



TETRA PAK SERVICES CONNECTED WORKFORCE TRIAL SERVICE AGREEMENT

SERVICES AGREEMENT

Connected Workforce Trial Service Agreement

This Connected Workforce Service Agreement (the “**Agreement**”) is between “**Tetra Pak**” and the “**Customer**”.

This Agreement consists of this Agreement, Schedule 1 the General Terms and Conditions for Services, such documents together the “**Agreement**”.

The term of the Agreement (the “**Term**”) shall start once you get access to the service and valid for 30 days.

Article 1

DEFINITIONS AND PREREQUISITE

“**End User**” means an individual who is authorized by Customer to use the Services and for whom Customer is paying a fee for under this Agreement.

“**Platform**” means the software application delivered by Poka Inc., through which this Service is available.

Access to the Platform is a prerequisite to use the Services. Such access has to be agreed separate either with Tetra Pak or with other supplier. It is within the Customer responsibility to ensure access to the Platform for the Term of this agreement.

Article 3

CUSTOMER OBLIGATIONS

Customer shall take reasonable precautions to prevent unauthorized use of the Service.

Article 4

ADDITIONAL CONDITIONS

1. **Limitation of Liability**

- (a) Tetra Pak will not be responsible or liable for any usage (or non-use) of any theories, systems, methods or actions recommended or taught by Tetra Pak during the Service. Any action taken based on the Service is to be carried out at Customer’s sole discretion and responsibility.
- (b) See also Schedule 1 for Limitations of Liability.

2. **Anytime learning material**

- (a) The Customer is not granted any license to any content or material received in the Service, including but not limited to any permission to copy, download or alter such material.
- (b) The customer is only granted license to use the content or material received in the Service at the Site specified in this Agreement and to the agreed number of End Users.

(c) The Customer is not permitted to record the material in any way (audio and/or visual).

3. Auditing rights

Tetra Pak shall have the right to remotely conduct periodic inspections and audits for the purpose of verifying Customer's compliance with the terms of this Agreement, e.g. by verifying that the number of actual End Users set out in this Agreement is not exceeded.

4. Processing of personal data

In this Agreement, the following definitions apply

"Personal Data" means any information relating to an identified or identifiable natural person, including but not limited to (i) Customer's employees and/or sub-contractors, (ii) Tetra Pak's employees and/or sub-contractors, (iii) other identifiable natural persons.

"Privacy Notice" means information notice regarding Tetra Pak processing activities on Personal Data related to Tetra Pak relevant Services and issued by Tetra Pak to Customer.

Each Party shall comply with data protection and privacy laws to the extent such Party processes (i.e. collects, stores, transfers, etc.) Personal Data.

Upon becoming aware of a security incident relating to personal data, each party shall inform the other party without undue delay and shall provide all such timely information and cooperation as the other party may reasonably require in order for it to fulfil its data breach reporting obligations under (and in accordance with the timescales required by) applicable data protection law.

The Customer will deliver any Tetra Pak Privacy Notice(s) to its personnel concerned as communicated and instructed by Tetra Pak.

The Parties may enter into a separate data processing agreement to fully document their respective obligations relevant to this Agreement.

List of Schedules

1. General Terms and Conditions for Services

In the event of any inconsistency between the provisions of this document and any Schedule, the terms and provisions of this document shall prevail, and Schedules shall prevail over other Schedules in the order listed above.



GENERAL TERMS & CONDITIONS for Tetra Pak® Services

FOR USE WITH SOFTWARE AS A SERVICES

GENERAL TERMS & CONDITIONS FOR SOFTWARE AS A SERVICE

Article 1 DEFINITIONS

“Affiliate” means, in relation to the Customer, any corporation controlling, controlled by or in common control with the Customer, and in relation to Tetra Pak shall mean any entity under the overall control of the Tetra Laval Group Board and engaged in the business of the Tetra Pak Industry Group.

“Approved Subcontractor” means any Tetra Pak subcontractor listed in the Data Processing Agreement schedule under the Agreement, including such subcontractors which from time to time may be added to such list in accordance with the provisions of the Data Processing Agreement.

“Brand Features” means trade names, trademarks, service marks, logos, domain names and other distinctive brand features of each Party, respectively, as secured by such Party from time to time.

“Credentials” means End User’s unique identifiers facilitating the access to the Platform and Services.

“Customer Data” means any information or media uploaded, transmitted or otherwise made available on the Platform, including Personal Data, by or on behalf of Customer or End Users.

“Customer Terms of Use” means the agreement between Customer and Poka, Schedule 3 under this Agreement.

“Documentation” means user guides, support materials, data sheets, manuals, instructions and computer-readable files, regarding the use, operation, functionality, troubleshooting, and other technical information with respect to the Platform and Service.

“End User” means an individual who is authorized by Customer to use the Service and for whom Customer is paying a fee for under the Agreement.

“Extra Work” means work required by the Customer that is outside the scope of the Agreement. Extra Work will be charged based on the Price List.

“Good Industry Practices” means acting with the degree of skill, prudence, diligence and foresight expected from e.g. a service provider, Customer and End Users.

“Malicious Code” means codes, files, scripts, agents or programs causing harm, e.g. but not limited to viruses, worms and Trojan horses.

“Third Party Application” means a third party provided software application functionality that interoperates with the Service, e.g. but not limited to an application that is developed by or for Customer to interact with the Services. For the purpose of the Agreement also by Customer developed application functionality shall be considered a Third Party Application.

“Person” means an individual, an entity, an organization, or a government body.

“Personal Data” shall have the meaning set out in the Data Processing schedule, Schedule 2 under the Agreement.

“Platform” means the Poka platform, a performance support software application by Poka Inc.

“Poka” means Poka Inc., as set out in the Customer Terms of Use, an Approved Subcontractor which maintains the Platform and which the Customer has signed the Customer Terms of Use with.

“Representative” means, with respect to an entity, any of that entity’s directors, officers, employees, and agents.

“Services” means the Services to be provided by Tetra Pak under the Agreement, as listed in the Tetra Pak Scope of work.

“Site” means, as applicable, the location at which Services are to be performed.

“Trial Products” means e.g. trial, sandbox or demonstration versions of the Services offered to the Customer on an ad hoc basis for trial purposes only.

Article 2 PERFORMANCE & DELIVERY

2.1 Performance of Services

Tetra Pak shall deliver the Services during the Term. The Parties agree that any platform service or software with basically the same functionality as the Platform but with a different Brand Feature shall be construed Platform for the purpose of the Agreement and shall be made available together with its documentation to Customer without additional payments.

2.2 Hosting

Customer Data will be hosted on servers located in Canada, the United States of America or within the European Union on instances owned, controlled, and operated by Approved Subcontractors.

2.3 Security

Customer Data will be kept secure with the measures set out in the Customer Terms of Use, Schedule 3 under the Agreement.

2.4 Laws

- (a) Tetra Pak will perform the Services in accordance with applicable laws in the jurisdiction where the Services are delivered, and under the standards specified in the Agreement.
- (b) If changed or new applicable laws come into force after the Agreement date which increases or decreases Tetra Pak’s cost of performing the Services, Tetra Pak will increase or decrease the price proportionally. In such a case, to the extent Tetra Pak requires more time for performance, the Customer shall grant an extension.

Article 3 CUSTOMER’S USE OF THE SERVICES

3.1 Right to use

- (a) During the term of this Agreement, Customer shall have the non-exclusive, non-transferable, and non-sublicensable right to access and use the Platform and Services.

- (b) The Customer shall not provide, disclose, sublicense or otherwise permit any person to access, use, read, disseminate, transmit, download or reproduce the Services, or adapt, translate, change, customize, enhance, partially delete, alter or otherwise modify the Services in any manner or to any extent. Neither shall the Customer introduce Malicious Code of a disabling or destructive nature within the Services or Tetra Pak's or Approved Subcontractor's systems.
- (c) Tetra Pak's performance of the Services is conditional on the Customer providing access to Customer systems for support, maintenance and audit purposes and Customer complying with the terms of the Agreement. If the Customer fails to do so, Tetra Pak may suspend the Services or any part thereof. If applicable, Tetra Pak shall be entitled to consider the Customer's failure to comply as a Variation of the Agreement requested by the Customer.

3.2 Availability

- (a) The Services may be removed, suspended, or modified without prior notification in case of any actual or potential threats (e.g. Malicious Code) to the security of the Customer's, Tetra Pak's, Tetra Pak Affiliates or Approved Subcontractors' network.

3.3 Technical infrastructure

- (a) Customer shall be solely responsible, at its own expense, for acquiring, installing and maintaining all hardware (e.g. tablets and computers), software, internet connectivity and other equipment as may be necessary for Customer and End User to connect to, access, and use the Services. Customer shall be solely responsible, at its own expense, for implementing safeguards to protect the security of its systems and Customer Data and the provision, maintenance and good working order of the required infrastructure and equipment to access and use the Services, including e.g. tablets, computers, local connections and infrastructure and local internet network. Tetra Pak shall have no responsibility or any liability whatsoever with respect to the above.
- (b) Customer shall promptly notify Tetra Pak of any modification or change made to any of Customer's systems and technology infrastructure that could impact the installation, operation, use, support and/or maintenance of the Services.

3.4 End User's use

- (a) The Customer shall prevent unauthorized access to or use of the Service and notify Tetra Pak promptly of any actual or potential unauthorized access or use and cooperate with Tetra Pak in acting in response.

3.5 Audit

Tetra Pak shall have the right to remotely conduct, or have conducted by any Approved Subcontractor, periodic inspections and audits of the Customer's use of the Services verify Customer's compliance with the terms of the Agreement, e.g. by verifying that the no more than the agreed number of End Users set out in the Agreement are using the Services and that the Service is only used on the agreed Sites.

3.6 Customer Data

- (a) The Customer agrees that Customer Data will be stored and processed (and shared with, as the case may be) by Tetra Pak, Tetra Pak Affiliates and Tetra Pak Approved Subcontractors for Tetra Pak to deliver the Service.

- (b) Processing of Personal Data will be made according to the Data Processing Agreement, Schedule 2 under the Agreement. It is the Customer's sole responsibility to obtain the required consents for the use, transmission and display of any Personal Data under the Agreement.
- (c) Customer shall make sure Customer Data does not violate or infringe upon the intellectual property rights of any third party or contain otherwise unlawful material. It is the Customer responsibility to ensure the accuracy, quality and legality of Customer Data and the means by which the Customer acquired and uses such data.

3.7 Software

- (a) The Customer will be responsible for all its costs for use of the Platform, unless otherwise agreed.
- (b) The Customer shall not, and shall not permit anyone else to, modify, adapt, enhance, reverse engineer, translate, disassemble, or decompile the Platform software. Customer shall not, and shall not permit anyone else to, copy such software. Customer shall not have any right to access the source code.
- (c) The Customer shall not, and shall not permit anyone else to, alter or remove any copyright, trademark, or other proprietary-rights notices contained in the Platform software or the Documentation. The Customer shall not assign, sublicense, transfer, resell, rent, lease, lend, distribute, network or otherwise dispose of the Platform software or create or have created derivative works based on the Platform software.
- (d) Customer shall at Tetra Pak's request promptly install any security upgrade.
- (e) The Customer acknowledges that the Platform software might have trivial defects. Tetra Pak will not be required to correct any such trivial defects.

3.8 Application Programming Interface (API)

The Customer shall ensure that Customer's calls or requests made to the Services' API shall be to Services API are compatible with the then-current Services API made in accordance with any applicable Documentation and never in a form or frequency likely to harm or reduce the Service's infrastructure and Customer agrees to be solely responsible for the selection and implementation of procedures, processes and controls regarding the access, security, encryption, use and transmission of Customer Data.

3.9 Other Customer Obligations

Any Customer obligation set out in the Customer Terms of Use, Schedule 3 under the Agreement, shall apply also in relation to Tetra Pak.

Article 4 WARRANTY

4.1 No Other Warranties

- (a) Tetra Pak is making no warranties other than those contained in this Agreement. No warranty shall apply to Trial Products

4.2 Exceptions

Tetra Pak will have no liability for any defect under this Article 4 to the extent any loss or damage is caused by:

- (a) use of the Service for something other than its intended purpose;
- (b) a trivial defect (not affecting the overall functionality) in the Service;
- (c) Customer Data or installation of a Third Party Application linked to the Service;
- (d) the Customer failing to use the Service in accordance with the Agreement and/or instructions from Tetra Pak and any Approved Subcontractor;
- (e) the Customer using the Service other than in accordance with the related specifications and Documentation.

Article 5 LIMITATION OF LIABILITY

5.1 No Liability

- (a) Tetra Pak and Tetra Pak Affiliates will not be liable for, (1) punitive damages, or (2) indirect, special, incidental or consequential damages or other damages (whether they are considered as direct or indirect damages) including financial loss, product loss, product recall, lost profits, lost revenue, production or operating losses, down time, lost sales or contracts, contractual damages or penalties to third parties, diminution of value, loss of data, loss of savings or loss of goodwill, even if Tetra Pak has knowledge of the possibility of any such damages and losses and whether contractual or non-contractual.
- (b) Tetra Pak and Tetra Pak Affiliates shall have no liability under this Agreement if the Customer Terms of Use offers the Customer a recourse or remedy and/or to the extent Customer has been provided with a warranty under that agreement. Tetra Pak and Tetra Pak Affiliates will thus not be liable for e.g. (i) claims or actions against Customer by a third party based on infringement of Intellectual Property Rights, (ii) loss due to Malicious Code, or (iii) loss of data. Such liabilities are set out in and shall exclusively be governed by the Customer Terms of Use between Customer and Poka, Schedule 3.
- (c) Tetra Pak and its Affiliates will not be liable for and will not process any Customer claim less than EUR 50.

5.2 Gross negligence

The limitations on Tetra Pak's liability stated in the Agreement will not apply if and to the extent that Tetra Pak's liability is the result of gross negligence or if such limitations are found invalid. If such limitation is found invalid, Tetra Pak's liability will be determined at the minimum level under mandatory applicable law.

5.3 Death and Injury

Subject to section 5.1, Tetra Pak is liable for death or personal injury if and to the extent caused by Tetra Pak's negligent acts or omissions in fulfilling its obligations under this Agreement.

5.4 Property Damage

Subject to section 5.1, Tetra Pak's total aggregate liability under this Agreement for any damage to the Customer's property or a third party's property is limited to damage caused by Tetra Pak's negligent acts or omissions in fulfilling its obligations under this Agreement up to a maximum amount of EUR 1,500,000. For the avoidance of doubt, any Tetra Pak liability for product loss and product recall suffered by the Customer is excluded from Tetra Pak's liability under this section and the Agreement.

Article 6

INDEMNIFICATION OF THIRD PARTY CLAIMS

6.1 Third Party Claims

Customer shall indemnify and hold Tetra Pak harmless from any damage, loss or cost due to claims from any third party due to Customer's acts or omissions, including but not limited to any claim by any third party arising from Customer's use of the Service, including its handling of Customer Data. Tetra Pak will notify the Customer of the claim, and the Customer is upon request from Tetra Pak, obliged to either assist or take over the defence of the claim.

Article 7

INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership

Any intellectual property rights including patents, trademarks, industrial design, copyright, rights related to the protection of trade secrets and confidential information ("**Intellectual Property Rights**") or any technical information, including software, specifications, drawings, documentation, ideas, knowledge or data ("**Technical Information**") may only be used by the Customer to receive the benefit of Services and for the purposes of the Agreement.

7.2 No Interest

- (a) Nothing in these terms will result in the Customer acquiring any interest in the Platform or any software or any other part of the Services.
- (b) Nothing in these terms will result in the Customer acquiring any interest in any Intellectual Property Rights or Technical Information. The Customer may use Tetra Pak Intellectual Property and Technical Information only as specified in this Agreement.

Article 8

CONFIDENTIALITY

8.1 Maintaining Confidentiality

- (a) Until termination of this Agreement and for five years thereafter, the Recipient shall not (1) disclose Confidential Information except as contemplated in this Agreement or (2) use Confidential Information other than for purposes of contemplated by this Agreement. For the purpose of this Agreement Tetra Pak shall have the right to share Confidential Information with its Affiliates and Approved Subcontractors in order to perform the Service.
- (b) In this Agreement, the following definitions apply:

“Confidential Information” means (1) information (other than Excluded Information) relating to the Disclosing Party and its business that the Disclosing Party discloses to the Recipient during the term of this Agreement and (2) Derived Information.

“Derived Information” means information (including notes, analyses, compilations, and summaries) that is in writing or embodied in an electronic medium and that the Recipient or any of the Recipient’s Representatives derive, in whole or in part, from any information described in section (1) of the definition of Confidential Information.

“Disclosing Party” means a Party that discloses information under this Agreement.

“Excluded Information” means information that comes within any of the following categories, with the Recipient having the burden of establishing that any information constitutes Excluded Information:

- (1) information that is or becomes public other than as a result of breach of any obligation under this Agreement;
- (2) information that, when it is disclosed, is already in the possession of the Recipient or any of the Recipient’s Representatives as the result of disclosure by a Person that was not then under an obligation to the Disclosing Party to keep that information confidential;
- (3) information that, after it is disclosed under this Agreement, is disclosed to the Recipient or any of the Recipient’s Representatives by a Person that was not then under an obligation to the Disclosing Party to keep that information confidential; and
- (4) information that the Recipient develops independently, as evidenced by contemporaneous written records, before or after the Disclosing Party discloses equivalent information to the Recipient.

“Recipient” means a Party that receives information under this Agreement.

8.2 Precautions against Unauthorized Disclosure or Use

The Recipient shall take precautions to prevent disclosure or use of Confidential Information other than as authorized in this Agreement. Those precautions must be at least as effective as those taken by the Recipient to protect its own Confidential Information or those that would be taken by a reasonable person in the position of the Recipient, whichever are greater.

8.3 Nondisclosure of Terms

Until termination of this Agreement and for five years thereafter, each Party shall not disclose to any other Person the terms of this Agreement, except to the extent disclosure is required by law.

Article 9 MISCELLANEOUS

9.1 Force Majeure

Either Party may suspend performance hereunder (except for any obligation to pay a sum of money) to the extent that such performance is impeded or made unreasonably onerous by

any circumstance beyond its reasonable control including but not limited to industrial disputes, fire, war (whether declared or undeclared), terrorism, epidemics, severe weather, earthquake, flood, extensive military mobilization, insurrection, mass protests, civil war, requisition, seizure, embargo, new or amended export control regulations, governmental or judicial acts, restrictions in the use of power and defects and delays in deliveries by sub-contractors due to (i) any circumstances referred to in this section, (ii) sub-contractor's insolvency, or (iii) non-performance by sub-contractor. A Party invoking this provision shall notify the other Party as soon as practicable of the circumstances affecting it and must also take all reasonable steps to mitigate the length and effect of such circumstances. If this provision is invoked for more than three (3) consecutive months, either Party may terminate the Agreement with immediate effect by providing notice to the other Party.

9.2 Export Control

- (a) Tetra Pak's supply or export of the Service may be subject to sanctions or other applicable export control regulations ("**Export Control Requirements**") that could be interpreted by any relevant public authority or court to prohibit or limit the fulfilment of the Agreement, or be subject to authorization requirements by competent authorities. Tetra Pak shall not be subject to any obligation or liability that, subject to Tetra Pak's sole discretion, could violate any sanctions or applicable regulations. Tetra Pak therefore reserves the right to, in its sole discretion, cancel any part of its obligations without incurring any liability to the Customer for damage or loss arising out of or relating to such cancellation, in the event any required authorization is not granted or revoked or be entitled to suspend and/or terminate the Agreement if it is impeded or made unreasonably onerous by any embargo, sanction or similar trade or export restriction, whether foreseen or unforeseen at the time of entering into the Agreement.
- (b) Customer undertakes that no part of the Service supplied by Tetra Pak will be used, sold, supplied, transferred or exported, directly or indirectly by Customer, its agents or affiliates in contravention of Export Control Requirements or to any embargoed or sanctioned country or to any person, entity or body if this is prohibited by economic or financial sanctions or trade embargos imposed, administered or enforced by the United Nations, United States of America, the European Union or any other country's applicable export control laws unless all necessary authorisations have been granted and that such products are only used for its intended purpose under this Agreement.
- (c) The Customer states that it is not, and is not acting on behalf of, (1) one or more Persons who are citizens, nationals, or residents of, or who are controlled by the government of, a country to which the United Nations, the United States of America, or the European Union has prohibited export transactions, or (2) one or more Persons listed on the U.S. Treasury Department's "Specially Designated Nationals and Blocked Persons List", "Denied Persons List", "Entity List" or a comparable list maintained by the United Nations of the European Union.

9.3 Subcontractors

Tetra Pak will subcontract to others its performance under this Agreement.

9.4 Governing Law

The law of the country where Tetra Pak's principal place of business is located governs all adversarial proceedings arising out of this Agreement or arising out of Tetra Pak's performance of Services.

9.5 Jurisdiction

If either Party brings against the other Party any proceeding arising out of this Agreement or arising out of Tetra Pak's performance of Services, that Party may bring that proceeding only in the country where Tetra Pak's principal place of business is located, and each Party hereby submits to the exclusive jurisdiction of those courts for purposes of any such proceeding.

9.6 Entire Agreement

This Agreement constitutes the entire understanding between the parties as to the subject matter of this Agreement and supersedes all other Agreements, whether written or oral, between the parties.

9.7 Waiver

No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver. No failure or delay in exercising any right or remedy under this Agreement operates as a waiver of that right or remedy. A waiver granted on one occasion will not operate as a waiver on future occasions and multiple waivers will not establish a course of dealing.

9.8 Relationship

Both parties are acting as independent contractors under this Agreement. The parties do not intend that anything in this Agreement creates an employment, agency, joint-venture, or partnership relationship between the parties or any of their agents or employees, or any other legal arrangement that would impose liability upon one Party for the act or failure to act on behalf of the other Party. Neither Party has authority to enter into any contracts or incur liabilities on behalf of the other Party.

9.9 Amendment

No amendment to this Agreement will be effective unless it is in writing and signed by both parties.

9.10 No Transfer

Except for transfer by Tetra Pak to any Affiliate, each Party shall not transfer, including by merger (whether that Party is the surviving or disappearing entity), consolidation, dissolution, or operation of law, (1) any discretion granted it under this Agreement, (2) any right that it has to satisfy a condition under this Agreement, (3) any remedy that it has under this Agreement, or (4) any obligation imposed on it under this Agreement. Any purported transfer in violation of this section will be void.

9.11 No Third-Party Beneficiaries

No provision of this Agreement grants rights to anyone not a party to this Agreement.

9.12 Severability

The parties intend as follows:

- (a) that if any provision of this Agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
- (b) that if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Agreement, the entire Agreement will be held unenforceable;
- (c) that if an unenforceable provision is modified or disregarded in accordance with this section 9.12, then the rest of the Agreement will remain in effect as written; and
- (d) that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.



TETRA PAK[®] PLATFORM AGREEMENT

for Tetra Pak[®] Services

SERVICES AGREEMENT

Tetra Pak® Platform Agreement

This Tetra Pak® Platform is between “**Tetra Pak**” “**Customer**”.

The Agreement consists of this Services Agreement document and the following Schedules; 1) General Terms and conditions for Software as a Service 2) Data Processing Agreement and 3) Customer Terms of Use, these documents together the “**Agreement**”.

The term of the Agreement (the “**Term**”) shall start once you get access to the service and valid for 30 days.

Article 1 ENTRY INTO FORCE AND VALIDITY

It is a prerequisite for the entry into force and continued validity of this Agreement that the Customer has agreed to and continues to be bound by the Customer Terms of Use, Schedule 3. Should the Customer Terms of Use not apply or be terminated for any reason, this Agreement shall automatically terminate with immediate effect.

Tetra Pak and Customer has also entered into a Connected Workforce Service Agreement. It is a prerequisite for the validity of this Agreement that the Connected Workforce Service Agreement is in force. Should the Connected Workforce Service Agreement be terminated for any reason, this Agreement shall automatically terminate with immediate effect.

In the event of Customer’s breach of the Customer Terms of Use this shall be considered also a breach of this Agreement.

ARTICLE 3 CUSTOMER OBLIGATIONS

- (a) Customer shall take precautions and actions to prevent unauthorized use of personal user accounts.
- (b) Unless otherwise agreed in writing, it is the Customer's responsibility to provide all hardware and infrastructure (eg. tablets, WiFi, charging stations) needed for the use of the Service.

List of Schedules

1. General Terms and Conditions for Software as a Service
2. Data Processing Agreement
3. Customer Terms of Use

In the event of any inconsistency between the provisions of this document and any Schedule, the terms and provisions of this document shall prevail, and Schedules shall prevail over other Schedules in the order listed above.



Schedule 2: Data Processing Agreement

1. **Definitions:** In this Schedule, the following terms shall have the following meanings:
 - (a) "**controller**", "**processor**", "**data subject**", "**personal data**" and "**processing**" (and "**process**") shall have the meanings given in Applicable Data Protection Law; and
 - (b) "**Applicable Data Protection Law**" shall mean: Regulation 2016/679 of the European Parliament and of the Council 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 (General Data Protection Regulation); and (ii) any other applicable data protection law in any jurisdiction outside of the European Union ("**EU**").
2. **Relationship of the parties:** Customer (the "**Controller**") appoints Tetra Pak (the "**Processor**") as a processor to process the personal data described in Annex A (the "Data"). Each party shall comply with the obligations that apply to it under Applicable Data Protection Law.
3. **Processing of Data:** Customer warrants that it has all rights to ensure that the processing of personal data under the Contract takes place within the framework of the Applicable Data Protection Law.
4. **Prohibited data:** Customer shall not disclose (and shall not permit any data subject to disclose) any special categories of Data to Tetra Pak for processing that are not expressly disclosed in Annex A.
5. **Purpose limitation:** Tetra Pak shall process the Data as a processor for the purposes as necessary to perform its obligations under this Agreement and in accordance with the agreed purpose (the "**Permitted Purpose**"), except where otherwise required by law. In no event shall Supplier process the Data for its own purposes or those of any third party.
6. **International transfers:** Except as explicitly set out in the Agreement, Tetra Pak shall not transfer the Data (nor permit the Data to be transferred) outside of the European Economic Area ("**EEA**") unless (i) it has first obtained Customer's prior written consent; and (ii) it takes such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Law. Such measures may include (without limitation) transferring the Data to a recipient in a country that the European Commission has decided provides adequate protection for personal data, to a recipient that has achieved binding corporate rules authorisation in accordance with Applicable Data Protection Law, or to a recipient that has executed standard contractual clauses adopted or approved by the European Commission. In addition, Supplier shall not transfer the Data (nor permit the Data to be transferred) from any non-EU jurisdiction to another EU or non-EU jurisdiction unless (i) it has first obtained Tetra Pak's prior written consent; and (ii) it takes such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Law. Customer hereby consents to transfers of Data to and from any jurisdiction if Tetra Pak has in place approved

Processor Binding Corporate Rules ("**Processor BCRs**") and such Processor BCRs apply to transfers of the Data.

7. **Confidentiality of processing:** Tetra Pak shall ensure that any person that it authorises to process the Data (including Tetra Pak's staff, agents and subcontractors) (an "Authorised Person") shall be subject to a duty of confidentiality (whether a contractual duty or a statutory duty or otherwise), and shall not permit any person to process the Data who is not under such a duty of confidentiality. Supplier shall ensure that all Authorised Persons process the Data only as necessary for the Permitted Purpose.
8. **Security:** Tetra Pak shall implement appropriate technical and organisational measures to protect the Data from (i) accidental or unlawful destruction, (ii) accidental loss, alteration, unauthorised disclosure or access, and (iii) any other breach of security ((i), (ii) and (iii) together, a "**Security Incident**"). Such measures shall have regard to the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Such measures shall include, as appropriate:
 - (a) the pseudonymisation and encryption of personal data;
 - (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
 - (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
9. **Subcontracting:** Tetra Pak shall not subcontract any processing of the Data to a third-party subcontractor without the prior written consent of Customer. A list of approved subcontractors as at the date of this Agreement is attached at Annex B, and Customer will be provided updated copies of this list when subcontractors are added or removed, in accordance with this Schedule. If Customer refuses to consent to the appointment of a third-party subcontractor on reasonable grounds relating to the protection of the Data, then either Tetra Pak will not appoint the subcontractor or Customer may elect to suspend or terminate this Agreement without penalty.
10. **Cooperation and data subjects' rights:** Tetra Pak shall provide reasonable and timely assistance (including by appropriate technical and organisational measures) to Customer (at Customer expense to enable Customer to respond to: (i) any request from a data subject to exercise any of its rights under Applicable Data Protection Law (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a data subject, regulator or other third party in connection with the processing of the Data. In the event that any such request, correspondence, enquiry or complaint is made directly to Tetra Pak, Tetra Pak shall inform Customer providing details of the same.

11. **Data Protection Impact Assessment:** If Tetra Pak believes or becomes aware that its processing of the Data is likely to result in a high risk to the data protection rights and freedoms of data subjects, it shall promptly inform Customer and at Customer's expense provide Customer such reasonable and timely assistance as Customer may require in order to conduct a data protection impact assessment and, if necessary, consult with its relevant data protection authority.
12. **Security incidents:** Upon becoming aware of a Security Incident, Tetra Pak shall inform Customer without undue delay and shall provide such timely information and cooperation as Customer may reasonably require including an order for Customer to fulfil its data breach reporting obligations under (and in accordance with the timescales required by) the Applicable Data Protection Law. Tetra Pak shall further take all such measures and actions as are reasonably necessary to remedy or mitigate the effects of the Security Incident and shall keep Customer up-to-date about all developments in connection with the Security Incident.
13. **Deletion or return of Data:** Upon termination or expiry of this Agreement, Tetra Pak shall (at Customer's election) destroy or return to Customer all Data (including all copies of the Data) in its possession or control (including any Data subcontracted to a third-party for processing). This requirement shall not apply to the extent that Tetra Pak is required by any EU (or any EU Member State) law to retain some or all of the Data, in which event Tetra Pak shall isolate and protect the Data from any further processing except to the extent required by such law. For the avoidance of doubt, it is noted that fully anonymized data derived from the Data shall not be considered Data.
14. **Audit:** Tetra Pak shall permit Customer (or its appointed third-party auditors) to, upon reasonable prior notice of its intention, audit Tetra Pak's compliance with this Schedule, and shall make available to Customer the information, systems and staff reasonably necessary for Customer (or its third-party auditors) to conduct such audit. Customer will not exercise its audit rights more than once in any twelve (12) calendar month period, except (i) if and when required by instruction of a competent data protection authority; or (ii) Customer believes a further audit is necessary due to a Security Incident suffered by Tetra Pak.
15. **Indemnity:** Each party (the "**Indemnifying Party**") shall indemnify the other (the "**Indemnified Party**") from and against all loss, cost, harm, expense (including reasonable legal fees), liabilities or damage ("**Damage**") suffered or incurred by the Indemnified Party as a result of the Indemnifying Party's breach of this Schedule, and provided that: (i) the Indemnified Party gives the Indemnifying Party prompt notice of any circumstances of which it is aware that give rise to an indemnity claim under this Schedule; and (ii) the Indemnified Party takes reasonable steps and actions to mitigate any ongoing Damage it may suffer as a consequence of the Indemnifying Party's breach.

Annex A

Data Processing Description

This Annex A describes the processing that will be performed by the Processor on behalf of the Controller, but also what responsibilities that will stay with the Controller. None of the descriptions in this Annex A should be understood as a compromise to the statement in Article 1 that Each party shall comply with the obligations that apply to it under Applicable Data Protection Law.

ROLES

Controller – the Customer

The Controller is responsible for:

- a) granting users access to the Service and ensure consent;
- b) defining type of personal information processed as part of the Service;
- c) providing data subjects with all necessary information on the data processing and to respond to data subject rights requests.

Data Processor – Tetra Pak

The processor is responsible for

- a) processing and storing of personal data;
- b) ensuring compliance by Sub-processors.

Data subjects – the individual users at the Customer

Each individual user should give consent in relation to data processing and have the right to request the data.

CATEGORIES OF DATA

The personal data to be processed concern the following categories of data:

- a) mandatory personal information for each user in relation to the Service, eg. full name;
- b) data needed for the administration of the Service, eg. username;
- c) specific data defined by the Controller, eg. in relation to the usage of skill matrices provided as part of the Service.

PROCESSING OPERATIONS

The general definition of Processing operations include, but not limited to, collecting, recording, organising, structuring, storing, using, publishing, combining and erasing.

The personal data in this Service will, for example, be subject to the following basic processing activities:

- a) usage of Platform and its content;
- b) skills management in the skill matrices provided as part of the Service.

Annex B
Approved Subcontractors

Name	Entity Type / Purpose	Processing	Territory(ies)
Poka	Poka platform	Sub processor	Canada and USA
Amazon Web Services, Inc.	Cloud Service Provider	Sub processor	Canada, USA and Europe
Datadog, Inc.	Log management solution	Sub processor	USA
Functional Software, Inc. (sentry.io)	Web app crash reporting	Sub processor	USA
Intercom, Inc.	Customer support and engagement	Sub processor	USA
ChurnZero, Inc.	Helps in maintaining and documenting customer relationship	Sub processor	USA
Looker (Google LLC)	Business intelligence platform	Sub processor	USA
Wootric, Inc.	Provides customer-experience, feedback-collection and survey services.	Sub processor	USA
Slack, Inc.	Internal communication tool.	Sub processor	USA
Google LLC	Email and storage of documents	Sub processor	USA
Opsgenie (Atlassian)	IT operations and Incident Management	Sub processor	USA
Statuspage (Atlassian)	Maintenance and incident communication tool	Sub processor	USA

POKA'S CUSTOMER TERMS OF USE

THIS IS A CONTRACT BETWEEN YOU (THE CUSTOMER) AND US (POKA). IT DESCRIBES THE SERVICES WE WILL PROVIDE TO YOU AND COVERS OTHER ASPECTS OF OUR BUSINESS RELATIONSHIP. BY ACCEPTING THIS AGREEMENT THROUGH THE TETRA PAK PLATFORM AGREEMENT FOR TETRA PAK SERVICES (THE "TETRA PAK AGREEMENT") WITH TETRA PAK ("TETRA PAK"), OUR APPROVED RESELLER, YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "YOU" AND "YOUR" AS USED IN THIS AGREEMENT SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE TO ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT, YOU MAY NOT USE THE SERVICES.

1. SERVICES

1.1 Access to Services. Poka shall make available to You, through Tetra Pak, during the Term, the Poka software and platform further detailed in your Tetra Pak Agreement (the "Services"). For the avoidance of doubt, the Services exclude applications developed for or by You, Tetra Pak or any third party which interact with the Services through the Services application programming interface(s).

1.2 Rights to Use the Services. Subject to You abiding by the terms and conditions of this Agreement, You shall have the limited, non-exclusive, non-transferable, and non-sublicensable (except to Your Affiliates) right to use and access the Services remotely via the internet solely for Your internal use. "Affiliate" means any person, organization or entity controlling, controlled by, or under common control of a party, as the case may be, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such party, whether through the ownership of voting securities or by contract or otherwise.

1.3 Trial, Sandbox or Demonstration. If applicable, this Agreement will also apply to trial copies of the Services ("Trial Product") as more fully described and agreed in a separate agreement.

1.4 End Users. Individuals authorized by You to access the Services ("**End Users**") shall have the right to input, upload, transmit or otherwise make available other data ("**Your Data**"), including information relating to an identified or identifiable natural person ("**Personal Data**"), using the Services. You shall be solely responsible for the use and access to the Services by End Users, as well as ensuring that there are no unauthorized use or access to the Services by any person making use of Your systems. You agree to (i) ensure that End Users abide by the terms and conditions of this Agreement; (ii) promptly notify us of any issues related to the security or unauthorized use or access to the Services by any person.

1.5 Your Data. At all times, Your Personal Data will be processed in accordance with the Data Processing Agreement (the "**Data Processing Agreement**") forming part of Your Tetra Pak Agreement. Your Data will remain your sole property and that of End Users, as the case may be and to the fullest extent provided by law. You will have sole responsibility for the accuracy,

quality, integrity, legality, reliability, appropriateness of and copyright permissions for all of Your Data. Poka will not use Your Data for any purpose other than to provide the Services. You hereby grant to Poka a non-exclusive license to use, copy, store, transmit and display Your Data to the extent reasonably necessary to provide and maintain the Services and in accordance with this Agreement. To the extent required by applicable laws, each party agree to comply with its obligations under the applicable data protection laws in respect of the processing of Personal Data created or provided to us using the Services and in any processing instructions that you may issue to us as a data sub-processor and in accordance with the Data Processing Agreement.

1.6 Hosting. Your Data will be hosted on servers located in Canada, the United States of America or within the European Union as the case may be on secured instances owned, controlled, and operated by third parties hosting providers (“Hosting Providers”). Poka may appoint a new Hosting Provider, modify the hosting environment or relocate Your Data at its discretion to provide the Services upon obtaining your prior written approval.

1.7 Back-Up Poka will use commercially reasonable efforts to back up the Your Data with a recovery point objective of no more than 24 hours. In the event Your Data is lost or unintentionally altered or becomes unusable we will use commercially reasonable efforts to restore Your Data with its most recent back-up.

1.8 Security. We always maintain an information security program including administrative, physical, and technical safeguards based on industry-standards in conjunction with appropriate controls and SOC 2 reporting designed to ensure the security of our Services and Your Data.

1.9 Security Incident. We both agree to notify each other upon becoming aware of a security breach. Such notice will summarize in reasonable detail such incident. Poka will cooperate with You in all commercially reasonable and lawful efforts to prevent, mitigate or rectify such incident including timely and systematic communications on the status of actions and corrective measures taken.

1.10 Your Environment. You will be solely responsible, at your own expense, for acquiring, installing and maintaining all hardware, software and other equipment as may be necessary for You and each End User to connect to, access, and use the Services. You shall be solely responsible for implementing safeguards to protect the security of Your systems and Your Data and You shall be responsible for the provision, maintenance and good working order of the required infrastructure and equipment to access and use the Services, including tablet computers, desktop computers, local connections and infrastructure and local internet network. You acknowledge that the use of the Services requires the use of certain third-party products, such as iPads or computer tablets necessary for Your use of the Services for which you will be responsible to supply. You therefore agree that we will have no responsibility or any liability whatsoever with respect to such third-party products.

1.11 Support Services. Support Services shall be governed by the terms and conditions of your Tetra Pak Agreement.

1.12 Service Level Agreement (SLA). The Service Level Agreement for the Services shall be governed by the terms and conditions of your Tetra Pak Agreement.

1.13 Maintenance and Updates. The Services include the provision of updates or patches to the Services intended to correct issues and may include enhancements as provided by Poka from time to time during the Term (“**Updates**”). The Updates are deemed to be part of the Services and are implemented automatically into the Services and made available to You as soon as such are made available by Poka to its other customers.

2. RESTRICTIONS AND ACCEPTABLE USE OF SERVICES

2.1 Acceptable Use of Services. Except as otherwise expressly provided herein, You shall not: (i) provide, disclose, sublicense or otherwise permit any person to access, use, read, disseminate, transmit, download or reproduce the Services; (ii) adapt, translate, change, customize, enhance, partially delete, alter or otherwise modify the Services in any manner or to any extent whatsoever; (iii) to the maximum extent permitted by applicable law, disassemble, decompile, reverse engineer, or otherwise investigate all or any part of the Services; (iv) introduce viruses, worms, trojan horses and other items of a disabling or destructive nature within the Services or Poka's systems (as well as those of Hosting Providers); (v) probe, scan, or test the vulnerability of any of Poka's (and/or a Hosting Provider's) system or network, unless expressly authorized in writing by Poka; (vi) disclose the results of any Services benchmark tests without Poka's prior written consent; (vii) have any right to access or obtain a copy of the object code or source code to the Services; (viii) forge any IP address information or login information or otherwise circumvent the Services's access mechanisms; (ix) make use of the Services with materials of any kind that will violate or infringe upon the intellectual property rights of any third party or contain libelous, defamatory or otherwise unlawful material; (x) sell, assign, pledge, sublicense, or otherwise transfer its rights under this Agreement (except as otherwise provided in this Agreement); and/or (xi) allow End Users to share the same unique identifiers facilitating the access to the Services either made available by Poka or through Your own directories (“**Credentials**”), or create generic Credentials to bypass the pricing model of the Services.

2.2 Your Obligations.

a. You shall (i) assist, cooperate and facilitate the provision of the Services, including the prompt notification to Poka of any modification or change made to any of Your Systems (or other information technology infrastructure) that could impact the installation, operation, use, support and/or maintenance of the Services; (ii) provide Poka with access to Your systems for support, maintenance and audit purposes; and (iii) ensure that Your calls or requests made to Services's application programming interface(s) shall be made in accordance with the applicable documentation and never in a form or frequency likely to harm or reduce Poka's infrastructure. You agree to be solely responsible for the selection and implementation of procedures, processes and controls regarding the access, security, encryption, use and transmission of Your Data to Poka.

b. You acknowledge and agree that the Services is used to manage, store and access Personal Data that is protected by law, and it is Your sole and exclusive responsibility to obtain the required consents for the use, transmission and display of any Personal Data and Your Data under this Agreement or otherwise. You expressly acknowledge and agree that the Services provided hereunder are solely for Your benefit and not for the benefit of any other person.

c. You acknowledge and agree that the Services is not a replacement for user guides, training manuals or other materials provided by third parties to You with regard to the equipment used by You in any of its locations and thus that Poka cannot guarantee and shall have no liability as regards the completeness or correctness of any such third party material.

2.3 Audits. We shall have the right to remotely conduct periodic inspections and audits for the purpose of verifying Your compliance with the terms of this Agreement, e.g. by verifying that the number of actual End Users set out in the Tetra Pak Agreement is not exceeded.

3. FEES AND PAYMENT

The applicable fees and payment terms and conditions shall be governed by the terms and conditions of your Tetra Pak Agreement.

4. INTELLECTUAL PROPERTY

Ownership of Services. All rights, titles, and interests in and to the Services (inclusive of all enhancements, changes, and modifications to such Services), including all intellectual property and other proprietary rights therein are owned solely and exclusively by Poka and/or its third party licensors. Nothing in this Agreement shall, or shall be deemed or construed to, assign, transfer or convey to or vest in You any title, rights or interest in or to any intellectual property, including in or to the Services or documentation (“Documentation”, meaning documents supplied by Poka directly, or indirectly through any of its Resellers, third party service or product providers, to You related to any of the Services), other than the rights specifically and expressly granted herein. Poka reserves all rights not expressly granted to You hereunder.

5. EXPORT CONTROL

Export laws and regulations of the United States and any other relevant local export laws and regulations may apply to the Services. You agree that such export control laws govern your use of the Services and you agree to comply with all such export laws and regulations. You agree that no data, information, Services programs and/or materials resulting from Services will be exported, directly or indirectly, in violation of these laws.

6. CONFIDENTIALITY

6.1 **“Confidential Information”** means any and all data or information including specifications, documents, correspondence, research, software, web logs, trade secrets, discoveries, ideas, know-how, designs, drawings, product information, technical information, the Credentials and all information concerning the operations, affairs and businesses of a Party, the financial affairs of a Party and the relations of a Party with its clients, employees and service providers (including client lists, client information, account information, consumer markets, sales figures and marketing plans) which is disclosed or made available (in any format) by such Party (the **“Disclosing Party”**) in connection with the Agreement to the other Party (the **“Receiving Party”**). The terms of the Agreement are deemed Confidential Information, except in relation to Tetra Pak and Tetra Pak Affiliates. However, you agree that we may disclose a) any audit findings under this Agreement to Tetra Pak and Tetra Pak Affiliates, and b) the terms of this Agreement to any third party for corporate, compliance or other reasonable business purposes including in relation to a sale of part or substantially all of our business operations. Such third party shall, however, be bound by confidentiality provisions.

6.2 **Confidentiality Obligations.** The Receiving Party shall hold in strict confidence any Confidential Information under the same degree of care as it normally protects its own confidential information, but in no case less than a reasonable degree of care. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information in cases where (i) the information is made public through no fault of or contribution by the Receiving Party; (ii) the information was

made available to the Receiving Party by a third party that was legally in possession thereof and was free to disclose same; (iii) the information was independently acquired by third parties without access to or knowledge of the Confidential Information; or (iv) this disclosure was required by law or a court order, provided that the Receiving Party gives the Disclosing Party enough advance warning of this requirement so as to give the latter enough time to adopt whatever measures may be needed to avoid or limit the disclosure.

6.3 Public Announcements. Upon Your prior approval Poka shall be permitted to disclose the fact that You are a user of Poka Services in its marketing, promotional or other similar materials and on its website or orally. Upon Your prior approval, Poka may be authorized to use You as the basis for published case studies.

6.4 Surveys. Poka may send to You customer satisfaction surveys from time to time, under which You and End Users may provide feedback and information regarding the Services. You acknowledge and agree that Poka may make use of the information provided through such surveys for any purpose and that it shall obtain all required consents from End Users participating in such surveys.

7. REPRESENTATIONS AND WARRANTIES

7.1 Mutual Representations and Warranties. Each Party represents and warrants that: (i) it has the full right, power and authority to enter into this Agreement, grant the licenses set forth herein and to discharge its obligations hereunder; and (ii) the execution and delivery of this Agreement and the performance of its obligations hereunder does not and will not violate any agreement to which it is a Party or by which it is or will be otherwise bound (iii) it shall separately comply with its obligations under any applicable law.

7.2 Neither party shall be responsible for the other party's compliance with applicable law. Among others, each party shall be individually responsible for ensuring that its processing of Personal Data is lawful, fair and transparent, and shall make available to data subjects a privacy statement that fulfills the requirements of applicable law. At all times, each party agrees to use commercially reasonable efforts to collaborate, communicate and coordinate as appropriate and required for compliance purposes.

7.3 Poka's Representations and Warranties. Poka warrants that, during the Term (i) the Services will not infringe any intellectual property rights of any third party and, upon entering into this Agreement, it has not received, and has no knowledge, of any claim or allegation that the Services infringes or misappropriates any intellectual property right of any third party, (ii) the Services will be free from any viruses and malware, and (iii) Your Data will be stored, backed up and kept secure in accordance with this Agreement.

7.4 Exclusions. THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES FROM A COURSE OF DEALING OR USE OF TRADE. YOU ACKNOWLEDGE AND AGREE THAT, EXCEPT AS PROVIDED IN THIS AGREEMENT, NO REPRESENTATIONS HAVE BEEN MADE RESPECTING THE SERVICES OR THE SERVICES PROVIDED, AND THAT YOU HAVE NOT RELIED ON ANY REPRESENTATION NOT INCLUDED IN THIS AGREEMENT.

7.5 Your Representations and Warranties. You hereby represent and warrant that: (i) You shall at all times comply with applicable law and this Agreement (including any applicable privacy or data protection laws); (ii) Your Data does not infringe or misappropriate any rights of any third party (including End Users); and (iii) You have obtained all necessary rights and consents from any identified or identifiable person represented (directly or indirectly) in Your Data, prior to Your Data being made available by You through the Services.

8. INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1 Your Indemnification. You agree to indemnify, hold harmless, and, upon Poka's request, defend Poka, its officers, directors, employees, agents, contractors, suppliers and approved resellers ("Indemnitees") from and against all claims, actions, and demands made or threatened against any of the Indemnitees that result from or arise out of any breach by You, or any of Your Affiliates, of this Agreement (including, but not limited to its representations and warranties).

8.2 Poka Indemnification. Poka agrees to indemnify, hold harmless, and, upon Poka's sole decisions, defend You from and against all claims, actions, and demands made or threatened against You in connection with any claim that the Service infringes any intellectual property right of any third party.

8.3 Indemnifications without limitation. The limitation of liability in clause 8.5 shall not apply to any claim arising out of or in connection with clause 8.2 above.

8.4 Indemnification Procedure. Each Party shall promptly notify the other Party in writing upon knowledge of any claim for which it may be entitled to indemnification under this Agreement. Each Party must permit the other Party to have the sole right to control the defense and settlement of any lawsuit (provided that each Party may opt to participate in the defense at its own expense). A Party must not enter into any settlement agreement or otherwise settle any such claim or lawsuit that does not contain a full and final release of all claims against the other Party without its express prior consent or request.

8.5 LIMITATION OF LIABILITY - IN NO EVENT SHALL POKA, ITS CONTRACTORS, SUPPLIERS, AND APPROVED RESELLERS, TO THE EXTENT PERMITTABLE UNDER APPLICABLE LAW, HAVE ANY LIABILITY TO YOU OR ANY OTHER PARTY FOR ANY LOSS OF PROFITS, REVENUES OR INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER AND REGARDLESS OF THE FORM OR CAUSE OF ACTION, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO CASE SHALL POKA'S, ITS CONTRACTORS', SUPPLIERS' AND APPROVED RESELLERS LIABILITY WITH RESPECT TO ANY AND ALL INCIDENTS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED IN THE AGGREGATE THE PRICE PAID BY YOU TO TETRA PAK UNDER THE TETRA PAK AGREEMENT, BUT EXCLUDING SERVICES NOT DELIVERED BY POKA, IF ANY, DURING THE 10 MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM (OR THE AVERAGE MONTHLY PRICE PAID IF SUCH PERIOD IS INFERIOR TO 10 MONTHS), REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY.

9. TERM AND TERMINATION

9.1 Term. This Agreement shall commence on and shall continue until the end of the period set out in the Tetra Pak Agreement (“Initial Term”). The Initial Term shall be renewed pursuant to the terms of the Tetra Pak Agreement (each a “Renewal Term”. “Term” means collectively the Initial Term and the renewal Term(s).

9.2 Termination.

Poka may, in addition to other relief, suspend or terminate this Agreement if (A) You commit a breach of this Agreement, and fail within 10 days after receipt of notice of such breach to correct such breach; or (B) You become insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed, or a petition in bankruptcy is filed. Poka may, at its sole discretion, elect to suspend the Services during the 10-day cure period.

9.3 Effects of Termination.

a. Upon any termination of this Agreement or the Tetra Pak Agreement: (i) Poka shall cease providing the Services, and You and End Users shall cease all use of the Services and Documentation and return the Documentation, and all copies thereof, in Your possession or under Your control to Poka (or at Poka's direction, destroy it); and (ii) each Party shall return to the other Party, or at the direction of the other Party, within 30 calendar days of the termination date all Confidential Information of the other Party.

b. Upon termination, Poka shall discontinue the Services to prevent further use by End Users, however, limited access will be provided for not more than 60 days to allow Your administrators to participate in the winding down of the site(s) and assist in the migration of Your Data. In addition, Poka will make all Your Data accessible for retrieval at any time using Poka's API (Application Programming Interface) and any Amazon AWS S3 compatible file transfer software. Structured data is available in JSON format and documents in their original format. Poka or Reseller may invoice You for wind down services as agreed upon in advance or where such wind down is beyond the ordinary course of Poka's business. After such period Poka may delete from its servers any and all data and information provided by You under this Agreement.

9.3 Survival. The provisions of this Agreement which by definition shall survive the termination or expiration of this Agreement shall continue in full force and effect following such termination or expiration.

10. GENERAL PROVISIONS

10.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to all the matters herein and supersedes all prior agreements, proposals, understandings, letters of intent, negotiations and discussions between the Parties, whether oral or written. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable in any respect, then such provisions shall be read down so as to not be invalid or enforceable. The remaining provisions of this Agreement shall remain unaffected.

10.2 Amendment. This Agreement may only be amended or modified in writing by the Parties.

10.3 Notice. Except as otherwise set forth herein, all notices under the Agreement will be by email, although we may instead choose to provide notice to You through the Services (e.g., in app message or notification) or other means. Notices to Poka will be sent to notice@poka.io,

except for privacy or security notices, which must be sent to infosec@poka.io. Notices will be deemed to have been duly given (a) the day after it is sent, in the case of notices through email; and (b) the same day, in the case of notices through the Services or other means.

10.4 Jurisdiction. The Agreement shall be governed by and construed in accordance with the substantive laws of Switzerland, without reference to its provisions on conflict of laws. All disputes arising out of or in connection with the Agreement shall be attempted to be settled by good-faith negotiations between the Parties. If the parties do not reach an agreement the Parties irrevocably attorn to the exclusive jurisdiction of the courts located in Geneva, Switzerland, in respect of all matters and disputes arising hereunder.

10.5 Assignment and Delegation. This Agreement shall be binding upon and shall ensure to the benefit of and be enforceable by each of the Parties, their respective successors and permitted assigns. You may not assign all or any part of this Agreement without the prior written consent of Poka. Where Your business undergoes a change of control through the purchase by a third party of a substantial part of Your assets for which the Services were provided, the third party acquirer of such assets shall be required to separately enter into an agreement with Poka for the Services, and Poka may invoice You and/or such third party acquirer for the migration and separation of Your Data, as agreed upon. Poka may assign this Agreement with Your consent, which shall not be unreasonably withheld

10.6 Independent Contractor. It is expressly understood and agreed that each Party shall be acting as an independent contractor in performing its obligations hereunder and shall not be considered or deemed to be an agent, employee, joint venturor or partner of the other Party. Nothing in this Agreement shall prevent Poka, its contractor, suppliers and Tetra Pak from providing any services to any other person.

10.7 Waiver and Remedies. No delay or omission by either Party to exercise any right or power it has under this Agreement or to object to the failure of any covenants to be performed in a timely and complete manner, shall impair any such right or power or be construed as a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the other Party waiving its rights. Certain breaches of this Agreement result in irreparable harm and that monetary damages would be an inadequate remedy for such breach, including, without limitation, with respect to Confidential Information of Poka and Poka's intellectual property rights to the Services.

10.8 Force Majeure. Neither Party shall be liable for delays in or for failures to perform hereunder due to causes beyond reasonable control, including acts of God, , Internet or telecommunications outages outside Poka's control, acts of civil or military authorities, fire, strikes, power, surges or outages, epidemics, flood, earthquakes, riot, or war ("**Force Majeure Event**"). Each Party shall use commercially reasonable efforts to provide the other Party with notice of any such events. If Poka is unable to perform for a period of more than 30 days due to any such delay, You may terminate this Agreement without liability to Poka.