.

11.3 The liability of UpAxis for loss of data shall be limited to the costs and efforts that a party would typically incur in the recovery of the data when having regularly and reasonably created backups.

11.4 The foregoing limitations do not apply to any claim or liability of either Party (a) for death or personal injury arising out of negligence or (b) based on willful misconduct or gross negligence and (c) for breaches of material obligations which are essential for achieving the purpose of this agreement and upon the fulfilment of which a contractual party is regularly able to rely.

11.5 Nothing herein shall limit any compulsory liability of either Party under applicable law.

## **12. Miscellaneous**

12.1 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties regarding the subject matter hereof. The Parties agree that there are no other representations, warranties or oral agreements relating to the subject matter of the Agreement.

Amendments and additions to the Agreement shall be valid only by exchange of documents signed by both Parties.

12.2 Governing Law and Dispute Resolution. The agreement shall be governed by the laws of Germany excluding their choice of law provisions. Place of jurisdiction shall be Hamburg.

12.3 Assignment. This Agreement and the obligations hereunder shall not be assigned to third parties without written approval by the other Party such approval not to be unreasonably withheld except in the case of UpAxis to its Affiliates upon notice to Client. "Affiliate" means an entity directly or indirectly controlling or controlled by, or under direct or indirect common control with UpAxis. For the purposes of this definition, the term "control" and its corollaries mean: (i) ownership, beneficially or of record, of more than fifty percent (50%) of the outstanding voting securities of the subject entity; (ii) the ability to elect a majority of the board of directors (or comparable managing authority) of the subject entity; or (iii) the power to direct or cause the direction of the management, policies and/or affairs of the subject entity, whether through the ownership of voting securities, by contract, or otherwise.

12.4 Severability. If any provision of the Agreement should be found invalid, illegal or unenforceable by a court of competent jurisdiction, it shall be replaced by a provision which comes closest to the economic purpose originally intended. The validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

12.5 Independent Contractors. The Parties are independent contractors and will have no power or authority to assume or create any obligation or responsibility on behalf of each other. Nothing in the Agreement shall be construed to create an employment, joint venture, agency, franchise or partnership relationship between the Parties hereto. Neither Party will have, nor represent to have, any authority to bind the other Party or otherwise act on behalf of the other Party.

12.6 Surviving Clauses. Any terms and conditions that by their nature or otherwise reasonably should survive a cancellation, termination or expiry of the Agreement shall also be deemed to survive.

## Annex DPA – UpAxis SaaS Services Data Processing Agreement

1. Within the scope, and for the agreed term, of the UpAxis Service(s), Client hereby engages UpAxis to collect, process and/or use Personal Data on Client's behalf. In respect of any Personal Data supplied by Client to UpAxis in relation with Client's use of the UpAxis Service(s) and to the extent that EU data protection laws apply, Client acts as Data Controller, and UpAxis acts as Data Processor.

UpAxis point of contact for any issues related to data protection is: [privacy@upaxis.com](mailto:privacy@upaxis.com)

2. Data Subjects affected by the Processing under this DPA are the users of devices capable of browsing the internet that are connected to the services and/or network of Client. UpAxis uses the Personal Data solely for providing the Services as agreed hereunder. UpAxis processes Personal Data on behalf of Client (a) when providing marketing optimization services: to serve end users with ads, to track advertising performance and to produce advertising performance reports, to help improve the advertising performance on Client's advertising inventory, ad security & verification services and problem & fault management; (b) when providing fraud detection and prevention services: for bot detection, rating, analytics, viewability, ad security & verification services and problem & fault management. UpAxis may combine data from different sources solely to improve the UpAxis Service(s).

3. UpAxis will only process Personal Data on the behalf of Client and in accordance with Client's instructions. Client instructs UpAxis to process Personal Data for the following purposes: (a) processing in accordance with this DPA, the Agreement and pursuant to the features and limitations of the UpAxis Services provided by UpAxis to Client under this Agreement; and (b) processing to comply with other reasonable instructions provided by Client where such instructions are consistent with the terms of the Agreement. UpAxis will be under no obligation to comply with instructions that constitute a violation of applicable law. Processing outside the scope of this DPA (if any) shall be subject to a separate, prior written agreement between the Parties.

4. To the extent required under applicable law, Client will provide an appropriate notice to the Data Subjects about the processing of their Personal Data under this DPA and to the extent required under applicable law, Client will receive and document the Data Subjects' consent thereof.

5. UpAxis only collects information as authorized by Client. This may include the following information:

(1) User device information: device type and model, network provider, browser type, language, IP address, operation system, network connection type, GPS location (only if user provides permission), mobile advertising identifier such as the Advertising ID (Apple IDFA or Google AAID) and browser referrer;

(2) Information about mobile app, package name, key words, version.

(3) Additional user Information UpAxis may receive from Client, such as name, email address, phone number, instant messaging name, postal address, date of birth, gender and GPS location.

(4) Information UpAxis may receive from Client or from third parties engaged on Client's behalf by UpAxis such as non-precise device location based on IP address, device specifications and user's interest's information.

6. Under their employment agreements, UpAxis team are obliged to comply with applicable laws and agreements regarding confidentiality, data protection and data security. UpAxis ensures that the UpAxis team informed of the confidential nature of the Personal Data and are adequately trained, if necessary. Such confidentiality obligations survive the end of the contractual relationship between UpAxis and its employees.

7. Technical and organizational measures. UpAxis shall take appropriate technical and organizational measures to ensure an appropriate level of security for the Personal Data to the effect that it is reasonably protected against accidental or unauthorized destruction, accidental loss, as well as against unauthorized alteration, disclosure and other access. To the extent that the technical and organizational measures taken by UpAxis do not fulfil Client's requirements, Client must notify UpAxis in writing (text form valid) before Personal Data of Client will be processed. The parties will then discuss and agree in good faith how to modify the technical and organizational measures. Furthermore, UpAxis reserves the right to modify the technical and organizational security measures from time to time provided that the new level of security does not fall below the previous level in a way that would be non-compliant with applicable law or its agreements with Client. UpAxis has implemented a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing.

8. Neither party shall knowingly do, nor cause or permit to be done, anything which may result in a breach of applicable law. Client acknowledges and agrees that Client has the sole responsibility for the lawfulness of the processing as instructed hereunder, and Client warrants to UpAxis that Client is legally allowed to engage UpAxis for the processing of Personal Data on Client's behalf and Client has provided all necessary notices to, and obtained all required consents from, the Data Subjects for the processing described in this DPA.

9. Client acknowledges and agrees that UpAxis uses third-party data centers. The current provider is Amazon Web Services EMEA SARL, with offices at 38 avenue John F. Kennedy, L-1855 Luxembourg. UpAxis will notify Client about intended changes of providers. The use of a new provider is subject to the approval of Client such approval not to be unreasonably withheld or delayed.

10. UpAxis reserves the right to utilize data received through Client's use of the Software to monitor, analyze and optimize the operability of the Services.

11. UpAxis shall document and, at the request of Client, demonstrate to Client UpAxis compliance with the obligations agreed in this DPA using appropriate measures such as for example providing results of a selfaudit, internal security policies, certifications of data and information security, Art. 40 and/or 42 GDPR approved codes of conduct or other appropriate means as the parties may agree. Where audits and inspections by Client or an appointed auditor are necessary, they will be conducted during regular business hours, and without interfering with UpAxis operations, upon prior notice, and observing an appropriate notice period, and the execution of a confidentiality undertaking protecting the data of other Clients and the confidentiality of the technical and organizational measures and safeguards implemented. UpAxis shall be entitled to reject auditors which are competitors of UpAxis.

12. Where a data subject asserts claims for rectification, erasure or access against UpAxis, and where UpAxis can correlate the data subject to Client based on the information provided by the data subject, UpAxis shall refer such data subject to Client. UpAxis shall forward claims of data subjects to Client without undue delay. UpAxis shall reasonably support Client, where possible, and based upon Client's instruction insofar as agreed upon. UpAxis shall not be liable in cases where Client fails to respond to the requests of data subjects in total, correctly, or in a timely manner. Where data subjects assert claims against Client in accordance with Article 82 of the GDPR, UpAxis shall reasonably support Client in defending against such claims, where possible.

13. UpAxis shall correct or erase Personal Data if so instructed by Client and where covered by the scope of the instructions permissible. Where an erasure, consistent with data protection requirements, or a corresponding restriction of processing is impossible, UpAxis shall, based on the instructions of Client, and unless agreed upon differently in the Agreement, destroy all carrier media and other material or return the same to Client in compliance with data protection requirements. In specific cases designated by Client, such Personal Data shall be stored or handed over. The associated remuneration and protective measures shall be agreed upon separately.

14. UpAxis shall notify Client of privacy breaches within the scope of UpAxis responsibility. In such case, UpAxis shall implement all necessary measures necessary for securing Personal Data and for mitigating potential negative consequences for the data subject in coordination with Client without undue delay.

15. Where Personal Data becomes subject to search and seizure, an attachment order, confiscation during bankruptcy or insolvency proceedings, or similar events or measures by third parties while in UpAxis control, UpAxis shall notify Client of such action without undue delay. UpAxis shall, without undue delay, notify to all pertinent parties in such action, that any data affected thereby is in Client's sole property and area of responsibility, that data is at Client's sole disposition, and that Client is the responsible body in the sense of the GDPR.

16. This DPA is subject to the laws of Germany. No modification of this DPA shall be valid and binding unless made in writing or in a machine-readable format (in text form), and only if such modification expressly states that such modification applies to the regulations of this DPA. The foregoing shall also apply to any waiver or modification of this mandatory written form.

17. This DPA shall take precedence over any colliding stipulations of the Agreement.

18. Client and UpAxis shall be liable to data subjects in accordance with Article 82 of the GDPR each to the extent they are responsible for the damages caused.