

TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT

1.1 Subject to the terms of this Agreement, The Company will use commercially reasonable efforts to provide The Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit D. As part of the registration process, The Company will provide user accounts with login and password information for The Customer.

1.2 Subject to the terms hereof, The Company will provide The Customer with reasonable technical support services in accordance with the terms set forth in Exhibit D.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 The Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by The Company or authorized within the Services); or remove any proprietary notices or labels. With respect to any Software that is distributed or provided to The Customer for use on The Customer's premises or devices, The Company hereby grants The Customer a non-exclusive, non-transferable, non-sublicensable license to use such Software during the Term only in connection with the Services.

2.2 The Customer represents, covenants and warrants that The Customer will use the Services only in compliance with The Company's standard published policies then in effect (the “Policy”) and all applicable laws and regulations. Although The Company has no obligation to monitor The Customer's use of the Services, The Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

2.3 The Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access, or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, “Equipment”). The Customer shall also be responsible for maintaining the security of the Equipment, The Customer account, passwords (including but not limited to administrative and user passwords), and files, and for all uses of The Customer account or the Equipment with or without The Customer's knowledge or consent.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business

(hereinafter referred to as “Proprietary Information” of the Disclosing Party). Proprietary Information of The Company includes non-public information regarding features, functionality, and performance of the Service. Proprietary Information of The Customer includes non-public data provided by The Customer to The Company to enable the provision of the Services (“The Customer Data”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without the use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 The Customer shall own all rights, titles, and interests in and to The Customer Data. The Company shall own and retain all rights, titles, and interests in and to (a) the Services and Software, all improvements, enhancements, or modifications thereto, (b) any software, applications, inventions, or other technology developed in connection with the Pilot Phase, Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.3 Notwithstanding anything to the contrary, The Company shall have the right to collect and analyze data and other information relating to the provision, use, and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning The Customer Data and data derived therefrom), and The Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other The Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

4. PAYMENT OF FEES

4.1 The Customer will pay The Company the then applicable fees described in the Order Form in accordance with the terms therein (the “Fees”). If The Customer's use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), The Customer shall be billed for such usage and The Customer agrees to pay the additional fees in the manner provided herein. The Company reserves the right to change the Fees or applicable charges and to institute new charges and

Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to The Customer (which may be sent by email). If The Customer believes that The Company has billed The Customer incorrectly, The Customer must contact The Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit.

4.2 The Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by The Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term") unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. The Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, The Company will make all The Customer Data available to The Customer for electronic retrieval for a period of sixty (60) days, but thereafter The Company may, but is not obligated to, delete stored The Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

6.1 With regard to the granting of the use of the software as well as the provision of storage space, the warranty provisions of rental law shall apply.

6.2 The Customer shall notify The Company of any defects without undue delay. In particular, The Customer shall be obliged to notify The Company immediately and as precisely as possible of any functional failures, malfunctions, or impairments of the availability of the Online Services and of any defects thus arising. If The Customer fails to provide this cooperation, § 536c BGB shall apply accordingly.

6.3 The warranty for only insignificant reductions in the suitability of the service is excluded. The strict liability for initial defects according to § 536a Abs. 1, Alt. 1 BGB is excluded.

6.4 The Company guarantees the availability of the Software of 99.00% on a monthly average. However, this does not constitute a corresponding guarantee. The Software shall be deemed to be available if it is available at the Delivery Point and is free of material defects. The Software shall additionally be deemed available in previously announced maintenance windows, despite the shutdown. The scheduled maintenance windows will be announced at least five days before the scheduled shutdown by e-mail to the e-mail address provided by The Customer.

6.5 The Company shall in no case be liable for disruptions of availability caused by The Customer, the telecommunication service provider, the access provider or the mobile phone provider of The Customer or otherwise by third parties attributable to the sphere of The Customer.

7. LIMITATION OF LIABILITY

The Company shall be liable without limitation for damages of The Customer caused by the intentional or grossly negligent conduct of The Company, as well as for damages due to injury to life, body, and health and for damages under the Product Liability Act in accordance with the statutory provisions. This also applies to damages caused by vicarious agents or legal representatives of The Company. Insofar as The Company is not liable on the basis of an assumed guarantee, the liability for claims for damages shall otherwise be limited as follows: The Company shall only be liable for damages caused by simple negligence insofar as these are based on the violation of essential contractual obligations (cardinal obligations). Cardinal obligations are those contractual obligations whose fulfillment makes the proper execution of the contract possible in the first place and on whose compliance The Customer could rely. The liability of The Company for simple negligence according to this regulation is limited to the typically foreseeable damage. This limitation of liability shall also apply in favor of The Company's vicarious agents and legal representatives.

8. MISCELLANEOUS

8.1 The Company has the right to publicly indicate that the Customer uses the Stryza Software and/or is a customer of the Contractor and to use the Customer's name and logo for this purpose in the Company's marketing materials, including on the Internet. Any other use of the Customer's name or logo requires the prior consent of the Customer.

8.2 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

8.3 This Agreement is not assignable, transferable, or sublicensable by The Customer except with The Company's prior written consent. The Company may transfer and assign any of its rights and obligations under this Agreement without consent.

8.4 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

8.5 No agency, partnership, joint venture, or employment is created as a result of this Agreement and The Customer does not have any authority of any kind to bind The Company in any respect whatsoever.

8.6 In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

8.7 All notices under this Agreement will be in writing and will be deemed to have been duly given when received if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for the next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.