

Attachment A

Exa Corporation General Terms and Conditions for Services

The agreement between EXA and Customer ("Agreement") is comprised of these General Terms and Conditions for Services ("T&Cs"), Annex 1, the quote ("Quote"), or a fully executed Statement of Work ("SOW") to which they are attached, as applicable. If there is an inconsistency between the T&Cs, the Quote and the SOW, the order of precedence shall be: these T&Cs, the Quote or the SOW, as applicable.

1. Intellectual property

1.1 Rights and Ownership. In consideration of the payment of all fees mentioned in the Agreement, EXA grants Customer a worldwide, perpetual, non-exclusive and non-transferable right, to use any tangible materials provided by EXA to Customer ("Deliverables") and services solely for its internal business use. Services and Deliverables are collectively referred to as "EXA Services". Deliverables identified in the Quote or SOW as "Standard Deliverables" mean any Deliverables other than Special Deliverables or Output Deliverables, such as training manuals, self-study guides and documentation. Deliverables identified in the Quote or SOW as "Special Deliverables" mean any Deliverables prepared by EXA specifically for Customer and that may be used, reproduced and modified by Customer solely for its internal business use and for maintenance and upward compatibility with Customer's environment. Authorized users of the foregoing EXA Services are (a) Customer's employees, or (b) employees of Customer's consultant(s) or subcontractor(s) (i) who use the EXA Services solely for the exclusive internal needs of Customer and (ii) whose usual workplace is located within Customer's premises.

Customer shall own the Deliverables that are the result data derived from Customer's data as processed using any software product offered by EXA or any of its affiliates, except for any EXA methodologies contained in such Deliverables. Such methodologies shall be considered as Special Deliverables under this Agreement ("Output Deliverables").

Deliverables shall not include any software and related documentation owned or developed by or for EXA or any of its affiliates, and which are distributed directly and/or indirectly by EXA, any of its affiliates or its authorized distributors under a separate agreement.

1.2 Scope. Except as expressly provided above, Customer may not: (i) provide for general distribution of any Standard Deliverable or Special Deliverable by any means, and whether alone or bundled or delivered with any product, data, information, software, or other element; (ii) install and/or operate and/or give access to any Standard Deliverable or Special Deliverable on any hardware and/or software environment owned by or under control of any third party, unless otherwise expressly authorized in the SOW; (iii) represent or imply to any party that it is an authorized or certified provider of services for EXA; or (iv) provide a license or sublicense to any Standard Deliverable or Special Deliverable or derivative work to a third party.

Customer shall retain all intellectual property rights in Customer's products or data made available to EXA by Customer in the course of performing the EXA Services. Except as otherwise expressly provided hereunder, EXA shall own and retain all intellectual property rights in EXA's products, data and EXA Services and, except as expressly granted hereunder, all modifications, enhancements or other derivative works thereof.

Deliverables are licensed, not sold, except as otherwise expressly set forth herein. Customer shall preserve and reproduce all copyright, patent and trademark notices which appear in any EXA Services on all partial or integral copies thereof. Customer recognizes that (i) any developments of any software product or service provided by EXA or any of its affiliates, or any enhancements or source code modifications of any software product or service provided by EXA or any of its affiliates, including any related support services, are not covered by the Agreement, (ii) the inventions, discoveries, innovations, improvements, ideas, techniques or know-how conceived by EXA during the performance of EXA Services, and the methodologies and techniques contained in or expressed within the EXA Services, are proprietary information or trade secrets of EXA or its suppliers, whether or not marked as "confidential". Customer shall treat them as Confidential Information (as defined below) and not disclose them. This ownership includes the right to obtain and hold in its own name copyrights, registrations and similar protection, which may be available for such items.

Except as expressly provided herein, the Agreement does not grant or convey either directly, by implication or otherwise, any right or license to any intellectual property right of either party to the other party.

1.3 Intellectual Property Indemnification. EXA shall defend Customer against third party claims that a Deliverable infringes a third party copyright and shall pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Customer by a court of competent jurisdiction or agreed to in a written settlement agreement signed by EXA arising out of such claim, provided that Customer: (i) provides EXA with prompt written notice of the claim, (ii) gives EXA sole control of the defense of the claim and any related settlement discussions, and (iii) provides reasonable cooperation in the defense and settlement of the claim. If a claim is made or in EXA's reasonable opinion, is likely to be made, EXA may at EXA's expense, either secure the right for Customer to continue using the Deliverable, modify it so that it is not infringing, or replace it with another Deliverable which is functionally equivalent. If none of the foregoing options is available on terms which are reasonable in EXA's judgment, EXA may terminate the licenses to the Deliverable and refund Customer in an amount equal to the corresponding fees paid for such Deliverable licenses, depreciated on a straight-line over three (3) years upon return or destruction of all copies of the affected Deliverable as certified by an officer of Customer. EXA shall have no obligation to defend or indemnify Customer against any claim related to (i) any modification of the Deliverable other than by EXA, or (ii) use of one or more of the Deliverables in combination with other hardware, data or programs not specified by EXA in the Agreement, or (iii) Deliverables created or modified in accordance with Customer's specifications. This section states EXA's entire liability and Customer's exclusive remedy for any claim of infringement of intellectual property rights under the Agreement.

Customer shall defend EXA against third party claims that any data and/or materials made available to EXA by Customer in the course of performing the EXA Services infringes a third party copyright, and shall pay all costs, damages



and expenses (including reasonable legal fees) finally awarded against EXA by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Customer arising out of such claim, provided that EXA: (i) provides Customer with prompt written notice of the claim, (ii) gives Customer sole control of the defense of the claim and any related settlement discussions, and (iii) provides reasonable cooperation in the defense and settlement of the claim.

2. Payment and Taxes

Unless otherwise expressly specified in the Quote or SOW, Customer shall pay all invoices by wire transfer within thirty (30) days from the date of invoice. In all cases, Customer shall pay interest for late payment at a rate of one and one-half percent (1.5%) (eighteen percent (18%) per annum) plus reasonable attorneys' fees and costs incurred in collecting unpaid amounts.

All prices are exclusive of taxes. Customer shall be responsible for payment of any and all taxes, including fees, duties, excises, import VAT, or similar charges of any nature whatsoever, now in force or enacted in the future, that are levied, assessed, charged, withheld or collected for or in connection with the EXA Services provided hereunder or otherwise arising in connection with the Agreement, but excluding domestic taxes based on EXA's net income. If Customer is required to withhold, deduct, or pay for any tax from the amount of fees to be paid under the Agreement, then Customer shall pay such additional amount to EXA as is necessary to ensure that EXA receives a sum equal to what would have been received had no such withholding, deduction or payment been required.

3. Warranties, Limitation of Liability

EXA warrants that all EXA Services will be performed in good and workmanlike manner and that each Deliverable will materially conform to its specifications as described in the Agreement. If the EXA Services do not conform as mentioned above, and Customer has so notified EXA within thirty (30) days from the delivery of the relevant EXA Services, EXA will attempt to make such EXA Services conform as warranted. If EXA has not corrected the non-conformity within ninety (90) days from the date of such notification, Customer may terminate the relevant EXA Services, including the right to use the non-conforming Deliverable within ninety (90) days and receive a full refund of all fees paid for the non-conforming EXA Services. This refund represents EXA's sole liability and Customer's sole remedy for breach of this warranty. **The foregoing warranties are (i) not applicable in case of any modification of the Deliverable other than by EXA, or use of the Deliverable in conditions not specified by EXA in the Agreement, and (ii) in lieu of and exclude all other warranties, representations or conditions for EXA Services, whether express or implied, including, without limitation, any implied warranties of merchantability, fitness for a particular purpose, title or non-infringement.**

EXA's maximum liability for damages shall not exceed the amount of fees actually paid by Customer hereunder for the EXA Services which caused the damages in the preceding twelve (12) month period prior to the occurrence of the cause of action giving rise to the claim. EXA shall have no liability for indirect, incidental, consequential or punitive damages, including without limitation, claims for lost profits, business interruption

and loss of data, that in any way relate to the Agreement or any EXA Services, whether or not EXA has been advised of the possibility of such damages and notwithstanding the essential purpose of any remedy.

The limitations stated in this section shall apply regardless of the form of action, whether the asserted liability or damages are based on contract (including without limitation, breach of warranty), tort (including without limitation, negligence), statute, or any other legal or equitable theory.

Nothing in the Agreement shall operate so as to exclude or limit the liability of either party to the other for death or personal injury or for any damage arising out of gross negligence or intentional misconduct, or in cases where liability cannot be excluded or limited by applicable law.

Customer waives any and all claims related to the Agreement or any EXA Services provided hereunder, for damages of any nature on any basis, against any EXA licensors or any EXA group company other than EXA.

Any legal action against EXA must be filed with the appropriate judicial jurisdiction within two (2) years after the applicable cause of action has arisen.

4. Confidentiality

"Confidential Information" means any information of a confidential nature that when disclosed: (a) in writing, is clearly marked with a restrictive legend, such as "confidential"; or (b) orally or visually, is identified as confidential at the time of disclosure. Confidential Information does not include ideas and concepts that may occur to individuals who have been exposed to Confidential Information.

For a period of five (5) years following disclosure of Confidential Information, the party receiving Confidential Information undertakes to protect the other party's Confidential Information by using the same degree of care that it uses with respect to its own confidential information of a similar nature to avoid disclosure, publication or dissemination of such Confidential Information. EXA is authorized to disclose Customer's Confidential Information to third parties who have entered into an appropriate confidential disclosure agreement with EXA to the extent necessary to provide the EXA Services.

The obligation of confidentiality shall not apply to any information that: (i) is already in the possession of the receiving party without any obligation of confidentiality at the time the information was received from the disclosing party; (ii) is independently developed by the receiving party without reference to the Confidential Information of the disclosing party; (iii) is or becomes publicly available without breach of the Agreement; (iv) is rightfully received by the receiving party from a third party without an obligation of confidentiality; (v) is released for disclosure by the disclosing party with its written consent; or (vi) is required to be disclosed in accordance with a judicial or administrative decision, provided that the receiving party provides prompt information to the disclosing party and reasonably cooperates with the disclosing party to limit the disclosure and use of the Confidential Information.

5. Term and Termination



The Agreement shall remain in full force and effect until the EXA Services are completed or until terminated as provided hereunder, whichever occurs first. This Agreement and/or any EXA Services may be terminated by providing at least thirty (30) days prior written notice. If termination is for breach, the breaching party may cure the breach during the notice period, in which case termination will not occur. Customer shall pay EXA for all EXA Services performed until the date of termination, and for all costs incurred by EXA in connection with those EXA Services.

6. Export

Exchange of information under the Agreement is subject to all applicable export laws and regulations. Unless provided for in a separate agreement, the parties shall not disclose any information requiring an authorization to be exported unless the authorization is required solely for export to countries subject to trade sanctions.

7. Customer's responsibilities

In performing the EXA Services, EXA depends on Customer, at no charge to EXA, to: (i) fully cooperate in the performance of EXA Services, including performing any tasks and providing access (to Customer's premises and technical environment, whether on premise or remotely) as may be required, (ii) ensure it has appropriate rights to allow EXA to use any hardware or software element, or any data provided by Customer to EXA for the performance of EXA Services, (iii) allocate the appropriate resources and (iv) provide accurate and complete data to EXA. Customer is responsible for maintaining backups of its data and programs.

8. Non-solicitation

While the Agreement remains in effect and for six (6) months thereafter, Customer agrees to obtain EXA's prior written consent before taking any action to employ or retain any personnel of EXA who has performed EXA Services under the Agreement. This consent requirement will apply to any direct or indirect solicitation of, acceptance of solicitation from, employment, retention or other engagement of the services of any such personnel. This section does not apply to hiring in response to general advertisements unrelated to the Agreement. Neither party hereto shall be liable for any default in the performance of its obligations under the Agreement resulting from (i) a case of force majeure as defined by the law governing the Agreement and the courts in such jurisdiction, or (ii) the following causes: strikes (whether

9. Insurance

EXA Group maintains general liability insurance with one or more reputable insurance companies. EXA is covered by this insurance. EXA will give Customer, at its request, the corresponding certificates from the insurance companies concerned.

10. Miscellaneous

- a) Customer's purchasing or other terms and conditions shall not in any way supersede, supplement or otherwise modify the terms of the Agreement.
- b) Any notice shall be given in writing at the address set forth on the Quote or SOW by pre-paid first class mail, personal delivery, or overnight courier service.

previously announced or not), war (declared or not), riots, governmental action, acts of terrorism, acts of God (fire, flood, earthquake, etc.), or any electrical, utility or telecommunication outages.

c) The relationship between EXA and Customer is that of independent contractors. Nothing contained in the Agreement shall be construed to create a partnership, a corporation, a joint venture or agency relationship between the parties, and no employee of EXA shall be deemed to be an employee of Customer. EXA shall be responsible for its employees' supervision, daily direction and control, as well as for payment of salary and benefits, including without limitation applicable employment taxes. EXA shall be entitled to (i) determine the assignment of its employees for the EXA Services performance, and (ii) replace or reassign such employees.

d) If any provision of the Agreement is found by a court of competent jurisdiction or arbitrator to be illegal, void or unenforceable, the other provisions shall remain in full force and effect, and the affected provision will be modified so as to render it enforceable and effective to the maximum extent possible in order to effect the original intent of the parties.

e) Any subcontract, assignment, delegation, or other transfer (including without limitation, by way of merger, acquisition, divestiture, or change of control or contribution in kind) of the Agreement or any of Customer's rights, duties, benefits or obligations hereunder is subject to EXA's prior written approval. Any attempt to do so without such consent is void. EXA may assign, delegate, subcontract or otherwise transfer any of its rights or obligations hereunder, in whole or in part, without Customer's consent. The Agreement shall be binding upon, and inure to the benefit of EXA and its successors and assigns.

f) No waiver, alteration, modification, or cancellation of any of the provisions of the Agreement shall be binding unless made by written amendment signed by both parties. A party's failure at any time to require performance of any provision hereof shall in no manner affect its right at a later time to enforce that or any other provision.

g) The Agreement is provided in English and may be provided, for informational purposes only, in a language other than English. The English version shall be the only binding and enforceable version of the Agreement.

h) The following sections of this Agreement shall survive termination thereof: Sections 1.1 (except with respect to any Customer's right to EXA Services that is expired or terminated), 1.2, 1.3, 2, 3, 4, 5, 6, 8 and 10.

i) The Agreement shall be governed and construed in accordance with the laws of The Commonwealth of Massachusetts. The Massachusetts courts shall have exclusive jurisdiction to hear any dispute arising out of or in connection with the interpretation and/or performance of the Agreement. Customer acknowledges and agrees that the foregoing shall not prevent, restrict or otherwise limit in any manner, EXA's rights to seek equitable remedies, including injunctive relief before any competent court in any jurisdiction.

Annex 1

DATA PROTECTION AGREEMENT (“DPA”)

1. Definitions

Applicable Data Protection Legislation means as from 25 May 2018, the Regulation (EU) 2016/679 (General Data Protection Regulation) and any delegated and implementing acts adopted in accordance with the General Data Protection Regulation and the member state's laws specifying the provisions of the General Data Protection Regulation applicable to the Processing implemented.

Licensee's Personal Data means Personal Data provided by Licensee to Exa for the performance of the Services.

Personal Data means any kind of information relating to an individual about whom information is collected which can, individually or together with other information on the individual, lead to directly or indirectly identifying such individual.

Sub-Processor means any Processor appointed by Exa or by any other Sub-Processor of Exa which receives, from Exa or from any other Sub-Processor of Exa, Personal Data for the sole and exclusive purpose to performing Processing on behalf of Licensee in accordance with the terms of this Agreement and the terms of a written subcontract.

SOW means the statement of work or quote agreed upon between Licensee and Exa for the performance of the Services under the Agreement.

“**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Process/Processing**” “**Processor**” and “**Personal Data Breach**” shall have the same meaning as in the Applicable Data Protection Legislation.

2. Scope

This DPA applies where and only to the extent that Exa processes Personal Data on behalf of Licensee in the course of providing the Services and such Personal Data is subject to the Applicable Data Protection Legislation. Accordingly, Licensee is the Controller of Personal Data and Exa shall process Personal Data as a Processor.

The parties agree to comply with the terms and conditions in this DPA in connection with Licensee's Personal Data. Nothing in the Agreement or this DPA shall prevent Exa from using or sharing any Personal Data that Exa would otherwise collect and process independently from Licensee's use of the Services.

3. Exa's Obligations

Exa, as a Processor, will:

- to the maximum extent permitted by applicable law and during the performance of the Agreement and the applicable SOW, process Personal Data provided by Licensee in accordance with the Agreement, the applicable SOW and Licensee's written reasonable instructions, which shall in all circumstances be consistent with the Agreement;
- ensure that the persons who are authorized to Process Personal Data provided by Licensee are bound themselves by an appropriate obligation of confidentiality;
- reasonably assist Licensee in ensuring compliance with its obligations as a Data Controller regarding sections 32 to 36 of the General Data Protection Regulation, taking into account the nature of Processing as described in the Agreement and the applicable SOW. If Exa has reason to believe or is convinced that a Personal Data Breach impacting Licensee has occurred, Exa will (i) notify the incident to Licensee without undue delay after becoming aware of such Personal Data Breach, (ii) provide Licensee with available information allowing it to comply with its notification obligations with competent supervisory authority; and
- make available to Licensee all necessary information in its possession to demonstrate Exa's compliance with its obligations provided for by the Applicable Data Protection Legislation and reflected in this DPA and, in case compliance with Applicable Data Protection Legislation cannot be evidenced through the appropriate documentation provided by Exa, allow for, an audit. Such audit will be (i) notified to Exa in writing at least thirty (30) days in advance by indicating its scope which shall be limited to assess Licensee's compliance where the documentation provided by Exa is not relevant (ii) conducted by an independent auditor mandated by Licensee at Licensee's costs and performed not more than once every twelve (12) months.

4. Licensee's Obligations

Licensee acknowledges and agrees to (i) comply with its obligations as a Controller under the Applicable Data Protection Legislation in respect of its Processing of Licensee's Personal Data and any Processing instructions it issues to Exa; and (ii) to provide notice and obtain all necessary consents and rights according to the Applicable Data Protection Legislation so that Exa can legally Process Licensee's Personal Data with respect to the the Services pursuant to the Agreement.



5. Data Subjects rights

When Exa receives a request from a Data Subject for access to, correction, update or erasure of his/her Personal Data or a request to restrict Processing, Exa will, to the extent legally permitted, promptly notify Licensee and redirect Data Subject's request to Licensee.

To the extent Licensee does not have the ability to independently correct, amend, or delete Licensee's Personal Data, or block or restrict Processing of Licensee Data, then at Licensee's written direction and to the extent required by Applicable Data Protection Legislation, Exa shall assist Licensee to fulfil its obligations in response to requests from Data Subjects to exercise their rights under Applicable Data Protection Legislation in a manner consistent with the performance of the Agreement, the applicable SOW and Exa's role as a Processor. To the extent legally permitted, Licensee shall be responsible for any reasonable costs arising from Exa or its Sub-Processors' provision of such assistance.

6. Sub-Processing

Exa is a worldwide multi-tiered organization, located in the Americas, Asia and Europe to provide customers with responsive and proactive services. In that globalized context, Licensee agrees that Licensee's Personal Data may be transferred to, stored, accessed and Processed in any country in which Exa or its subcontractors are located. Exa will ensure that the same data protection obligations as set forth in this DPA shall be imposed on the Sub-Processors by way of a contract and/or the standard contractual clauses from the European Commission in such a manner that the Processing will meet the requirements of the Applicable Data Protection Legislation.

Exa will (i) take commercially reasonable measures to ensure that Sub-processors have the requisite capabilities to Process Licensee's Personal Data in accordance with this DPA and (iii) remain responsible for its compliance with the obligations of this DPA and for any acts or omissions of the Sub-processor that cause Exa to breach any of its obligations under this DPA

Exa will provide in the SOW a list of agreed Sub-Processors involved in the Processing of Licensee's Personal Data due to the Processing activities implemented on behalf of Licensee. Exa will inform Licensee of any intended changes concerning the addition or replacement of other Sub-Processors, thereby giving the Licensee the opportunity to object to such changes. Licensee may reasonably object to Exa's use of a new Sub-Processor if (i) such new Sub-Processor Processes Licensee's Personal data, (ii) Licensee demonstrates it has a legitimate interest, and notifies Exa in writing, within five (5) days after receipt of the notification, it being specified that in the absence of an objection from Licensee, the Sub-Processor is deemed to be accepted by Licensee. If Licensee notifies its objection related to the new Sub-Processor within the above timeframe, the parties shall discuss such concerns in good faith with a view to achieving commercially reasonable resolution. If this is not possible, either party may terminate the applicable Services, without penalty, that cannot be provided by Exa without the use of the objected Sub-processor.

7. Security

Exa will implement and maintain appropriate technical and organizational security measures designed to protect Licensee's Personal Data from a Personal Data Breach, to help ensure the ongoing confidentiality, integrity, and availability of the Licensee's Personal Data and Processing systems, in accordance with Exa's security standards. Additional specific security measures applicable to Licensee's Personal Data may be implemented in the applicable SOW.

Licensee acknowledges that the Exa's security measures are subject to technical progress and development and that Exa may update or modify them from time to time provided that such updates and modifications do not result in the degradation of the overall security of the Exa Services provided by Exa to Licensee.

Notwithstanding the above, the Licensee is responsible for its secure use of the Exa Services, including securing its account authentication credentials, protecting the security of Licensee's Personal Data when in transit to and from the Exa Services and taking any appropriate steps to securely encrypt or backup any Licensee's Personal Data uploaded to the Exa Services.

8. Termination of this DPA

Upon termination or expiration of the Agreement, Exa will, at Licensee's choice, delete or return, if feasible, Licensee's Personal Data to Licensee and delete all existing copies, in accordance with the terms and timelines of such Agreement. However, this requirement will not apply:

- to the extent that Licensee's Personal Data have been archived on Exa's back-up systems
- where applicable law requires retention of such Licensee's Personal Data, and
- where such Licensee's Personal Data is necessary for proof or compliance purposes during the applicable statute of limitation.

In all such cases, Exa will maintain Licensee's Personal Data securely and protect from any further Processing. The terms of this DPA shall survive for so long as Exa continues to retain any Licensee's Personal Data.



9. Liability

Any claims arising out of, in connection with, or related to this DPA, whether on contract, tort or under any theory of liability is subject to the terms and conditions, including but not limited to the exclusions and limitations, set forth in the Agreement.

In no event shall any party limit its liability with respect to any individual's data protection rights under this DPA or otherwise. Licensee shall indemnify Exa, as applicable, against any and all such claims or costs of any kind that exceed the exclusions and limitations set forth in the Agreement.

Exa shall not be liable for the damage caused by a Processing and/or in case of non-compliance with the Applicable Data Protection Law as a result of a Processing resulting in an administrative fine issued by a data protection authority or a court against Licensee unless such damage or non-compliance directly results from:

- Acts of Exa beyond or contrary to Licensee's written instructions
- Failure of Exa's employees to comply with their confidentiality obligations;
- Partial or total non-performance of the security measures agreed to between the Parties as set out in the Agreement.

When Licensee and Exa are jointly liable (i) for the damage caused by the Processing to one or several Data Subjects and/or (ii) in case of non-compliance with the Applicable Data Protection Law as a result of a Processing resulting in an administrative fine finally awarded by a data protection authority or a court against one party, the parties agree to negotiate in good faith the determination of the portion of liability corresponding to the share of responsibility of each party in the execution of the damage and/or the non-compliance and, if applicable, of the amount due by one party to the other party for compensation, within six (6) months from notification by one party to the other party. Failure for the parties to agree on the determination of the quantum, on the aforementioned time period, the parties may decide to submit the determination of the quantum corresponding to the share of liability of each party to the competent jurisdiction as determined in this DPA.

10. Miscellaneous

10.1 Licensee acknowledges and agrees that nothing in the Agreement and this DPA shall prevent Exa from the right to use and disclose Personal Data relating to and/or obtained in connection with the operation, support and/or use of the Exa Services for its legitimate business purposes, including billing, account management, technical support, product development, sales and marketing.