



Fuxam

General Terms and Conditions

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Preamble

Fuxam GmbH (hereinafter referred to as Fuxam) provides services, in particular the provision and use of software on the basis of these terms and conditions, which form an integral part of the contractual agreement. Fuxam provides services exclusively to entrepreneurs within the meaning of § 14 BGB (German Civil Code) (hereinafter referred to as customers). Fuxam and the customer are both jointly referred to as "parties" below.

Fuxam offers all educational institutions and other commercial, non-profit, and public educational providers comprehensive software for the purpose of digital teaching, continuing education, or similar types of education (FuxamOS). The software is a cloud-based software solution, often referred to as "Software as a Service" (SaaS), which users can access from many end devices via an active Internet connection. Users do not need to install their own software, but cannot use the software offline. The software is accessible via the domain **fuxam.app**. This enables the customers' administrators, teachers, and learners to manage their institution efficiently and digitally, track their individual learning progress, and participate in courses via chat functions.

The software's functions can essentially be divided into three groups:

- Administration and organization: Here, administrators can create, manage, and plan users, groups, courses, cohorts, curricula, modules, semesters, degree programs, and rooms. This allows an entire institution to be structured and managed.
- Learning Management System: Our LMS includes state-of-the-art options for creating learning content and learning journeys and forms the basis for operational knowledge transfer and the entire teaching and learning process. Knowledge transfer is supported by a chat function, file storage, learning progress analyses, and AI functions for modern teaching and learning results.
- Examination tool: As part of our LMS, our examination tool covers the entire examination process. It can be used to create, write, and digitally evaluate examinations. The basic range of functions is described in **Appendix 3**.

Section I – Subject matter of the contract

§ 1 Interpretation and Annexes

- (1) The headings used are intended to improve the readability and comprehensibility of the legal provisions. The content and scope of this contract shall be interpreted exclusively on the basis of the provisions.
- (2) Any deviating terms and conditions of the customer shall not apply to the contract unless Fuxam expressly agrees to their application in writing.
- (3) The following annexes, including their appendices, form an integral part of this contract:
 - **Appendix 1** "Offer" or "Service Form"
 - **Appendix 2** "Order Processing Agreement"
 - **Appendix 3** "Function Overview"

§ 2 Subject matter of the contract, conclusion of contract, and trial period

- (1) For the duration of the contract, Fuxam shall provide the customer with software for the purpose of digital teaching, further education, or similar types of education ("Software"), referred to as ("Software") or ("FuxamOS").
- (2) Fuxam provides the customer with the software for the duration of the contract. The customer receives an overview of their individual scope of services in the individual offer or service form. The descriptions of the services and functions guaranteed in the individual offer or service form are provided to the customer on the Fuxam website, in product brochures, or in **Appendix 3 "Function Overview."**
- (3) An account ("Account") must be set up in order to use FuxamOS. By setting up an account, the customer submits a binding offer to conclude a contract for the free use of the software for testing purposes. Fuxam may accept this offer at its own discretion by sending a notification to the specified email address with the access data for the account that has been set up. By activating the account, Fuxam grants the customer a free right to use the software for a period of 14 days for testing purposes ("trial period"). Fuxam may shorten or extend the trial period at its own discretion. After the trial period has expired, the customer's account will be blocked.
- (4) After the trial period has expired in accordance with Section 2 (3), the customer can conclude a paid contract with Fuxam for the use of the software. The customer and Fuxam specify a number of licenses in the offer. Fuxam and the customer can also agree on additional services such as onboarding, support, or extension services in the individual offer.
- (5) Paid contracts are concluded as follows. At the customer's request, Fuxam will prepare a non-binding offer. If the customer agrees, they can submit this proposal to Fuxam as an offer in writing or text form. The contract is concluded when Fuxam accepts this offer in writing or text form.
- (6) The contract offer is not directed at consumers within the meaning of § 13 BGB (German Civil Code). If a consumer accepts this contract offer, the contract is not concluded.

Section II – Services provided by Fuxam

§ 3 Use of the software

- (1) Fuxam grants the customer the right to use the current version of the software within the scope of services specified in Appendix 1 for the number of licenses agreed therein. The basic functions of the software are described in Appendix 3, "Function Overview."
- (2) This right of use is non-exclusive, limited to the term of the contract, and non-transferable.
- (3) The customer may only increase the number of licenses in consultation with Fuxam. The licenses each include one personal access. The persons specified by the customer in the offer (super administrators) are authorized to assign access to the licenses to individual persons.

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- (4) Within the licenses, the customer can assign different roles and rights to their users. The licenses are divided into the following user groups based on the rights assigned to them:

User groups	
Administrators (also "admins")	This role is intended for employees or other authorized persons within the institution who are responsible for the organization of digital teaching (e.g., management staff of the institution, employees of the computer centers or IT department).
Users with individual rights	This user group applies generically to all users who are not considered administrators. Administrators can assign and define a specific role to each individual user in this user group. The roles are defined individually in the settings.

- (5) The respective user groups have customizable rights that can be freely defined by the persons specified by the customer in the offer (super administrators).
- (6) The persons stored in the "Offer" are assigned to the user group "Administrators" in the software, but have additional functions and options compared to Fuxam. These include in particular:
- a. Sending of access data for initial access;
 - b. Authorization for support services;
 - c. Emergency account for recovery/backup of the institution.
- (7) The persons specified by the customer must be named with an individual email address (i.e., no functional email address such as info@fuxam.de). The persons specified by the customer are listed in Appendix 1. The customer is obliged to enter any changes to the persons or contact details of the persons stored in Appendix 1 via the software. Fuxam points out that, in accordance with the main contractual obligations regarding data protection and IT security, the customer is obliged to notify Fuxam immediately of any changes to these persons (e.g., upon termination of employment).

§ 4 Setup and training

- (1) At the start of the contract, Fuxam shall perform the setup services specified in Appendix 1.
- (2) Fuxam is not obliged to adapt the software to the customer's IT environment or to add customized functions, unless the parties have agreed otherwise in Appendix 1.
- (3) Fuxam shall immediately provide the customer with the necessary access data in electronic form for the persons specified in Appendix 1 at the start of the contract.
- (4) The customer or the persons specified may then access the software and set up an institution using the rights assigned to them as "administrators."
- (5) Fuxam is not obliged to instruct or train the persons specified by the customer in Appendix 1 in the use of the software.

§ 5 Storage capacities

- (1) Fuxam shall provide the customer with the storage capacity specified in **Appendix 1** for use.
- (2) Fuxam does not provide storage capacity for any third-party services that may be integrated into the software as plug-ins.

§ 6 Restriction of content

- (1) Content stored by Fuxam is neither weighted nor moderated, except in the cases specified below. Content is displayed according to the criteria individually set by the customer or user.
- (2) However, Fuxam reserves the right to review illegal content or violations algorithmically or manually and to restrict this content and the user accounts that uploaded the illegal content. The following measures in particular may be considered as restrictions:
 - a) Any restrictions on the display of certain individual pieces of information provided by the user, including the removal of content, the blocking of access to content, or the downgrading of content;
 - b) The suspension, termination, or other restriction of monetary payments;
 - c) The suspension or termination of all or part of the provision of the service;
 - d) The suspension or closure of the user's account.
- (3) Illegal content is defined as any information that, as such or by reference to an activity, including the sale of products or the provision of services, is not in accordance with the law applicable in the Federal Republic of Germany, regardless of the exact subject matter or nature of the relevant legal provisions. The following cases in particular may be classified as illegal content:
 - Violations of personal rights,
 - Violations of copyright and industrial property rights,
 - Violations of consumer protection regulations,
 - Racist statements and content,
 - Discriminatory statements and content,
 - sexist statements and content,
 - pornographic content,
 - offensive, vulgar or other against the general decentness,
 - sexual and other harassment,
 - defamatory statements,
 - extremist ideology,
 - medical or legal advice,
 - incitement to commit crimes,
 - threats to commit crimes, and

- incitement and hate speech of any kind.

§ 7 Contact points, reporting and remedial procedures

- (1) Fuxam maintains a central contact point for communication with users, which can be reached via the email address Privacy@fuxam.de.
- (2) Fuxam maintains a central contact point for communication with authorities, the EU Commission, and the European Digital Services Board. The contact point can be reached by email at Privacy@fuxam.de in German and English.
- (3) Individuals and organizations can report the existence of specific information that they consider to be illegal content by emailing Privacy@fuxam.de. Reports from users and third parties must contain the following information in order to be reviewed:
 - a) a sufficiently reasoned explanation of why the person or institution in question considers the information in question to be illegal content;
 - b) a clear indication of the exact electronic location of this information, such as the precise URL address or addresses, or, if necessary, other relevant information to identify the illegal content;
 - c) the name and email address of the reporting person or entity, unless the information is believed to relate to criminal offenses involving the sexual abuse of children, the sexual exploitation of children, or child pornography, or to contacting children for these purposes;
 - d) a statement that the reporting person or entity believes in good faith that the information and statements contained in the report are accurate and complete.
- (4) Fuxam shall acknowledge receipt of reports without delay and shall decide on the reported information in a timely, careful, non-arbitrary, and objective manner. Fuxam shall inform the reporting person or entity of its decision and shall indicate the possible legal remedies available in relation to that decision.
- (5) If Fuxam becomes aware of information that gives rise to a suspicion that a criminal offense that poses a danger to the life or safety of a person or persons has been, is being, or could be committed, it shall immediately notify the law enforcement authorities of its suspicion and provide all relevant information available.

§ 8 Updates and adjustments

- (1) Fuxam may update and further develop the software at any time, in particular due to changes in the legal situation, technical developments, or to improve security. In addition, Fuxam is entitled to adapt the list of functions and their compilation set out in **Appendix 3** at any time in line with changes to the software. In doing so, Fuxam will take the legitimate interests of the customer into account appropriately.
- (2) In the event of a significant impairment of the customer's legitimate interests, the customer shall be entitled to a special right of termination. The ordinary notice period shall be reduced

to one (1) month to the end of the month. The statutory right to extraordinary termination for good cause remains unaffected.

- (3) Fuxam is not obliged to explicitly notify the customer of updates, including new features in the software's functionality, but Fuxam will inform all customers appropriately in the software or by email.

§ 9 Availability

- (1) Fuxam guarantees a minimum monthly availability of 99 percent for the software, including maintenance work, unless the parties have agreed otherwise in **Appendix 1**.
- (2) Fuxam endeavors to ensure that planned updates and maintenance work do not lead to restrictions in availability.

§ 10 Plug-ins

- (1) The functionality of the software can be expanded using plug-ins. Plug-ins allow third-party software to be integrated into the software, thereby expanding its functionality.
- (2) Fuxam is not obliged to provide the customer with specific or customized plug-ins or to provide the customer or third parties with interfaces of a particular nature, unless the parties have agreed otherwise in **Appendix 1**.
- (3) Fuxam cannot guarantee the availability of third-party plug-ins or the availability of individual functions.

§ 11 Support

- (1) Fuxam shall provide the customer with the technical support specified in Appendix 1. The customer is obliged to submit support requests solely via the persons listed as contact persons in Appendix 1. Users of the software assigned to the customer are required to contact the customer directly with support requests. The customer shall attempt to resolve user support requests with the help of the materials provided. If the support request concerns a malfunction or availability, the customer may contact Fuxam with the support request via the contact persons specified in Appendix 1.
- (2) This does not apply if the parties have agreed otherwise in Appendix 1.
- (3) Requests are processed in the order in which they are received and according to their criticality.
- (4) Technical support includes the following services:
 - a. Remote diagnosis and troubleshooting
- (5) Fuxam will provide customers with the best possible support in resolving problems, but cannot guarantee that these measures will be successful in every case.
- (6) The following requests, for example, do not relate to problems with the platform, but fall within the sphere of the customer or user:

- a. Problems with the network and firewall
 - b. Problems with the end device
- (7) The persons listed by the customer in Appendix 1 can contact the Fuxam support team with technical support requests in the "support chat" within the software. Administrators can manage the users authorized for support in the institution's settings using individual roles and permissions. Availability is based on Fuxam's normal business hours, i.e., exclusively on weekdays (Monday-Friday) from 9:00 a.m. to 6:00 p.m., unless otherwise agreed in Appendix 1.
- (8) Fuxam guarantees the customer an additional response time in accordance with the individually agreed support service in Appendix 1 from receipt of the request. This response time does not apply on weekends and public holidays. If no support service has been defined in the offer, a standard response time of 72 hours from receipt of the request applies. Fuxam endeavors to adhere to the response time, but is not obligated to do so.

§ 12 Warranty

- (1) If the customer or its users have the necessary technical equipment in accordance with § 14 (1), Fuxam shall enable the functionality and availability of the software and shall maintain it in a condition suitable for contractual use.
- (2) With regard to the granting of use of the software and the provision of storage space, the warranty provisions of tenancy law (§§ 535 ff. BGB) shall apply. The warranty for only insignificant reductions in the usability of the software is excluded. Strict liability for defects that already existed at the time of conclusion of the contract is excluded.
- (3) The customer must notify Fuxam of any defects in writing without delay.

Section III – Rights and obligations of the customer

§ 13 Compliance and Legal Compliance

- (1) The customer shall use the software exclusively in accordance with the purpose of digital teaching, further education, or similar types of education agreed upon in this contract. The customer undertakes not to use the software in an unlawful manner and not to infringe the rights of third parties.
- (2) The customer undertakes to comply with all official requirements and applicable law when using the software, in particular data protection law and copyright law. The customer shall ensure that users working for them or on their behalf also comply with this.

§ 14 Technical equipment

- (1) The customer or users are responsible for the technical equipment required to use the software (e.g., computer, telephone, Internet connection, operating systems, browser).
- (2) The costs of the technical equipment required to use the software shall be borne by the customer or the users.

Section IV – Remuneration and payment

§ 15 Remuneration and terms of payment

- (1) The customer shall pay the remuneration specified in **Appendix 1** in advance for the service period selected by them, unless the parties have agreed otherwise in **Appendix 1**. The remuneration shall be paid to Fuxam in euros plus the applicable sales tax. The customer shall only receive the full scope of services of the software once they have provided evidence that they have initiated the payment or direct debit. The customer may purchase additional licenses or services in consultation with Fuxam. In addition, the customer may book so-called "access passes" for the software at their institution.
- (2) If the customer books additional software services, the agreements and contracts existing at the time of booking additional services remain unaffected, unless a change is made in writing.
- (3) If the payment fails after it has been initiated or if a direct debit cannot be honored for reasons beyond Fuxam's control, Fuxam may refuse to provide the service. The validity of the licenses and the corresponding access of the customer's registered users shall remain unaffected if 28 days have not elapsed since the failed payment attempt or uncashed direct debit without receipt of payment. In this case, all users shall lose their right of access to the platform.
- (4) Fuxam will issue the customer with an invoice for the agreed services. The customer is obliged to settle the invoice within the payment period.
- (5) The customer may purchase additional licenses or extensions upon request. The amount of the contractually owed fee may be adjusted in accordance with changes in the scope of services, in particular in the event of an increase in licenses or the purchase of extensions. The prices of the extensions vary depending on the type and scope and can therefore only be viewed upon request.

- (6) Fuxam reserves the right to adjust the remuneration agreed in **Appendix 1**. However, the adjustment may not take place until at least twelve (12) months after the conclusion of the contract or after the date of the last adjustment. A reduction is permissible in full. An increase is permissible only to the extent that the Harmonized Index of Consumer Prices (HICP) of the Statistical Office of the European Union (Eurostat) has changed since the conclusion of the contract or the last remuneration increase. In the event of an increase, the customer shall be entitled to a special right of termination. In the case of this special right of termination, the ordinary notice period shall be reduced to one (1) month to the end of the month before the adjustment takes effect. Fuxam shall notify the customer of the date of the change and the amount of the adjustment in writing at least one (1) month in advance.
- (7) After conclusion of the contract, the customer may register additional users in the software who are not covered by the scope of the agreed licenses. Fuxam shall provide the customer with an increased number of licenses amounting to a maximum of 5% of the licenses agreed in **Appendix 1**. Once the 5% limit has been reached, no further users from the institution may be added. The customer may contact Fuxam and adjust the number of licenses by extending the contract.

§ 16 Remuneration and payment terms for access passes

- (1) In addition to the licenses provided, the customer can book so-called access passes. These are additional, time-limited licenses that the customer can assign to users to grant them access to their institution's offerings stored on the software.
- (2) The passes are billed according to the term and number of users. Prices and periods can be viewed on request.
- (3) Payments for "access passes" are made via the external payment service provider "Stripe" as standard. Bookings can be made either via the Stripe website or within the software at (www.fuxam.app). Stripe is a third-party provider that handles transactions and payment services. Customers select their preferred payment terms on the respective payment page. Customers must accept Stripe's terms of use in order to use the access passes.

§ 17 Remuneration of access passes with payment processing for third parties

- (1) The customer can monetize the "access passes" vis-à-vis third parties. In the event of monetization, Fuxam receives a flat-rate sales commission of 0.3% of the monetized pass.
- (2) The customer also bears the costs of the payment service provider for processing the transaction. The costs incurred and the sales commission for the "access passes" are automatically transferred to Fuxam by the payment service provider or must be paid separately to Fuxam upon request.

Section V – Other agreements

§ 18 Liability

- (1) Fuxam shall be liable without limitation in cases of intent, gross negligence, and culpable injury to life, limb, or health.
- (2) Notwithstanding the above cases of unlimited liability, Fuxam shall only be liable for negligent breach of duty in the event of a breach of essential contractual obligations, i.e., obligations whose fulfillment is essential for the proper execution of the contract or whose breach jeopardizes the achievement of the purpose of the contract and on whose compliance the other party may regularly rely, However, this shall be limited to the damage typical for the contract and foreseeable at the time of conclusion of the contract.
- (3) Unless otherwise specified in paragraphs 1 and 2 above, Fuxam's liability is excluded.
- (4) These liability provisions also apply in favor of employees, representatives, and organs of Fuxam.

§ 19 Intellectual property

- (1) The customer or the respective users remain the owners and authors of the data stored on the servers via the software. This includes, in particular, logos, uploaded documents, contributions, and tests. The customer grants Fuxam a non-exclusive right of use to this data to the extent technically necessary for the use of the software. This includes, in particular, the right to reproduce, disclose, or otherwise use the data to be stored by Fuxam for the customer, insofar as this is necessary for the provision of the services owed under this contract. Fuxam is also entitled to store the data in a backup data center. In order to eliminate malfunctions, the provider is also entitled to make changes to the structure of the data or the data format.
- (2) The customer indemnifies Fuxam against claims asserted by third parties alleging infringement of their intellectual property rights (e.g., unauthorized publication, plagiarism). The customer shall reimburse Fuxam for all incurred or foreseeable costs of defending against such claims.
- (3) Both parties may use the designation or name and logo of the other party for advertising purposes (e.g., as a reference or in the context of providing information about the cooperation), unless the parties have agreed otherwise in **Appendix 1**.

§ 20 Confidentiality

- (1) The parties are obliged to maintain confidentiality regarding all confidential matters that come to their knowledge in the course of the preparation, implementation, and fulfillment of this contract, in particular trade and business secrets, and not to disclose, pass on, or otherwise exploit them to third parties. Confidential information is information that is marked as confidential or whose confidentiality is apparent from the circumstances.
- (2) The confidentiality obligation shall not apply to the extent that

- a party is obliged to disclose the confidential information by law or on the basis of an existing or legally binding decision by an authority or court;
 - the receiving party was already aware of the information prior to disclosure by one of the parties;
 - the disclosure is necessary for the preparation, implementation, or otherwise in connection with a financing, corporate transaction, or merger. In this case, the disclosing party shall also oblige the receiving party to maintain confidentiality and to delete the information as soon as it is no longer required;
 - the disclosure is necessary in the context of a security certification and the documentation required for this purpose.
- (3) The parties are obliged to agree on a provision with all employees and subcontractors that is identical in content to this confidentiality obligation.

§ 21 Data protection

- (1) The parties shall comply with the applicable data protection regulations applicable to them.
- (2) Fuxam and any subcontractors or its own processors have access to the customer's personal data in the context of providing the software and fulfilling the contract, in particular in the event of any support. The parties therefore conclude a data processing agreement, which forms an integral part of this contract as **Annex 2**. Fuxam will process the relevant personal data on behalf of the customer in accordance with the provisions set out therein.
- (3) Fuxam shall inform users about processing on its own responsibility in the form of data protection notices. The customer, in turn, shall inform users in accordance with Art. 12 ff. GDPR about processing on its own responsibility, in particular processing for which Fuxam acts on behalf of the customer.

§ 22 IT security

- (1) The parties shall each take appropriate technical and organizational measures to ensure the security of the software and the protection of data.
- (2) The customer must protect the access data provided to them from access by third parties by taking appropriate technical and organizational measures. In the event of unauthorized access by third parties, the customer shall immediately reset the access data for the user account in question and inform Fuxam of the incident without delay.
- (3) Fuxam has no duty of care or safekeeping for the data. The customer is responsible for ensuring that their data is adequately backed up and shall regularly perform appropriate data backups on their own responsibility.

Section VI – Contract term and termination

§ 23 Commencement of contract and ordinary termination

- (1) The contract shall commence on the date specified in **Appendix 1**. The minimum term shall be twelve (12) months, unless the parties have agreed otherwise in **Appendix 1**.

. The term shall be extended by a further twelve (12) months in each case unless one of the parties terminates the contract in due time before the end of the contract term and the parties have not agreed otherwise in **Appendix 1**.

- (2) The customer shall have a notice period of six (6) months to the end of the contract term.
- (3) Termination is only possible for the entire contract.
- (4) Ordinary termination must be made in writing.

§ 24 Termination without notice for good cause

- (1) The right to terminate without notice for good cause remains unaffected.
- (2) Fuxam is particularly entitled to terminate without notice for good cause
 - a. if the customer is in arrears with the payment of the monthly usage fee in an amount that reaches the usage fee for the respective service for two months;
 - b. if the customer commits a serious breach of contract, e.g., uses the software contrary to the contractual provisions, violates applicable laws and regulations, damages the reputation of Fuxam, or jeopardizes the security of the Fuxam platform.
- (3) Termination without notice requires that the terminating party has previously warned the other party and requested that the otherwise existing reason be remedied within a reasonable period of time. The warning must be in writing.
- (4) Termination without notice must be in writing.

§ 25 Return or deletion of data

- (1) After proper termination of the contract, Fuxam will, at the customer's discretion, delete all data
 - and certify this to the customer or
 - hand it over to the customer and delete existing copies,provided that Fuxam is not legally obliged to store the data.
- (2) If the customer has opted for the return of the data in the event of termination without notice, the customer shall bear the costs of the return if he is responsible for the important reason justifying termination without notice.
- (3) The data will be returned in Excel and/or CSV format, unless the parties have agreed otherwise in **Appendix 1**. The return shall take place within a maximum of three (3) months after termination of the contract. Upon receipt, the customer shall immediately check the data for completeness and confirm the return to Fuxam in writing.
- (4) If the customer does not communicate a decision regarding the deletion or return of their data upon termination of the contract, Fuxam shall delete this data in accordance with the principle of data minimization.

Section VII – Final provisions

§ 26 Applicable law, place of jurisdiction, and contract language

- (1) This contract and all disputes arising from or in connection with this contract shall be governed by German law, excluding the UN Convention on Contracts for the International Sale of Goods.
- (2) Unless otherwise required by law, Berlin, Germany, is agreed as the exclusive place of jurisdiction for the settlement of disputes between the parties.
- (3) The contract language is exclusively German.

§ 27 Written form requirement, reservation of changes, and final clause

- (1) Amendments and additions to this contract, including this clause, must be agreed in writing, unless otherwise specified. This does not preclude the parties from waiving the written form in individual cases.
- (2) Notwithstanding paragraph 1, Fuxam shall be entitled to make changes to the contract at any time. The customer shall be notified of the amended terms and conditions in writing at least four weeks before they come into effect. The changes shall be deemed to have been approved if the customer does not object to them within two weeks of receipt of the notification. Fuxam shall inform the customer in the notification of the possibility of objection and the significance of the two-week period. If the customer exercises its right of objection, the changes shall not become part of the contract and the contract shall continue unchanged.
- (3) The parties confirm that, upon signing the contract, there are no verbal or written side agreements outside of this contract and the associated **annexes**.
- (4) Should any provision of this contract or its annexes be wholly or partially invalid, the remaining provisions and the validity of the contract as a whole shall remain unaffected. It is the express intention of the parties to maintain the validity of the remaining provisions. The invalid provision shall be replaced by a legally permissible provision that comes closest to the meaning and purpose of the invalid provision. The same applies to any gaps in the contract.
- (5) Insofar as the contract stipulates the written form, this may be replaced by the electronic form in accordance with Sections 126 (3) and 126a (1) of the German Civil Code (BGB), provided that the issuer has affixed their name and a qualified electronic signature to the document.



Appendix 2 – Order Processing Agreement for the "FuxamOS" software

This **Appendix 2** contains the order processing agreement within the meaning of Art. 28 (3) of Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR) as specified in § 17 (2) of the above contract for the provision and use of the software.

Between the party named in **Appendix 1**: as **customer** and **responsible party**

and

Fuxam GmbH
c/o L. van den Brandt
Hilda-Geiringer-Weg 7
10557 Berlin

registered in the commercial register at Charlottenburg Local Court (Berlin)
under registration number HRB 238572

represented by the managing directors Julian Schröder, Oliver Grübnaue & Leo van den Brandt

as **provider** and **processor** (hereinafter also referred to as "Fuxam").

This **Appendix 2** is an integral part of the contract pursuant to Section 1 (2) of the contract for the provision and use of the software.

Preamble

Fuxam provides the controller with a web-based software solution for digital teaching, continuing education, or similar types of education within the framework of the contract for the provision and use of the software. In doing so, Fuxam processes personal data on behalf of the customer as a processor within the meaning of Art. 4 No. 8 GDPR.

In order to ensure compliance with the applicable data protection laws for such processing specified in Annex II, the parties agree to the following "standard contractual clauses" in this **Annex 2**. These were adopted by the European Commission (EU Commission) by decision of June 4, 2021, and are based on their subject matter in the practice widely also as "order processing agreement."

The standard contractual clauses are essentially non-modifiable in accordance with the requirements of the EU Commission in Clause 2 of this **Annex 2**, but may be supplemented under the conditions set out in Clause 2(b) of this **Annex 2**. Such supplementary clauses shall be agreed by the contracting parties in **Annex V**.

Section I

Clause 1 – Purpose and scope

- a) These standard contractual clauses (hereinafter referred to as "Clauses") are intended to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- b) The controllers and processors listed in Annex I have agreed to these clauses to ensure compliance with Article 28(3) and (4) of Regulation (EU) 2016/679.
- c) These clauses apply to the processing of personal data as set out in Annex II.
- d) Annexes I to V form an integral part of the clauses.
- e) These clauses apply without prejudice to the obligations to which the controller is subject under Regulation (EU) 2016/679.
- f) These clauses do not in themselves ensure that the obligations relating to international data transfers under Chapter V of Regulation (EU) 2016/679 are fulfilled.

Clause 2 – Immutability of the Clauses

- a) The parties undertake not to amend the clauses, except to supplement or update the information specified in the annexes.
- b) This does not prevent the parties from incorporating the standard contractual clauses set out in these clauses into a more comprehensive contract and adding further clauses or additional safeguards, provided that these do not directly or indirectly conflict with the clauses or restrict the fundamental rights or freedoms of the data subjects.

Clause 3 – Interpretation

- a) Where terms defined in Regulation (EU) 2016/679 are used in these clauses, those terms shall have the same meaning as in that Regulation.
- b) These clauses shall be interpreted in the light of the provisions of Regulation (EU) 2016/679.
- c) These clauses shall not be interpreted in a manner that conflicts with the rights and obligations provided for in Regulation (EU) 2016/679 or that restricts the fundamental rights or freedoms of the persons concerned.

Clause 4 – Precedence

In the event of any conflict between these clauses and the provisions of any related agreements existing between the parties or entered into or concluded at a later date, these clauses shall prevail.

Clause 5 – Joining Clause

- a) An entity that is not a party to these clauses may, with the consent of all parties, join these clauses at any time as a controller or processor by completing the appendices and signing Appendix I.
- b) Upon completing and signing the appendices referred to in subparagraph (a), the acceding entity shall be treated as a party to these clauses and shall have the rights and obligations of a controller or processor as specified in Appendix I.
- c) The joining entity shall not have any rights or obligations under these clauses for the period prior to its accession as a party.

Section II – Obligations of the Parties

Clause 6 – Description of the Processing

The details of the processing operations, in particular the categories of personal data and the purposes for which the personal data are processed on behalf of the controller, are set out in Appendix II.

Clause 7 – Obligations of the Parties

7.1 – Instructions

- a) The processor shall process personal data only on documented instructions from the controller, unless required to do so by Union or Member State law to which the processor is subject. In such a case, the processor shall inform the controller of those legal requirements before processing, unless prohibited by that law on grounds of important public interest. The controller may issue further instructions throughout the processing of personal data. These instructions shall always be documented.
- b) The processor shall inform the controller without delay if it considers that instructions given by the controller violate Regulation (EU) 2016/679 or applicable Union or Member State data protection provisions.

7.2 – Purpose limitation

The processor shall process the personal data only for the specific purpose(s) specified in Annex II, unless it receives further instructions from the controller.

7.3 – Duration of processing of personal data

The data shall be processed by the processor only for the period specified in Annex II.

7.4 – Security of processing

- a) The processor shall implement at least the technical and organizational measures listed in Annex III to ensure the security of personal data. This includes protecting the data against any accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access (hereinafter referred to as "personal data breach"). When assessing the appropriate level of protection, the parties shall take due account of the state of the art, the costs of implementation in relation to the nature, scope, context, and purposes of processing, and the risks to the rights and freedoms of natural persons.
- b) The processor shall only grant its personnel access to the personal data that is the subject of the processing to the extent that this is strictly necessary for the performance, management, and monitoring of the contract. The processor shall ensure that the persons authorized to process the personal data received have committed themselves to confidentiality or are subject to an appropriate statutory duty of confidentiality.

7.5 – Sensitive data

If the processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, or genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning a person's health, sex life, or sexual orientation, or data concerning criminal convictions and offenses (hereinafter "sensitive data"), the processor shall apply specific restrictions and/or additional safeguards.

7.6 – Documentation and compliance with the clauses

- a) The parties must be able to demonstrate compliance with these clauses.
- b) The processor shall respond promptly and appropriately to requests from the controller regarding the processing of data in accordance with these clauses.
- c) The processor shall provide the controller with all information necessary to demonstrate compliance with the obligations laid down in these clauses and arising directly from Regulation (EU) 2016/679. At the request of the controller, the processor shall also allow for audits of the processing activities covered by these clauses at reasonable intervals or where there are indications of non-compliance, and shall contribute to such audits. When deciding on an audit or inspection, the controller may take into account relevant certifications of the processor.

- d) The controller may conduct the audit itself or engage an independent auditor. Audits may also include inspections at the premises or physical facilities of the processor and shall be conducted with reasonable advance notice, where appropriate.
- e) The parties shall provide the competent supervisory authority or authorities with the information referred to in this clause, including the results of audits, upon request.

7.7 – Use of Subprocessors

- a) The processor has the general authorization of the controller to engage subprocessors listed in an agreed list. The agreed list is available in Appendix IV to this agreement or at: <https://www.fuxam.de/privacy-software>. The Processor shall notify the Controller in writing at least [14 days] in advance of any intended changes to this list by adding or replacing Subprocessors, thereby allowing the Controller sufficient time to object to such changes before the relevant Subprocessor(s) is/are engaged. The processor shall provide the controller with the information necessary to exercise its right to object.
- b) If the processor engages a sub-processor to carry out specific processing activities (on behalf of the controller), this engagement must be by way of a contract that imposes substantially the same data protection obligations on the sub-processor as those applicable to the processor under these clauses. The processor shall ensure that the sub-processor fulfills the obligations to which the processor is subject under these clauses and under Regulation (EU) 2016/679.
- c) The processor shall provide the controller with a copy of any such subcontracting agreement and any subsequent amendments thereto upon request. Where necessary to protect trade secrets or other confidential information, including personal data, the processor may redact the text of the agreement before providing a copy.
- d) The processor shall be fully liable to the controller for the subprocessor's compliance with its obligations under the contract concluded with the processor. The processor shall notify the controller if the subprocessor fails to comply with its contractual obligations.
- e) The processor shall agree with the subprocessor on a third-party beneficiary clause whereby the controller has the right to terminate the subcontracting agreement and instruct the subprocessor to delete or return the personal data in the event that the processor ceases to exist de facto or de jure or becomes insolvent.

7.8 – International data transfers

- a) Any transfer of data by the processor to a third country or international organization shall be carried out exclusively on the basis of documented instructions from the controller or in order to comply with a specific provision under Union law or the law of a Member State to which the processor is subject, and must be in accordance with Chapter V of Regulation (EU) 2016/679.

- b) The controller agrees that in cases where the processor engages a sub-processor in accordance with clause 7.7 to carry out certain processing activities (on behalf of the controller) and these processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the processor and the sub-processor can ensure compliance with Chapter V of Regulation (EU) 2016/679 by using standard contractual clauses adopted by the Commission pursuant to Article 46(2) of Regulation (EU) 2016/679, provided that the conditions for the application of these standard contractual clauses are met.

Clause 8 – Assistance to the controller

- a) The processor shall inform the controller without delay of any request received from the data subject. It shall not respond to the request itself unless authorized to do so by the controller.
- b) Taking into account the nature of the processing, the processor shall support the controller in fulfilling its obligation to respond to requests from data subjects to exercise their rights. In performing its duties under points (a) and (b), the processor shall follow the instructions of the controller.
- c) Apart from the processor's obligation to assist the controller in accordance with clause 8(b), the processor shall also assist the controller in complying with the following obligations, taking into account the nature of the processing and the information available to it:
 - 1) Obligation to carry out an assessment of the impact of the envisaged processing operations on the protection of personal data (hereinafter "data protection impact assessment") if a form of processing is likely to result in a high risk to the rights and freedoms of natural persons;
 - 2) Obligation to consult the competent supervisory authority(ies) prior to processing if a data protection impact assessment indicates that the processing would result in a high risk, unless the controller takes measures to mitigate the risk;
 - 3) Obligation to ensure that personal data is accurate and kept up to date by the processor informing the controller without delay if it finds that the personal data it processes is inaccurate or out of date;
 - 4) Obligations under Article 32 of Regulation (EU) 2016/679.
- d) The parties shall specify in Annex III the appropriate technical and organizational measures to be taken by the processor to assist the controller in applying this clause, as well as the scope and extent of the assistance required.

Clause 9 – Notification of personal data breaches

In the event of a personal data breach, the processor shall cooperate with and assist the controller as appropriate to enable the controller to fulfill its obligations pursuant to Articles 33 and 34 of the



Regulation (EU) 2016/679, taking into account the nature of the processing and the information available to the processor.

9.1 – Breach of the protection of data processed by the controller

In the event of a personal data breach in relation to the data processed by the controller, the processor shall support the controller as follows:

- a) in promptly notifying the competent supervisory authority or authorities of the personal data breach after the controller becomes aware of the breach, where relevant (unless the personal data breach is unlikely to result in a risk to the personal rights and freedoms of natural persons);
- b) in obtaining the following information, which must be included in the controller's notification pursuant to Article 33(3) of Regulation (EU) 2016/679, whereby this information must include at least the following:
 - 1) the nature of the personal data, as far as possible, specifying the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
 - 2) the likely consequences of the personal data breach;
 - 3) the measures taken or proposed by the controller to address the personal data breach and, where appropriate, measures to mitigate its possible adverse effects.

If and to the extent that not all of this information can be provided at the same time, the initial notification shall contain the information available at that time, and further information shall be provided without undue delay as soon as it becomes available;

- c) in complying with the obligation under Article 34 of Regulation (EU) 2016/679 to notify the data subject without undue delay of a personal data breach where that breach is likely to result in a high risk to the rights and freedoms of natural persons.

9.2 – Breach of the protection of data processed by the processor

In the event of a breach of the protection of personal data in connection with the data processed by the processor, the processor shall notify the controller without undue delay after becoming aware of the breach. This notification must contain at least the following information:

- a) a description of the nature of the breach (including, where possible, the categories and approximate number of data subjects concerned and the approximate number of data records concerned);
- b) contact details of a point of contact where further information about the personal data breach can be obtained;
- c) the likely consequences and the measures taken or proposed to address the personal data breach, including measures to mitigate its possible adverse effects.



If and to the extent that not all of this information can be provided at the same time, the initial notification shall contain the information available at that time, and further information shall be provided without undue delay as soon as it becomes available.

The parties shall specify in Annex III any other information that the processor must provide to assist the controller in fulfilling its obligations under Articles 33 and 34 of Regulation (EU) 2016/679.

Section III – Final provisions

Clause 10 – Breaches of the clauses and termination of the contract

- a) If the processor fails to comply with its obligations under these clauses, the controller may, without prejudice to the provisions of Regulation (EU) 2016/679, instruct the processor to suspend the processing of personal data until it complies with these clauses or the contract is terminated. The processor shall inform the controller without delay if, for whatever reason, it is unable to comply with these clauses.
- b) The controller shall be entitled to terminate the contract insofar as it concerns the processing of personal data under these clauses if
 - 1) the controller has suspended the processing of personal data by the processor pursuant to point (a) and compliance with these clauses has not been restored within a reasonable period of time, but in any event within one month of the suspension;
 - 2) the processor is in material or persistent breach of these clauses or fails to comply with its obligations under Regulation (EU) 2016/679;
 - 3) the processor fails to comply with a binding decision of a competent court or the competent supervisory authority(ies) concerning its obligations under these clauses, Regulation (EU) 2016/679.
- c) The processor is entitled to terminate the contract insofar as it concerns the processing of personal data in accordance with these clauses if the controller insists on fulfilling its instructions after being informed by the processor that its instructions violate applicable legal requirements in accordance with clause 7.1 letter b.
- d) Upon termination of the contract, the processor shall, at the controller's discretion, either delete all personal data processed on behalf of the controller and certify to the controller that this has been done, or return all personal data to the controller and delete existing copies, unless there is an obligation to store the personal data under Union or Member State law. Until the data is deleted or returned, the processor shall continue to ensure compliance with these clauses.



Annex I – List of parties

Controller(s):

The party designated as the customer in **Appendix 1 of the main contract**.

Processor:

Fuxam GmbH
c/o L. van den Brandt Hilda-Geiringer-Weg 7
10557 Berlin
Managing Directors: Julian Schröder, Oliver Grübnau, Leo van den Brandt

Contact (data protection):
Oliver Grübnau (CFO/COO)
Email: privacy@fuxam.de



Appendix II – Description of processing

Type of processing

Fuxam offers all educational institutions and other commercial, non-profit, and public education providers comprehensive software for the purpose of digital teaching, continuing education, or similar types of education. The software is a cloud-based software solution, often referred to as "Software as a Service" (SaaS), which users can access from many devices via an active internet connection. Users do not need to install any software themselves, but they cannot use the software offline. The software is accessible via the domains **fuxam.app**. This enables the customers' teachers and learners to manage their courses and documents efficiently, track their individual learning progress, participate in courses via chat functions, and take exams online with ease.

The software's functions can essentially be divided into four groups:

- User and course management for digital teaching administration encompasses the entire structure of the institution.
- The learning management system includes state-of-the-art options for course creation, knowledge transfer, and the entire learning process.
- Exam management covers the entire exam process. This allows exams to be created, written, and digitally evaluated, also with the support of artificial intelligence.
- If necessary, provision and billing of courses that are temporarily made available to third parties. (Access passes)

Categories of data subjects whose personal data is processed

Fuxam processes the personal data of those persons to whom the controller makes the software accessible. These are regularly the following categories of data subjects:

- Administrators and employees who are organizationally responsible for digital teaching (e.g., management staff of the institution, employees of the computer centers or IT department).
- Employees who are responsible for the content of teaching in the degree program or within the faculties (i.e., faculty employees, chair holders, and employees of the chairs).
- Teachers who hold the respective courses and interact with the learners (e.g., lecturers, guest lecturers).
- Students, learners, and other users of educational programs (e.g., full-time enrolled students, guest students, auditors, other course participants).

Categories of personal data that are processed

Fuxam processes the following categories of personal data on behalf of the controller:



1. Technical usage data

Content and usage data include information that is automatically generated or collected when using the software. This includes, for example:

- Connection and log data to ensure the technically secure operation of the software;
- Identification and access data to enable access to the software;
- Information about the end devices used, such as the type and version of the end device and the version of the operating system, to enable a clean display.

2. Content data

Content data includes information that users create or upload via the software or that is generated during use. This includes, for example:

- Text contributions, images, and media content (e.g., teaching materials, contributions in courses);
- Other documents uploaded by the user;
- Input data when creating prompts or in forms.

3. Student data

Student data include information of students, who necessary student administration. This includes, for example:

- name data, contact details, student ID number, other identification numbers;
- Assignment to degree program, faculty, and year/semester;
- Assignment and participation in events, courses, and groups;
- Learning progress statistics;
- Information on sick leave and disadvantage compensation.

4. Communication data

Communication data include information of students, who necessary student administration. This includes, for example:

- chat messages via the messaging function;
- Camera and microphone data via video chat when participating in courses.
- Interactive content (e.g., surveys, polls);

5. Examination and test data

Examination and test data are processed as part of examination management. The examinations are created by administrators or teachers and taken by learners. This data includes, for example:

- General information about the exam (e.g., type of exam, exam course, lecturer, assessment criteria, student ID number);
- Examination tasks and content (e.g., questions, answers);
- Participation in examinations (e.g., time of completion or submission);
- Examination results and assessments (e.g., grades, points, comments);
- Log data related to exams (e.g., access to exams).

6. Teaching staff data

Teaching staff data is processed for the purpose of organizing courses. This data includes, for example:

- Name data;
- Contact details;
- Title and qualification as well as status group;
- Information on course and room allocation;
- Information on courses.

7. Payment and billing data

Payment and billing data are processed in connection with the handling of events and educational products subject to payment via access passes. This data includes, for example:

- Payment data required to process any payments for such functions;
- Invoice data in accordance with § 14 UStG (German Value Added Tax Act);
- Information about booked offers.

Sensitive data

Fuxam only processes special categories of personal data if this data is uploaded or entered by users via the functions, e.g., in the form of a file (e.g., term paper), text contributions, or chat messages. Users can delete files and posts themselves at any time. If the functions are used by the controller, health data may be processed for examination management and student administration purposes in order to organize sick leave or compensation for disadvantages. The controller will only process particularly sensitive data within the meaning of Art. 9 (1) GDPR if the requirements of Art. 9 (2) GDPR are met.

Purposes for which personal data is processed on behalf of the controller

Fuxam processes the data on behalf of the controller in order to enable comprehensive digital teaching within the framework of higher education. The purposes are determined by the controller and regularly include:

- Organization of courses and course content (e.g., courses and supplementary materials);
- Preparation of courses (e.g., lecture notes and supplementary materials);
- Conducting courses (e.g., video and audio transmissions);
- Communication about teaching content (e.g., text contributions, messaging function);
- Conducting and evaluating votes (e.g., surveys);
- Evaluation of courses (e.g., number of participants, exam statistics).

Legal basis for processing

The controller alone decides on the purposes of the processing and the legal bases underlying the processing. Insofar as the processing of personal data serves the purposes of digital teaching, further education, or similar types of education, for the implementation of courses and examinations, the following legal bases may be considered, depending on the respective circumstances.

- Art. 6 (1) (b) GDPR for the implementation of pre-contractual measures or for the fulfillment of a study contract (e.g., implementation or performance of contractually agreed teaching).
- Art. 6 (1) (f) GDPR for the protection of legitimate interests (e.g., ensuring the security of the systems, compiling necessary statistics for reports)
- Art. 6 (1) subparagraph 1 lit. e GDPR in conjunction with the relevant provisions of the state higher education law and state data protection law applicable to the customer (if applicable to the customer)

Duration of processing

The duration of the order processing corresponds to the term of the main contract.

User accounts must be deleted by the controller when the purpose of processing ceases to apply (e.g., termination, dismissal, de-registration).

Annex III – Technical and organizational measures, including to ensure data security

The processor shall implement the following technical and organizational security measures to ensure an appropriate level of security, taking into account the nature, scope, context, and purposes of the processing, as well as the risks to the rights and freedoms of natural persons:

1 Access control

To ensure that unauthorized persons do not gain access to the data centers, the selected subprocessor has taken the following measures for the operation of the data center:

- Physical security measures to prevent unauthorized physical access, damage, or disruption to the networks;
- Appropriate control devices to restrict physical access to the networks to authorized personnel;
- Technical systems to detect, monitor, and alert against intrusions or similar security incidents;
- Appropriate systems to log physical access;
- Regular checks to ensure compliance with these measures.

2 Access control

The following measures are taken to ensure that unauthorized persons do not gain access to personal data:

- Access management is secured by the service provider Clerk;
- Role-based, comprehensive API route protection before every request in the software;
- Security headers to block potentially dangerous requests, including content security policy, XSS protection, and X-Frameoptions;
- Permission policy for all plug-ins.

3 User control

To ensure that unauthorized persons cannot use the data processing systems, the following measures are taken:

- Employees have personalized user accounts;
- User accounts are secured with individual passwords;
- User passwords must contain at least [eight] characters and include one upper-case letter, one lower-case letter, one number, and one special character. The use of trivial passwords is prohibited;
- User administration is role-based and follows an authorization concept (known as the need-to-know principle);
- MFA for all databases with phone number or app;
- Secret key management for all APIs, regular key changes;

- The person responsible can control the assigned rights themselves.

4 Data carrier control

To ensure that unauthorized persons cannot read, copy, modify, or delete the data on the data carriers, the following measures are taken:

- Data is only stored on [servers/NAS];
- Data that is no longer required is deleted in accordance with data protection regulations;
- Administrative access to the servers is reserved for specially authorized administrators;

5 Transmission control

To ensure that personal data cannot be read, copied, modified, or removed without authorization during electronic transmission, the following measures are taken:

- Data transmission is encrypted (HTTPS, SMTP-STARTTLS, AES);
- Systems are secured by firewalls that check both incoming and outgoing transmissions;

6 Input control

To ensure that it is possible to subsequently check and determine whether and by whom personal data has been entered, changed, or deleted, the following measures are taken:

- The time of account creation and the last login of all users are logged.
- Requests from the last two hours are logged.

7 Reliability

To ensure that the functions of the systems are available and that any malfunctions are rectified promptly, the following measures are taken:

- Security updates for operating systems and software are installed via automatic update mechanisms;
- Commercial anti-malware software is used and automatically updated;
- A so-called Dependabot searches for new updates, implements them automatically, and warns of faulty versions in order to initiate a version reset if necessary.

8 Data integrity

To ensure ensure that stored personal data not be altered by malfunctions, the following measures are taken:

- Employees are trained at least once a year on data protection and information security;
- User accounts are semi-automatically deleted after 4 years of inactivity.
- Users can have their accounts deleted upon request.

9 Order control

To ensure that personal data is only processed in accordance with the client's instructions, the following measures are taken:

- Employees are bound in writing to data secrecy;
- Order processing is carried out in accordance with the requirements of the EU Commission in accordance with this Annex 2 on order processing pursuant to Art. 28 (3) GDPR;
- Instructions from the controller are followed in accordance with this Annex 2 on order processing;
- Subcontracting is also carried out in compliance with data protection regulations and in accordance with the agreements made in this Annex 2 on order processing.

10 Availability control

To ensure that personal data is protected against accidental destruction or loss, the following measures are taken:

- Regular [full/incremental/differential] backups are performed.

11 Separation control

To ensure that personal data collected for different purposes is processed separately, the following measures are taken:

- Data collected for different purposes is stored in separate databases.

12 Review

To ensure the effectiveness of the technical and organizational measures referred to in this appendix, the following measures are taken:

- Regular penetration tests are carried out on the information systems.



Annex IV – List of sub-processors

Currently, the following sub-processors are used to process data on behalf of the controller:

1 GetStream

Fuxam uses GetStream as a provider of a transmission system for the chat function, the digital whiteboard, live activity reports (also known as "activity feed") and the streaming of courses (i.e., video and audio).

Name: Stream.IO, Inc
Address: Kleine-Gartmanplantsoen 21, 1017 RP Amsterdam, Netherlands
Contact: privacy@getstream.io

2 PlanetScale

Fuxam uses PlanetScale to store data in databases and process it more efficiently.

Name: PlanetScale Inc.
Address: 535 Mission St., 14th Floor, San Francisco 94105, CA, USA
Contact: privacy@planetscale.com

3 Cloudflare

Fuxam uses Cloudflare as a development and hosting platform for FuxamOS file storage. This is used to store files uploaded by the institution itself (e.g., documents in courses). Fuxam has configured this service so that the data is stored in data centers within the EU.

Name Cloudflare Germany GmbH
Address: Rosental 7, 80331 Munich,
Germany **Contact:**
privacyquestions@cloudflare.com

4 Stripe

Fuxam GmbH uses Stripe as a PCI-compliant payment processor, which collects payment information on our behalf to carry out transactions. While our administrators can view and track the actual transactions via customer portals, we do not have access to your credit card information and cannot process it.

Name: Stripe Payments Europe, Limited (SPEL)
Address: 1 Grand Canal Street Lower, Grand Canal Dock, Dublin, Ireland
Contact: heretohelp@stripe.com



5 Clerk

Fuxam GmbH uses Clerk as an authentication service provider to secure the log-in and registration process. Clerk also handles session management and internal user management for Fuxam.

Name: Clerk Inc.
Address: 660 King Street, Unit 203, San Francisco, CA 94107, USA
Contact: support@clerk.dev

6 "Resend"

Resend is an email marketing tool. The cloud-based software sends transactional and marketing emails and manages the email infrastructure. Fuxam uses Resend to send automated emails, for example, to reset forgotten passwords or send registration data.

Name: Plus Five Five, Inc.
Address: 2261 Market Street #5039, San Francisco, CA 94114, USA
Contact: support@resend.com

7 "Nutrient"

Nutrient is cloud-based software for creating, capturing, converting, and editing documents within the software.

Name: PSPDFKit GmbH d/b/a Nutrient
Address: Kaiserstrasse 117/17, 1070 Vienna, Austria
Contact: legal@nutrient.io

8 DevRev

Fuxam uses DevRev as a support provider for general customer and user support.

Name: DevRev UV Cloud, Inc.
Address: 300 Hamilton Avenue, 2nd Floor, Palo Alto, CA 94301, USA
Contact: dpo@devrev.ai



9 "Sendgrid"

Sendgrid is an email marketing tool from the provider Twilio. The cloud-based software sends transactional and marketing emails and manages the email infrastructure. Fuxam uses Sendgrid to send automated emails, for example, to reset forgotten passwords or send registration data.

Name: Twilio Inc.
Address: 101 Spear St FL 5, San Francisco, CA 94105, USA
Contact: privacy@twilio.com

10 Sentry.io

Fuxam uses Sentry.io for automated software testing and troubleshooting support.

Name: Functional Software Inc., d/b/a Sentry
Address: 45 Fremont Street, 8th Floor, San Francisco, CA 94105, USA
Contact: legal@sentry.io

11 Vercel AI Gateway

Fuxam uses the Vercel AI Gateway proxy service to manage and securely forward AI model requests.

Name: Vercel Inc.
Address: 440 N Barranca Ave #4133 Covina, CA 91723, USA
Contact: privacy@vercel.com

12 Intercom

Fuxam uses Intercom as a support provider for special customer support services.

Name: Intercom Inc.
Address: 55 2nd Street, Suite 400, San Francisco, California 94105, USA
Contact: legal@intercom.io

Upon completion of this Data Processing Agreement, the Customer may obtain a current list by requesting it at [privacy@fuxam.de].



Appendix V – Supplementary agreements to the standard contractual clauses

The parties supplement and specify the standard contractual clauses agreed in **Annex 2** within the framework of Clause 2(b) of **Annex 2** as follows:

Supplement to Clauses 1, 3, and 4 – Applicable Law and Jurisdiction

This contract and all disputes or claims arising out of or in connection with this data processing agreement shall be governed by the laws of the Federal Republic of Germany.

The courts in Berlin, Germany, shall have non-exclusive jurisdiction to settle any disputes or claims.

Mandatory provisions under applicable data protection law remain unaffected.

Addendum to Clause 7.1(a) – Contract-extending instructions

Instructions from the controller that go beyond the contractual agreements of the main contract and this **Annex 2** and that are not necessary to prevent legal violations shall be treated as a change in performance. The controller shall reimburse the processor for any demonstrable expenses and costs incurred as a result of such instructions.

Instructions may also be issued directly by entering them into the software.

Addendum to Clause 7.4 Letter a – Updating technical and organizational measures

The processor may replace the technical and organizational measures listed in Annex III if the assessment specified in Clause 7.4(a) concludes that the new measures are suitable for ensuring at least the same level of protection.

Addition to Clause 7.6(e) and (d) – Specification of audits

Audits by the controller to verify the processor's compliance with these clauses shall generally be announced at least 14 days in advance, unless an unannounced audit appears necessary because otherwise the purpose of the audit would be jeopardized.

The audits shall generally take place during normal business hours, i.e. Monday to Friday from 10 a.m. to 6 p.m., and shall not cause any undue disruption to the business operations of the processor.

Any information obtained during the audit concerning trade and business secrets shall be subject to strict confidentiality.

If the controller commissions external auditors, they must not be in direct competition with the processor.

Audits of sub-processors must be coordinated by the controller with the sub-processors themselves.



Addendum to Clause 7.7(a) – Notification and objection to the use of sub-processors

If the written notification of the subcontracting agreement 14 days in advance in accordance with Clause 7.7(a) is not compatible with the purpose of subcontracting (e.g., in the event of a data protection incident), the processor shall instead notify the controller of the engagement as soon as possible.

The controller may only object to the appointment of the sub-processor within a reasonable period of time, usually 14 days, for important data protection or objective reasons. If no objection is made within this period, consent to the change shall be deemed to have been given.

Addendum to Clause 8 (b) and (c) – Cost coverage for additional support services

The controller shall reimburse the processor for any verifiable expenses and costs incurred by the processor in supporting the controller's reporting and notification obligations and in assisting the controller in carrying out data protection impact assessments.

Addendum to Clause 9 – Liability

A liability provision agreed between the parties in the main contract for the provision of services shall also apply to the processing of orders.

Addendum to Clause 10(d) – Deletion of data upon termination of the contract

The provisions of § 25 of the main contract shall apply to the deletion and return of data upon termination of the contract.



Appendix 3 – Function overview

Preamble

This function overview provides an overview of all the basic functions of our software (FuxamOS). As "Appendix 3," the function overview is part of the applicable General Terms and Conditions.

Overview and description of the basic functions (FuxamOS)

Basic Functions – FuxamOS	
Name of function	Description
Administration and organization	
Dashboard & Widgets	We provide all users with a dashboard where individual information can be added and displayed using widgets.
User management	Admins can grant specific rights to all users, e.g., admin rights. Users can be managed by admins and moderators (added to courses and layers).
Group management	Individual user groups can be created to which participants can be added.
Roles & permissions	Individual roles and permissions can be created and stored for users.
Course management	Courses can be managed holistically. This means that users can be added to and removed from courses, and organizers can be stored. Descriptions, names, and tags can be added to courses.
Cohort management	Cohort groups can be created. Users, completion goals, regular times, curricula, and organizers can be stored. The cohort groups are used for planning.
Curricula	Curricula can be created and versioned so that modules and associated courses can be categorized.
Modules	Credit points, attendance, workload, and exam results can be stored in modules and linked to the corresponding course.
Time structure	Here you can store your organization's learning periods so that they can be assigned to cohorts, modules, and curricula.
Planning	Modules and associated courses can be planned in the organizers, and time periods, participants, quotas, and cohorts can be stored.
Room management	Rooms can be stored and added to planned appointments. Capacity limits and equipment can also be added to the room.
Learning management system	
Chat	Messages can be sent and received via chat, and files can also be shared. Chat can be used between users or for groups or courses.
Calendar	Appointments can be created in the calendar. Addresses, rooms, or video links can be added to appointments. An appointment can be assigned to individual users, courses, or groups. The calendar has different views. Appointments or views can be exported.
File management	Files can be shared and managed in the course. There is a separate area in the course for this purpose.
Learning journey	Users can view the learning content in a structured learning journey. There, users can view the content or interact with it.
Analytics	Attendance, learning progress, total visits, feedback, participation rate, and other metrics are displayed in the analytics dashboard.
Content creation	Content creation supports all standard file formats, and video and audio files can also be inserted. In addition, video links, text passages, or individually created files can be added.
Assessments	Certain content can be evaluated according to individual assessment schemes. Users can also be assessed in the courses. This allows you to determine whether a course has been successfully completed.
Certificates	Learning content or courses can be completed with a certificate. Users can export the certificate or add it to LinkedIn.
AI tools	
"AI Concierge"	The "AI Concierge" allows users to obtain information about the institution at any time.
"DocuChat"	A document can be searched and queried for specific information.
"AI Assistant"	Learning content drafts can be created and modified according to complexity.
Integrations	
SCORM	SCORM files can be added during content creation.
BigBlueButton	An interface enables the seamless integration of BigBlueButton as a video
API interface	Many systems can be integrated into FuxamOS using the Rest API.

Access passes	
Access passes	<p>Access passes are time-limited access passes that can be used to make courses temporarily accessible to third parties. The access passes can be used by third parties without payment processing. To do this, the customer selects the desired pass duration. In addition, the customer can limit the number of users added by the pass. After the previously selected pass duration has expired, the users added via the pass lose access to FuxamOS. The customer can purchase any number of access passes, regardless of the respective pass duration, and any number of users can be added to each Fuxam pass. Fuxam will charge a fee for each user who joins, based on the respective pass.</p>
Access passes with monetization	<p>The customer selects the pass size that is appropriate for them.</p> <p>He then activates the unlimited user pass. In addition, various parameters such as the start date of the pass can be specified. The pass now becomes a customized product for the customer. The product remains linked to the term of the selected Fuxam pass. The potential third party therefore only has access to the product created by the customer for the term of the Fuxam pass selected by the customer.</p> <p>The customer can set the price of the product they wish to resell to third parties. Once all settings have been made, a payment link is created, which can now be passed on to third parties and used.</p> <p>Potential third parties can now purchase the product created by the customer via this payment link. After a third party has purchased the product, the customer receives their share transferred to their reference account. At the same time, the payment service provider and Fuxam receive a share. The respective shares are specified in 3.3 Remuneration for access passes with payment processing for third parties.</p> <p>An automatic invoice is generated and sent to the third party (purchaser of the product). The invoice may contain customizable tax rates and purposes of use.</p> <p>Once payment has been completed, the third party (purchaser of the product) receives access to the purchased product on the specified start date.</p> <p>After the term of the product, which is linked to the term of the respective Fuxam Pass, has expired, the third party will be removed from the Fuxam software.</p>
Revenue-based fees for providing payment processing for third parties	<p>We charge revenue-based fees for providing payment processing for third parties. This is 0.3% of the net sales price of your individually created and sold Access Pass as standard.</p>
Full passing on of all transaction fees by the external payment service provider Stripe	<p>All transaction fees incurred by the external payment service provider (Stripe) are passed on directly to the customer.</p>
Extensions	
Fuxam-AiTokens per license, per month	<p>Each institution receives a number of so-called "Fuxam AiTokens." The "Fuxam AiTokens" are used when utilizing AI functions. The number of Fuxam AiTokens is calculated based on the number of users at the institution. The Fuxam AiTokens are replenished to the standard number each month. The Fuxam AiTokens cannot be carried over to the next month. The tokens are an abstract basis of assessment that language models use to quantify their performance. We have simply adapted this model.</p>
Storage space in GB, per year	<p>Each institution is provided with storage space. This can be expanded upon request.</p>