



SOFTWARE SERVICES AGREEMENT

This Software Services Agreement (this “Agreement”) governs the use of and access to the Software Services (as defined herein). This Agreement is also attached to and incorporated by reference into any Order Form between Addium, Inc. or Addium GmbH (each separately and collectively “Addium”) and the customer identified on the applicable Order Form (“Customer”) (each a “Party,” and, together, the “Parties”). Capitalized terms used but not defined herein shall have the meaning assigned to them in the Order Form or the T&Cs available at <https://addium.io/en/company/terms-and-conditions>.

“You” means the entity you represent in accepting this Agreement or, if that does not apply, you individually. This Agreement is effective as of the date you first click “I agree” (or similar button or checkbox) or use or access the Software Services or any Addium Mobile Application, whichever is earlier (the “Effective Date”). This Agreement does not have to be signed in order to be binding. You indicate your assent to this Agreement by clicking “I agree” (or similar button or checkbox) at the time you register for or access the Software Services or any Addium Mobile Application, create an account to access the Software Services or any Addium Mobile Application, or enter into an Order Form.

If you are accepting on behalf of your employer or another entity, you represent and warrant that: (a) you have full legal authority to bind your employer or such entity to this Agreement; (b) you have read and understand this Agreement; and (c) you agree to this Agreement on behalf of the party that you represent. If you don’t have the legal authority to bind your employer or the applicable entity, please do not click “I agree” (or similar button or checkbox) that is presented to you. Please note that if you create an account or access the Software Services or any Addium Mobile Application using an email address from your employer or another entity, then (a) you will be deemed to represent such party, (b) your click to accept the “I agree” (or similar button or checkbox) will bind the employer or that entity to this Agreement, and (c) that entity will be the Customer.

You agree that from time-to-time Addium may modify this Agreement and that any such changes shall become effective immediately.

IMPORTANT: If You do not agree to these Terms, do not access or use the Software Services or any Addium Mobile Application and do not click “I agree” (or similar button or checkbox).

1. Certain Definitions.

- a. **“Addium IP”** means the Software Services, the Documentation, Addium Mobile Applications, and Usage Data, and any other intellectual property provided to Customer or any User in connection with the foregoing or in which Addium has any right, title or interest, which includes but is not limited to the intellectual property associated with Addium’s AROYA, AROYAGO, AQUALAB, POMETA and similar brands.
- b. **“Addium Mobile Application”** means any software application that may be downloaded by Customer through Addium websites, software platforms or marketplaces from time to time, including the Apple® App Store® or Google Play Store®, and loaded onto an iPad® or other mobile device on which the then-current Addium mobile applications have been designed to and is permitted to run.
- c. **“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity, where “control” means possession of the power to direct the management and policies, including through the legal or beneficial ownership of fifty percent (50%) or more of the voting securities or interest in the subject entity.
- d. **“Customer Data”** means all information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or a User to Addium, including through the Software Services, or that is generated for Customer by the Software Services.

- e. **“Documentation”** means Addium’s user guides, documentation, policies, and training materials, as updated from time to time, accessible via the applicable Software Services.
- f. **“Hardware Products”** means any equipment, hardware, products, materials or other tangible goods that are purchased or leased by Customer from Addium pursuant to an Order Form.
- g. **“Software Services”** means Addium’s proprietary hosted products and software solutions made available through a software-as-a-service platform or hosted internet or web application, including Addium Mobile Applications, as may be modified, enhanced and/or updated from time to time.
- h. **“Subscription Term”** means the term set forth in the applicable Order Form during which Customer will have access to the Software Services purchased under that Order Form.
- i. **“Third-Party Materials”** means materials and information, in any form or medium, including any opensource or other software, documents, data, content, specifications, products, equipment, or components of or relating to the Software Services that are not proprietary to Addium.
- j. **“Usage Data”** means all data, content, results, metrics, statistics, and information related to Customer’s use of the Software Services, which has been either de-identified or aggregated such that neither Customer nor any User or individual may be identified.
- k. **“Users”** means Customer’s employees, consultants, contractors, and agents: (i) who are authorized by Customer to access and use the Software Services under the rights granted to Customer pursuant to this Agreement; and (ii) for whom access to the Software Services has been purchased under an Order Form.

2. **Terms.**

- a. **Order Forms and T&Cs.** Addium and Customer may enter into order forms from time to time, which will each be executed by Customer and Addium and will specify the applicable Software Services purchased and the applicable Fees and Subscription Term for the Software Services (each, an “Order Form”). Addium’s Terms and Conditions located at <https://addium.io/en/company/terms-and-conditions> (the “T&Cs”) are hereby expressly incorporated into this Agreement by reference and Customer agrees to comply with the T&Cs.
- b. **Fees and Payment.** Customer must pay all fees, expenses and other amounts specified in this Agreement and any applicable Order Form(s) (the “Fees”), in accordance with the payment and invoicing terms set forth in the applicable Order Form(s) and the T&Cs. Fees for Software Services may be charged on a periodic basis (e.g., annually) (“Periodic Fees”) or on a one-time upfront basis (“One-Time Fee”).
- c. **Subscriptions and True Up.** Except as otherwise provided herein or in the applicable Order Form: (a) Software Services are purchased for the Subscription Term stated therein; and (b) additional subscriptions may be added during a Subscription Term at pricing to be determined by Addium and may be prorated for the remainder of an applicable Subscription Term. Subscription quantities cannot be decreased during a Subscription Term without Addium’s express written agreement, which may be withheld or given at Addium’s sole and absolute discretion.
- d. **Suspension.** In addition to any other rights or remedies Addium may have under this Agreement or at law or in equity, Addium may suspend Customer’s access to any portion or all of the Software Services upon written notice, without liability or obligation to Customer: (i) as set forth in Section 3(a); (ii) if Customer’s account is more than thirty (30) days past due; or (iii) Addium determines, in its sole discretion, that: (1) Customer’s use of the Software Services disrupts or poses a security risk to the Software Services or to any other customer or vendor of Addium; (2) Customer is using the Software Services or Documentation for fraudulent or illegal activities or Customer or its Users are in breach of Agreement; (3) the Software Services are being used in an unsafe or harmful manner, or (4) Customer or a User is using the Software Services in a way that may subject Addium, its Affiliates, employees, officers, directors, contractors, other representatives, or any third party to liability.
- e. **Term.** The term of this Agreement will commence on the Effective Date and will remain and continue in effect, unless sooner terminated, as provided in this Agreement. The length of the initial Subscription Term shall be set forth in the Order Form; provided, however, that if the Order Form does not specify the length of the initial Subscription Term, then (i) the initial Subscription Term for any Software Services subject to Periodic Fees shall be one (1) year, and (ii) the initial Subscription Term for any Software Services subject

to a One-Time Fee shall be for the lifetime of the specific Software Services, subject to Section 2(j) and other applicable provisions of this Agreement. The initial Subscription Term shall commence upon the earlier of (i) the date that Customer indicates its readiness to commence the Software Services or (ii) forty five (45) days following the first shipment of Hardware Products from Addium to Customer. Except as otherwise provided in an Order Form, Software Services subject to Periodic Fees will automatically renew for additional renewal Subscription Terms of one (1) year each, unless either Party gives the other written notice at least thirty (30) days prior to the end of the current Subscription Term. Fees for any renewal Subscription Term will be at the then going rate for the Software Services in effect at the time of such renewal. Addium may increase Fees at the end of each Subscription Term, or prior to any renewal term, by providing written notice to Customer at least thirty (30) calendar days prior to the increase in Fees, and any Order Form will be deemed amended accordingly.

f. **Termination.**

- i. **By Addium.** Addium may terminate this Agreement and any Order Form(s), effective on written notice to Customer, if Customer fails to pay any amount when due hereunder, and such failure continues more than ten (10) days after Addium's delivery of written notice thereof.
- ii. **By Either Party for Cause.** Either Party may terminate this Agreement, effective on written notice to the other Party, if: (1) the other Party materially breaches this Agreement, and if capable of cure, such breach remains uncured for thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; or (2) the other Party: (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (b) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (c) makes or seeks to make a general assignment for the benefit of its creditors; or (d) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- iii. **By Either Party with no Active Subscriptions.** Either Party may terminate this Agreement, effective upon written notice to the other Party, so long as there are no active Subscription Terms currently in effect under any Order Form.

- g. **Effect of Termination.** Upon any termination or expiration of this Agreement, any applicable Order Form, or any subscription or Subscription Term or discontinuation of any Software Services pursuant to Section 2(j), Customer must, as of the date of such termination, expiration, or discontinuation, immediately cease accessing or otherwise utilizing the Software Services and the Addium IP. Customer shall delete, destroy, or return all copies of the Addium IP and certify in writing to the Addium that the Addium IP has been deleted or destroyed. No expiration, termination or discontinuation will affect Customer's obligation to pay all Fees that may have become due before such expiration, termination, or discontinuation or, except as otherwise provided herein, entitle Customer to any refund.

- h. **Survival.** The following provisions shall survive any expiration or termination of this Agreement: Sections 1, 2, 3(d), 3(e), 3(f), 3(g), 3(i), 4, and 5, and any other provisions that by their terms are intended to survive.

- i. **Customer Data Retention and Return.** Upon the termination or expiration of a Subscription Term or discontinuation of a Subscription Service pursuant to Section 2(j), applicable Customer Data may be preserved for up to ninety (90) days from the date from such termination, expiration, or discontinuation (the "Retention Period"). During the Subscription Term or the Retention Period, within thirty (30) days of receipt of Customer's written request, Addium will facilitate electronic delivery of any Customer Data in the Software Services to Customer in Addium's standard database export format at no additional charge. After the Retention Period, the Customer Data may be permanently deleted from Addium's servers and will be irrecoverable by Customer. Customer hereby acknowledges and agrees that Addium shall have no obligation to retain Customer Data after the Retention Period unless otherwise required by applicable laws. If Customer begins a new Subscription Term pursuant to an Order Form prior to the end of the Retention Period, Customer Data shall remain available to Customer in accordance with this Agreement.

- j. **Discontinuation.** Addium may discontinue providing or providing access to any Software Services and cancel the Subscription Term at any time; provided, however Addium (i) shall provide Customer with 180 days notice of such discontinuation, (ii) shall preserve and provide Customer Data to Customer in accordance with Section 2(i) herein, and (iii) for Software Services subject to Periodic Fees, shall offer a

refund of a pro rata amount of any Fees actually pre-paid by Customer to Addium for the unused portion of the Subscription Term. Any One-Time Fee paid for Software Services shall not be subject to a refund.

- k. **Updates.** Addium may, but is not required to, update, modify, or upgrade the Software Services and provide access to those updates, modifications or upgrades to Customer without additional Fees. In some cases, Addium may modify Software Services to include enhanced functionality and offer that enhanced functionality to Customer for an additional Fee.

3. **Access; Data and Privacy Policy.**

- a. **Access Grant.** Subject to the terms of this Agreement, Addium grants to Customer and its Users a limited, revocable, nonexclusive, nontransferable, nonassignable, nonsublicensable license: (i) to access and use the Software Services during the Subscription Term, solely for use by Users; and (ii) to use the Documentation during the Subscription Term in connection with its use of the Services, for the authorized access and uses in accordance with the T&Cs and this Agreement. The foregoing rights and licenses are limited to Customer's internal use, and the Software Services shall be used solely for business purposes, and not for personal, family, or household purposes. Access may be temporarily restricted or suspended without liability or obligation to Customer for (1) Scheduled Downtime (defined below) or other reasonably required maintenance; (2) downtime or degradation or other maintenance due to a force majeure event or any other circumstances beyond Addium's reasonable control, including Customer's or any User's use of Third-Party Materials or the acts or omissions of any party besides Addium; (3) use of the Software Services other than in compliance with the express terms of this Agreement and the Documentation; and (4) any suspension or termination of Customer's or any Users' access to or use of the Software Services as permitted by this Agreement. Addium may from time to time in its sole and absolute discretion make any changes to the Software Services and/or Documentation that it deems necessary or useful.
- b. **Service Levels.** Addium will use commercially reasonable efforts to make the Services available in accordance with the service levels set out in Addium's standard Service Level Agreement, available on request.
- c. **Third-Party Materials.** As a condition precedent to installing or accessing any Third-Party Materials (if any), Customer may be required to execute a click-through, shrink-wrap End User License Agreement (EULA) or similar license agreement provided by the Third-Party Materials provider. Customer's use of such Third-Party Materials is subject to the applicable third-party license terms and conditions. Nothing in this Agreement grants any right, title, or interest in or to (including any license under) any intellectual property rights in or relating to the Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Third-Party Materials are and will remain with the respective rights holders in the Third-Party Materials.
- d. **Addium IP.** Addium reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Addium IP. Customer acknowledges that, as between Customer and Addium, Addium owns all right, title, and interest, including all intellectual property rights, in and to the Addium IP and Customer waives any claims, demands, actions, or causes of action to the contrary.
- e. **Customer Data and Privacy.** Addium acknowledges that, as between Addium and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants Addium a worldwide, perpetual, nonexclusive, royalty-free, fully paid-up, assignable, transferable, sublicensable right and license to collect, host, store, transfer, display, perform, reproduce, modify, use, distribute and create derivative works of Customer Data, to provide the Software Services to Customer, and to create or generate Usage Data. As part of the provision of the Software Services or provision of Hardware Products to Customer, Addium may provide Customer Data to third parties, including companies providing other controllers or hardware, which in turn may utilize the Customer Data to provide other services or as part of the Software Services. Except as set forth in this Agreement or any other agreement between the Parties, Addium shall not provide Customer Data to third parties.
- f. **Usage Data and Related Rights and Duties.** Notwithstanding anything to the contrary in this Agreement or any other written agreement between the Parties, Addium may monitor Customer's use of the Software Services and collect, compile, and generate Usage Data, including from Customer Data. The Parties acknowledge and agree that Addium (i) owns and holds any and all worldwide rights, title, and interests in

- and to the Usage Data, including, without limitation, all intellectual property rights and any registration and patent rights which may subsist therein, and (ii) may use the Usage Data for any purpose, including, without limitation, diagnostic and corrective purposes in connection with providing technical and customer support, to deliver performance insights, to analyze, enhance and improve its products and services, to develop new products and services.
- g. **Feedback.** Customer acknowledges and agrees that Addium may, at its discretion and for any purpose, use, modify, and incorporate into the Software Services or other services or products any feedback, comments, or suggestions Customer or Users provide to Addium (collectively, "Feedback"), without any obligation or liability to Customer or Users, although Addium is not required to use any Feedback.
 - h. **Scheduled Downtime.** Addium will use commercially reasonable efforts to: (a) schedule downtime for routine maintenance of the Software Services between the hours of 8 PM and 6 AM, U.S. Mountain Time; and (b) give Customer at least 24 hours prior notice of all scheduled outages of the Services ("Scheduled Downtime"). In the event of an emergency or force majeure event, Addium may schedule downtime for maintenance of the Services at any time and without prior notice.
 - i. **Data Backup.** The Software Services do not replace the need for Customer to maintain regular data backups or redundant data archives. ADDIUM HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF CUSTOMER DATA.

4. **Obligations and Restrictions.**

- a. **Confidentiality and Data Security.** The Parties shall comply with the obligations of confidentiality set forth in the T&Cs. Addium will implement commercially reasonable technical and organizational measures designed to secure the confidentiality and security of the Software Services and any Customer Data.
- b. **General Restrictions.** Customer shall not (and shall not allow any Users or third party to): (i) copy, modify, adapt, translate, or otherwise prepare derivative works or improvements of Addium IP, or incorporate Addium IP into or with other software; (ii) distribute, sell, sublicense, rent, lease, lend or use Addium IP for time sharing, service bureau, software as a service, cloud or other technology or service or similar purposes, or otherwise make the Addium IP available to any third party; (iii) frame, scrape, or mirror any content forming part of the Addium IP; (iv) use the Addium IP to store or transmit any software, code, files, scripts, agents, or programs intended to do harm, including viruses, worms, time bombs, and Trojan horses; (v) interfere with or disrupt the integrity or performance of the Addium IP; (vi) bypass or breach any security device or protection used for or contained in the Addium IP or otherwise attempt to gain unauthorized access to the Addium IP or its related systems or networks; (vii) decompile, disassemble, or otherwise reverse engineer the Addium IP or attempt to reconstruct or discover any source code, APIs, underlying ideas, algorithms, file formats, data or programming interfaces of the Addium IP by any means whatsoever; (viii) remove, alter, obscure, or otherwise change any proprietary or other notices from the Addium IP; (ix) use the Addium IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (x) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to Addium IP; (xi) otherwise access Addium IP beyond the scope of authorization granted hereunder; or (xii) use Addium IP for purposes of: (1) benchmarking or competitive analysis of Addium IP; (2) developing, using, or providing a competing software product or service; or (3) any other purpose that is to Addium's detriment or commercial disadvantage. If Customer becomes aware of any actual or threatened activity prohibited by Section 4(b) or other provisions of this Agreement, Customer shall, and shall cause its Users to, immediately take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Software Services and other Addium IP and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access), and immediately notify Addium of any such actual or threatened activity.
- c. **Customer Compliance.** Customer shall use the Software Services only in accordance with this Agreement, the Documentation, the applicable Order Form(s), and applicable laws. Customer hereby represents and warrants to Addium that: (a) it has sufficient rights in the Customer Data to authorize Addium to use the Customer Data as contemplated by this Agreement; (b) the Customer Data and its use hereunder will not violate or infringe the rights of any third party; and (c) Customer's use of the Software Services and all Customer Data is at all times compliant with its own privacy policies and all applicable laws, including without limitation those related to data privacy, international communications and the exportation of

technical or personal data.

- d. **Credentials.** Users may be assigned a unique PIN by Addium; otherwise, each User must create their own unique username and password (collectively, the "Credentials"). Credentials are specific to each User and may not be shared with or transferred to any other person. Addium reserves the right to refuse to register any username or cancel any password that it deems inappropriate. Users are responsible for maintaining the confidentiality and security of the Credentials. Customer will ensure that all Users log out of the Software Services at the end of each session, and Customer will immediately notify Addium if it knows or suspects that a User's Credentials have been used by any other person (including other employees of Customer). Customer will ensure that (a) Users only access the Software Services using their appropriate User-specific Credentials and (b) no other person (including other employees of Customer) will access the Software Services without using Credentials that have been specifically assigned to that person.
- e. **Users.** Customer is responsible and liable for all uses of the Software Services resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of its Users, and any act or omission by a User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer will ensure that all Users are aware of this Agreement's provisions and will cause Users to comply with such provisions. Customer will use commercially reasonable efforts to prevent unauthorized access to or use of the Software Services and will notify Addium promptly upon discovering any such unauthorized access or use.
- f. **Hardware Products and Customer Equipment.** Customer acknowledges and agrees that certain Hardware Products are required for use of the Software Services. Customer shall be responsible for obtaining and maintaining these Hardware Products, and any other materials, equipment and ancillary services needed to prepare its premises for installation of the Hardware Products, and to connect to, access or otherwise use the Software Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Customer Equipment"). Customer is solely responsible for determining whether the Customer Equipment or any other third-party information technology hardware or software is adequate for and compatible with the Hardware Products and Software Services. Customer shall also be responsible for maintaining the security of the Customer Equipment and for all uses of the Customer Equipment, with or without Customer's knowledge or consent. Customer shall be responsible for any damages or injuries caused by the Customer Equipment. Customer acknowledges that if Customer fails to maintain the Hardware Products and Customer Equipment, such failure may negatively affect performance of the Software Services, and Customer further acknowledges and agrees that Addium will not be responsible for any deficiencies in the performance of the Software Services, or for any damages or injuries caused by such failure or otherwise by Customer Equipment.
- g. **Prohibited Data.** Customer acknowledges that the Software Services are not designed with security or to be used with or generate the following categories of information or data: (a) any information that, individually or in combination, does or can identify a specific individual or device or by or from which a specific individual or device may be identified, contacted or located; (b) data that is classified or subject to governmental prohibitions or protections against processing or dissemination or disclosure; (c) data, the processing or possession of which is prohibited by applicable law; or (d) stolen or fraudulent data (each of the foregoing, "Prohibited Data"). Customer shall not, and shall not permit any User or other person to, provide any Prohibited Data to, or process any Prohibited Data through, the Software Services. Customer is solely responsible for reviewing all Customer Data and shall ensure that no Customer Data constitutes or contains any Prohibited Data.

5. Warranties; Disclaimer.

- a. **Limited Warranties.** Addium warrants that, during the Subscription Term, (a) the Software Services shall perform materially in accordance with the Documentation; and (b) Addium will not materially decrease the overall functionality of the Software Services to which Customer has subscribed, subject to the other provisions of this Agreement, including Section 2(j). Notwithstanding the foregoing, Customer acknowledges the Software Services are an online, subscription-based product, and to provide improved customer experience, Addium may, but is not obligated to, make modifications to the Software Services, in which case Addium will update the Documentation accordingly. In the event of any breach of the foregoing warranties during the Subscription Term, Addium shall, as its sole liability and Customer's sole and exclusive remedy for such breach, use commercially reasonable efforts to remedy such deficiencies. If

Addium determines that it is unable to remedy any deficiencies, Addium may terminate that portion of the applicable Order Form affected and, for Software Services subject to Periodic Fees, refund to Customer a pro rata amount of any Fees actually pre-paid by Customer to Addium for the unused Subscription Term of the defective portion of the Software Services. No refunds shall be provided for Software Services subject to a One-Time Fee.

- b. **Exclusions.** The limited warranties described in Section 5(a) above will not apply (a) unless Customer makes a claim within thirty (30) days of the date on which the condition giving rise to the claim first appeared; (b) if the claim results from an alteration or other modification of the Software Services or Documentation by any person or entity other than Addium; (c) if the Software Services are used with hardware or software not authorized in the Documentation; (d) if the claim results from Customer Equipment or Customer's failure to obtain or maintain any necessary Hardware Products; or (e) if the claim results from Customer's acts or omissions.
- c. **DISCLAIMER.** EXCEPT FOR THE SPECIFIC WARRANTIES SET FORTH IN THIS SECTION, ADDIUM PROVIDES THE SOFTWARE SERVICES, DOCUMENTATION, AND OTHER ADDIUM IP "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." THE SOFTWARE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS OR OTHER TECHNICAL ISSUES, INCLUDING WITHOUT LIMITATION THOSE INHERENT IN THE USE OF TECHNOLOGY, SAAS, CLOUD COMPUTING, THE INTERNET, AND ELECTRONIC COMMUNICATIONS, AND ADDIUM SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS, INCLUDING WITHOUT LIMITATION DAMAGE TO CROPS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE SPECIFIC WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION, ADDIUM MAKES NO (AND SPECIFICALLY DISCLAIMS ALL) REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT THE SOFTWARE SERVICES AND DOCUMENTATION WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF HARMFUL COMPONENTS; THAT THE CUSTOMER DATA OR ANY OTHER DATA WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED; ANY WARRANTY (WHETHER EXPRESS, IMPLIED, OR STATUTORY) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT; ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; OR ANY WARRANTY THAT THE HARDWARE PRODUCTS OR SOFTWARE SERVICES WILL BE COMPATIBLE WITH HARDWARE OR SOFTWARE OFFERED, PROVIDED, OR CREATED BY THIRD PARTIES.
- d. **LIMITATIONS ON RELIANCE ON DATA.** CUSTOMER SHALL NOT RELY ON, REFERENCE, UTILIZE, INCORPORATE OR OTHERWISE USE CUSTOMER DATA, USAGE DATA OR OTHER INFORMATION OR DATA GENERATED BY OR AS PART OF THE SOFTWARE SERVICES OR HARDWARE PRODUCTS TO MEET ITS OBLIGATIONS OR SATISFY REQUIREMENTS UNDER APPLICABLE WORKER HEALTH AND SAFETY LAWS. WITHOUT LIMITING THE FOREGOING, FOR EXAMPLE, CUSTOMER SHALL NOT RELY ON CARBON DIOXIDE DATA PRODUCED BY SENSORS TO MEET CUSTOMER'S OBLIGATIONS RELATED TO EXPOSURE TO CARBON DIOXIDE AS THE SENSORS ARE NOT DESIGNED FOR THIS PURPOSE.
- e. **Indemnification.** Customer will defend, indemnify, and hold Addium and its Affiliates, and their officers, directors, employees and agents harmless against any loss, damage, or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Addium by a third party based upon or related to: (a) allegations that the Customer Data infringes the rights of (including the intellectual property rights or any privacy rights), or has caused harm to, a third party; or (b) Customer's breach of this Agreement; provided that Addium: (i) promptly gives written notice of the Claim to Customer (provided, however, that Addium's failure to give such notice to Customer shall not limit Addium's rights under this Section 5 except to the extent Customer's ability to defend any such Claim is actually prejudiced by such failure); (ii) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Addium of all liability); and (iii) provides to Customer, at Customer's cost, all reasonable assistance.
- f. **Entire Agreement.** This Agreement (including any exhibits, attachments, schedules, or addenda), the Order Form(s), the T&Cs, and any applicable online terms referenced herein constitute the entire agreement between Customer and Addium regarding the Software Services, and this Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter.

THE BELOW PROVISIONS ALSO APPLY TO CUSTOMERS WITH THEIR SEAT OR RESIDENCE IN EUROPE

Capitalized terms used but not defined herein shall have the meaning assigned to them in the T&C, ATCSS, and the Software Services Agreement.

§ 1 Scope of Application; Form

These Additional General Terms and Conditions of Software Services (ATCSS) apply in conjunction with the Software Services Agreement above to all of Addium's business relationships with Customers with their seat or residence in Europe. To the extent these ATCSS apply, they prevail over the Software Services Agreement above. The ATCSS apply, however, only if Customer is an entrepreneur, a legal entity under public law, or a special fund under public law. For sales and licenses to other consumers with their residence in Europe, the applicable statutory laws apply.

§ 2 Additional Subscriptions

In addition to Section 2 c of the Software Services Agreement, additional subscriptions require the Customer's express written agreement.

§ 3 Grant of Rights

Contrary to Section 4 b. of the Software Services Agreement, Customer has the right (i) to revise Addium IP to the extent it is necessary to maintain or reinstall the agreed functionality of Addium IP, (ii) to decompile Addium IP under the terms of Section 69e para (1) nos. 1 to 3 German Copyright Act (*Urheberrechtsgesetz*) and within the limits of Section 69e para (2) nos. 1 to 3 German Copyright Act (*Urheberrechtsgesetz*).

§ 4 Claims for Defects by Customer (Warranties)

(1) In addition to Section 5 a. of the Software Services Agreement, Customer may reduce the Fees owed in accordance with applicable statutory provisions or withdraw from the respective Agreement if Customer sets a reasonable deadline for Software Services Agreement subsequent performance and Addium has not provided such performance within such period or such a deadline is superfluous in accordance with applicable statutory provisions.

(2) If the type of subsequent performance chosen by Addium is unreasonable for Customer in the individual case, it may reject it. Addium's right to refuse subsequent performance under applicable statutory conditions remains unaffected.

(3) Section 5 c of the Software Services Agreement does not apply.

§ 5 Other Liability

(1) Unless otherwise set forth in these ATCSS, Addium is liable for a breach of its contractual and non-contractual obligations in accordance with applicable statutory provisions.

(2) Addium is liable for damages – regardless of their legal bases – for intentional and grossly negligent acts or omissions. Addium is also liable for simple negligence, subject to statutory limitations of liability (e.g. insignificant breach of duty) for:

- a) damages resulting from injury to life, body, or health; and
- b) damages arising from the breach of a material contractual obligation (obligation whose fulfillment is essential for the proper execution of the agreement and on whose performance Customer regularly relies and may rely); in this case, however, Addium's liability is limited to compensation for foreseeable damages that typically occur.

(3) The limitations of liability resulting from (2), above apply also to third parties, and upon a breach of duty by persons (also in their favor) attributable to Addium in accordance with applicable statutory provisions. They shall not apply if a defect has been concealed fraudulently, if Addium has assumed a guarantee for the quality of the Products, or for Customer's claims under an applicable product liability statute.

(4) Customer may withdraw from or terminate the respective Agreement due to a breach of duty that does not constitute a defect only if Addium is responsible for such breach of duty. In all other respects, applicable statutory requirements and legal consequences apply.

§ 6 Modification

(1) Contrary to the fourth paragraph of this Software Services Agreement, this Software Services Agreement and these ATCSS may be modified or waived only by mutual consent of Addium and Customer, except as set out in paragraph (2).

(2) Addium may amend these ATCSS and the Software Services Agreement where the amendment is (i) required to comply with mandatory law, regulation, or a binding decision or guidance of a competent authority or court, (ii) neutral or favourable to Customer, or (iii) limited to security measures, sub-processors, or technical operating procedures. Amendments to Fees, the licensed scope of the Services, liability, intellectual property rights, or term and termination require Customer's express consent in text form.

(3) Addium shall notify Customer of an amendment under paragraph (2) in text form at least 30 days before it takes effect, identifying the amendment, its reason, and Customer's right to object, and stating that failure to object will be deemed acceptance. Absent a timely objection in text form, the amendment is deemed accepted. If Customer objects, the previous version continues to apply until the end of the then-current subscription term, unless Addium's continued performance thereunder would be unlawful, in which case either party may terminate the affected Services as of the effective date of the amendment against a pro rata refund of prepaid Fees.