



**MASTER SUBSCRIPTION
&
PROFESSIONAL SERVICES AGREEMENT**

QIVOS

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MASTER SUBSCRIPTION & PROFESSIONAL SERVICES AGREEMENT (“MSA”)

1. This Master Subscription & Professional Services Agreement (hereinafter referred to as the “**Agreement**”) governs the use by any person or entity (“hereinafter referred to as the “**Customer**”) of the services (as defined below) provided by QIVOS – WE CREATE CUSTOMER LOYALTY S.A (hereinafter referred to as “**QIVOS**”). By executing a commercial agreement (as defined below) that references this Agreement, Customer agrees to the terms of this Agreement.
2. This Agreement, including any commercial agreements entered into by the Parties hereunder, is made effective on the date that the initial commercial agreement is executed by QIVOS and Customer (hereinafter referred to as the “**Effective Date**”). Customer and QIVOS may be referred to herein individually as a “**Party**” and collectively as the “**Parties**”.
3. In consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**,” for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Application Services**” shall mean the products and services offered by QIVOS that Customer orders on a Commercial Agreement and QIVOS makes available online via a password-protected customer login, including associated offline components, as described by the User Guide.

“**Commercial Agreement**” means the documents for placing orders for Application Services hereunder that are entered between Customer and QIVOS from time to time, including addenda and supplements thereto, as well as for describing the Professional Services to be performed by QIVOS for Customer. By entering into a Commercial Agreement hereunder, an Affiliate of Customer agrees to be bound by the terms of this Agreement as if it were an original Party hereto. Commercial Agreements shall be deemed incorporated herein by reference.

“**Confidential Information**” shall have the meaning set forth in Section 7.

“**Customer Data**” shall mean all data or information in hard copy or electronic format submitted by Customer to the Application Services. The Customer Data shall refer to the Customer’s clients – natural persons.

“**Professional Services**” shall mean the implementation, integration, consulting and similar services described in a Commercial Agreement.

“**Implementation Start Date**” shall mean some date mutually agreed upon by the Parties following execution of a Commercial Agreement, upon which date QIVOS shall commence provision of Professional Services.

“**Implementation Term**” shall mean the estimated time from the Implementation Start Date to complete the Professional Services described in such Commercial Agreement. Implementation Term is an estimate of the time to complete the Professional Services and assumes that Customer’s availability, participation and cooperation have not delayed the Implementation Start Date or provision of the Professional Services by QIVOS.

“**Insolvency Event**” shall mean in respect of either Party:

- a. Other than for the purposes of a bona fide reconstruction of amalgamation, such Party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved or that Party being otherwise dissolved, or
- b. The appointment of an administrator of, or the making of an administration order in relation to, either Party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of, or selling the whole or any part of the entity's undertaking, assets, rights or revenue; or
- c. That Party entering into an arrangement, compromise, or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; or
- d. That Party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of article 3 of the L. 3588/2007 (Bankruptcy Code) or
- e. That Party is subject to events or circumstances analogous to any of the foregoing in any applicable jurisdiction.

"Force Majeure Event" means an event or circumstance which is beyond the control and without the fault or negligence of the Party affected and which by exercise of reasonable diligence the Party affected was unable to prevent provided that event or circumstance includes without limitation the following:

- (a) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, acts of government, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority, civil unrest;
- (b) earthquakes, flood, fire or other physical natural disaster, acts of God;
- (c) strikes at national level or industrial disputes at a national level, or strike or industrial disputes by labor not employed by the affected Party, its subcontractors or its suppliers and which affect an essential portion of the Services;
- (d) system failures, downtime or delays by an Internet Service Provider (ISP), hosting provider, or third – party social platform, or denial of service attacks.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Non-QIVOS Applications" means online applications and offline software products that are provided by entities or individuals other than QIVOS and are clearly identified as such, and that interoperate with the Application Services.

"Services" shall mean the Application Services and Professional Services collectively.

"Subscription Start Date" shall mean the date on which QIVOS shall make the Application Services available to Customer as set forth in an applicable Commercial Agreement.

"Subscription Term" shall mean the subscription period set forth on an applicable Commercial Agreement.

"Term" shall have the meaning set forth in Section 12.1.

"User Guide" means online help, training, how-to documents and explanatory materials that assist Customers in using the Application Services (as such materials may be updated from time to time), accessible via log-in to the Application Services or otherwise as made available by QIVOS.

'Controller' means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;

'Processor' means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

'Personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

'Processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

2. APPLICATION SERVICES

2.1. Provision of Application Services.

QIVOS shall make the Application Services available to Customer pursuant to this Agreement and the applicable Commercial Agreement(s) during each Subscription Term. Customer agrees that Customer's purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by QIVOS regarding future functionality or features.

2.2. Subscriptions.

Unless otherwise specified in the applicable Commercial Agreement:

- a. Application Services are purchased as subscriptions and may be accessed only in accordance with the applicable Commercial Agreement(s);
- b. Additional quantities may be added during the applicable Subscription Term on terms agreeable to both Parties; and
- c. The added quantities shall terminate on the same date as the pre-existing subscriptions.

2.3. Addenda for Additional Services.

If Customer desires to purchase certain one-to-one digital marketing solutions as part of the Application Services, Customer acknowledges that certain aspects of such additional Application Services will be provided by third parties and that Customer would be required to execute an addendum to this Agreement.

3. USE OF APPLICATION SERVICES

3.1. QIVOS Responsibilities

- a. QIVOS shall:
 - I. provide basic support for the Application Services to Customer at no additional charge, and/or upgraded support if purchased;
 - II. use commercially reasonable efforts to make the Application Services available 24 hours a day, 7 days a week

except for:

- I. planned downtime (of which QIVOS shall give at least eight (8) hours' notice online via the Application Services or via email), or
- II. any unavailability caused by circumstances beyond QIVOS' reasonable control ("Force Majeure Event"), including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving QIVOS employees), failures, downtime or delays by an Internet service provider, hosting provider, or third-party social platform, or denial of service attacks.

3.2. Customer Responsibilities

a. Customer shall:

- I. be responsible for its compliance with this Agreement;
- II. be responsible for the accuracy, quality and legality of Customer Data and of the means by which Customer acquires the Customer Data;
- III. use commercially reasonable efforts to prevent unauthorized access to or use of the Application Services, and notify QIVOS promptly of any such unauthorized access or use;
- IV. use the Application Services only in accordance with the User Guide and applicable laws and government regulations.

b. Customer shall not:

- I. make the Application Services available to anyone other than its employees and contractors who are authorized by Customer to use the Application Services;
- II. sell, resell, rent, or lease the Application Services;
- III. use the Application Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights;
- IV. use the Application Services to store or transmit Malicious Code;
- V. interfere with or disrupt the integrity or performance of the Application Services or third-party data contained therein; or
- VI. attempt to gain unauthorized access to the Application Services or their related systems or networks.

c. Additionally, the Customer shall not:

- I. use the Application Services for the purpose of serving as a factor in establishing an individual's eligibility for credit, employment or insurance,
- II. submit to the Application Services or use the Application Services to collect, store or process any sensitive individually identifiable information, including, without limitation:
 - Special categories of personal data, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and
 - Genetic data, i.e. personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result from an analysis of a biological sample from the natural person in question,
 - Biometric data, i.e. personal data resulting from specific technical processing relating to the physical, physiological or behavioral characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data, and
 - Data concerning health, i.e. personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status.

QIVOS shall be entitled (but not obliged) to verify at its own cost that Customer is in compliance with its responsibilities pursuant to Section 3.2. In the event Customer breaches any provision of this section, QIVOS may, in addition to any other rights which QIVOS may have under this Agreement or at law, temporarily suspend Customer's access to the Application Services.

4. PROFESSIONAL SERVICES

4.1. Who May Order

Customer or an Affiliate may obtain Professional Services from QIVOS. Each Customer entity purchasing Professional Services shall perform its respective obligations in accordance with the terms and conditions of this Agreement and the relevant Commercial Agreement.

4.2. Personnel; Use of Subcontractors

Subject to the provisions below and unless otherwise specified in the applicable Commercial Agreement, QIVOS shall supply all materials, equipment, and qualified personnel necessary to perform the Professional Services. QIVOS may use subcontractors to perform the Professional Services. QIVOS shall not engage any subcontractor without the prior specific or general written authorization of the Customer. Any subcontractor used by QIVOS shall have executed a written agreement with QIVOS that obligates such subcontractor to protect Customer Data to the same extent as is required of QIVOS hereunder. QIVOS shall be responsible for all acts and omissions of any such subcontractor to the same extent as if QIVOS had performed the Professional Services.

4.3. Relationship to the Application Services.

The Professional Services may be in support of Customer's subscription to use the Application Services pursuant to a Commercial Agreement. No Commercial Agreement grants Customer any rights to use the Application Services. Except as specifically set forth in a Commercial Agreement, Customer's purchase of Professional Services is not contingent upon the delivery of any future functionality or features in the Application Services, nor is it dependent upon any oral or written public comments made by QIVOS with respect to future functionality or features.

5. FEES AND PAYMENT

5.1. Service Fees.

Customer shall pay all fees specified in all Commercial Agreements executed hereunder. Except as otherwise specified in a Commercial Agreement, fees are based on the Services purchased and not actual usage; payment obligations are non-cancelable; fees paid are non-refundable; and the Services purchased cannot be decreased during the relevant Subscription Term.

5.2. Professional Services Fees.

- a. **Fixed Price** - If a Commercial Agreement provides for payment of Professional Services fees on a "Fixed Price" basis, QIVOS will invoice Customer for work performed as set forth in such Commercial Agreement. If QIVOS is delayed in

completing the Professional Services beyond the estimated Implementation Term of the Commercial Agreement and such delay is due to Customer's unavailability, failure to cooperate, failure to provide information required by QIVOS to provide the Professional Services, and/or provision of materially inaccurate or misleading information, QIVOS shall notify Customer that its performance of the Professional Services may be delayed. In such cases QIVOS' obligations may be reconsidered, the time to provide Professional Services may be extended, and QIVOS may renegotiate the fixed fee.

- b. **Time & Materials** - If a Commercial Agreement provides for payment of Professional Services fees on a time and materials (or "T&M") basis, the Professional Services shall be provided at QIVOS' T&M rates in effect as of the Implementation Start Date. On a T&M engagement, if an estimated total amount is stated in the applicable Commercial Agreement, that amount is solely a good faith estimation for Customer's budgeting and QIVOS' resource scheduling purposes and not a guarantee that the Professional Services will be completed for that amount; the actual amount may be higher or lower. If the estimated amount is expended, QIVOS will continue to provide Professional Services on a T&M basis under the same rates and terms.
- c. **Expenses** - Customer shall reimburse QIVOS for reasonable travel and out-of-pocket expenses incurred in conjunction with the Professional Services.

5.3. Invoicing and Payment.

QIVOS shall invoice Customer for all Services listed in the Commercial Agreement for the initial Subscription Term and any renewal Subscription Term(s) as set forth in Section 12.2. QIVOS will invoice Customer in advance and otherwise in accordance with the relevant Commercial Agreement. Unless otherwise stated in the Commercial Agreement, invoiced charges are due net 30 days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to QIVOS and notifying QIVOS of any changes to such information.

5.4. Overdue Charges.

If any amounts invoiced are not received by QIVOS by the due date, then, without limiting QIVOS' rights or remedies:

- I. such charges may accrue default late interest at the applicable rate of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or
- II. QIVOS may condition future subscription renewals and Commercial Agreements on payment terms shorter than those specified in Section 5.3.

5.5. Suspension of Application Services and Acceleration.

If any amount owing by Customer under this or any other Agreement for the Services is thirty (30) days or more overdue, QIVOS may, without limiting QIVOS' other rights and remedies, accelerate Customer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend provision of the Services to Customer until such amounts are paid in full. QIVOS will give Customer at least seven (7) days' prior notice that Customer's account is overdue, in accordance with section 13.1, before suspending Services to Customer.

5.6. Payment Disputes.

QIVOS shall not exercise QIVOS' rights under Section 5.4 or 5.5, if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute; provided, however, Customer shall not be entitled to offset its own claims against any claim of QIVOS under this Agreement (or to claim any right of retention) unless Customer's counter-claim is:

- I. undisputed by QIVOS, or
- II. confirmed by a binding court decision that cannot be appealed.

5.7. Taxes.

Unless otherwise stated, QIVOS' fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial,

federal or foreign jurisdiction (collectively, “**Taxes**”). Customer is responsible for paying all Taxes associated with Customer’s purchases hereunder. If QIVOS has the legal obligation to pay or collect Taxes for which Customer is responsible, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides QIVOS with a valid tax exemption certificate authorized by the appropriate tax authority. For clarity, QIVOS is solely responsible for taxes assessable against QIVOS based on QIVOS’ income, property and employees.

6. PROPRIETARY RIGHTS

6.1. Reservation of Rights.

Subject to the limited rights expressly granted hereunder, QIVOS reserves all rights, title and interest in and to the Application Services, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

6.2. Restrictions.

Customer shall not:

- I. modify, copy, or create derivative works based on the Application Services;
- II. frame or mirror any content forming part of the Application Services, other than on Customer’s own intranets or otherwise for its own internal business purposes;
- III. reverse engineer the Application Services; or
- IV. access the Application Services in order to:
 - a) build a competitive product or service, or
 - b) copy any ideas, features, functions or graphics of the Application Services.

6.3. Customer Data.

As between Customer and QIVOS, Customer shall own all Customer Data, including all reports, statistics, and other data to the extent generated solely from Customer Data, and all intellectual property rights therein; provided, however, that during the Term of this Agreement, Customer grants to QIVOS a worldwide, non-exclusive, royalty-free license to aggregate anonymized Customer Data with other data, including the customer data of other QIVOS’ customers so long as such aggregation omits any data that would enable the identification of Customer, Customer’s clients, or any individual, company or organization (“**Aggregated Data**”). Customer further grants QIVOS a worldwide, perpetual, royalty-free license to use, modify, distribute and create derivative works based on such Aggregated Data, including all reports, statistics or analyses created or derived therefrom. Additionally, Customer grants to QIVOS the right to access Customer Data to provide feedback to Customer concerning Customer’s use of the Application Services.

6.4. Customer as Controller.

Customer remains the sole Controller of the Customer Data pursuant to the applicable Data Protection legislation (meaning that Customer alone determines the purposes and means of processing the Customer Data), and shall be responsible for the lawful processing of the data as well as for preserving the rights of the data subjects. Where required, Customer shall inform the data subjects about the processing of their data, and/or obtain their consent. The Customer shall be responsible for obtaining the data subjects’ consent and demonstrating the lawful basis of processing where applicable. Where Customer Data must be corrected, deleted or blocked, Customer itself shall carry out these measures by using the corresponding functions of the provided software. Where this is not possible, QIVOS shall correct, delete or block such data according to the documented instructions provided by Customer at Customer’s risk and expense.

6.5. QIVOS as Processor.

QIVOS remains the Processor of the Customer data pursuant to the applicable Data Protection legislation, meaning that QIVOS processes personal data on behalf of the Customer according to the present Agreement and only acting on documented instructions from him, lawfully, fairly and in a transparent manner in relation to the data subject, including with regard to transfers of personal data to a third country or an international organization. The processing of Customer Data by QIVOS is based on the documented instructions of the Customer and the framework of the relationship between Customer, as Data Controller, and QIVOS, as Data Processor is fully documented in the Data Processor Agreement (DPA), being an integral part of the present Agreement.

6.6. Improvements.

QIVOS shall own all rights, title and interest, including all intellectual property rights, in and to any improvements to the Application Services or any new programs, upgrades, modifications or enhancements developed by QIVOS in connection with rendering the Application Services to Customer, even when refinements and improvements result from Customer's request or suggestion. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in QIVOS by virtue of this Agreement or otherwise, Customer hereby transfers and assigns (and, if applicable, shall cause its Affiliates to transfer and assign) to QIVOS all rights, title, and interest which Customer or its Affiliates may have in or to such refinements and improvements.

6.7. Professional Services Deliverables.

QIVOS hereby grants Customer a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to use for its internal business purposes anything developed by QIVOS for Customer under a Commercial Agreement ("**Deliverables**"). QIVOS shall retain all ownership rights to the Deliverables.

6.8. Publicity; Trademarks.

Neither Party may issue press releases or any other public announcement of any kind relating to this Agreement without the other Party's prior written consent (email is sufficient). Notwithstanding the foregoing, during the Term, either Party may include the name and logo of the other Party in lists (including on its website) of customers or vendors in accordance with the other Party's standard logo and/or trademark usage guidelines. In addition, QIVOS may use the trademarks and trade names of Customer solely in connection with its authorized provision of the Services. Except as set forth herein, neither Party may use the trademarks and trade names of the other Party without the prior written consent of the other Party.

6.9. No poaching of Staff

It is expressly agreed and accepted between the Parties that it is not allowed for one Party to poach an employee or a contracted freelancer/individual professional of the other Party and to hire him or in any way cooperate with him either directly or indirectly through affiliated companies or third parties cooperating closely with its entity.

For the purposes of this Agreement, the terms "employee" or "contracted freelancer/individual professional" shall mean any natural person who has explicitly and/or verbally signed a Services Contract, an Independent Services Agreement or an employment contract under any conditions with either Party and which contract is currently in force or has been expired or in any way terminated during the Term of this Agreement.

The above No – poaching agreement is valid for the entire Term of the present Agreement and shall survive for two (2) years after its expiration or termination.

In the event of breach of the present terms, the infringing Party will be required to compensate the other Party and pay a) an amount equal to the gross remuneration to be received by the poached employee for a period of two (2) years or b) in case of a Services contract or independent services agreement to pay the agreed amount including any taxes and/or deductions that the poached contracted freelancer/individual professional would have received for a period of two (2) years.

The present agreed upon compensation is mutually considered to be fair and in full accordance with the Parties' actual loss.

7. CONFIDENTIALITY

7.1. Definition of Confidential Information.

As used herein, “**Confidential Information**” means all information disclosed by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer Confidential Information shall include Customer Data; QIVOS Confidential Information shall include the Application Services; and Confidential Information of each Party shall include the terms and conditions of this Agreement and all Commercial Agreements, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information shall not include any information that:

- I. is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party;
- II. was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party;
- III. is received from a third party without breach of any obligation owed to the Disclosing Party; or
- IV. was independently developed by the Receiving Party.

7.2. Protection of Confidential Information.

The Receiving Party shall:

- I. use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care),
- II. not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and
- III. except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed agreements with the Receiving Party containing protections no less stringent than those herein. Neither Party shall disclose the terms of this Agreement or any Commercial Agreement to any third party other than its Affiliates and their legal counsel and accountants without the other Party's prior written consent.

7.3. Compelled Disclosure.

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving

Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

7.4. Remedies.

If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the Parties that any other available remedies are inadequate.

7.5. Privacy; Customer Privacy Warranty

- a. In performing this Agreement, including without limitation by using the Application Services and providing Customer Data, Customer must comply, and ensure its officers, employees, agents and contractors comply, with all Privacy and Data Protection Laws in respect of all Personal Data contained in the customer data, or otherwise provided to QIVOS. Customer remains the sole data controller of the Customer Data pursuant to applicable data protection legislation (meaning that Customer alone determines the purposes and means of collecting, processing and using the data). Where Customer Data must be corrected, deleted or blocked, Customer itself shall carry out these measures by using the corresponding functions of the provided software. Where this is not possible, QIVOS shall correct, delete or block such data according to instructions provided by Customer at Customer's risk and expense.
- b. In respect of any Personal Data provided to QIVOS by the Customer, Customer warrants that it has provided the appropriate notifications and procured the necessary consents to allow QIVOS to collect Personal Data and to use that Personal Data to perform this Agreement, including in accordance with any collection statements provided by QIVOS for that purpose.
- c. For the purpose of this Section 7.5, Privacy and Data Protection Laws means any applicable law, statute, regulation, ordinance, code, standard or requirements of any government, governmental or semi-governmental body which relates to privacy, including without limitation, the General Data Protection Regulation 2016/679 (GDPR) and "Personal Data" means any information relating to an identified or identifiable natural person ('data subject'), as defined in clause 1 hereto, which is collected, used, disclosed, stored or handled by QIVOS for the purposes of this Agreement.

8. WARRANTIES; DISCLAIMERS

8.1. Representations.

Each Party represents that it has validly entered into this Agreement and has the legal power to do so; that the signatory of the Commercial Agreement that references this Agreement has the authority to bind the applicable organization; and this Agreement constitutes the legal, valid, and binding obligation of each Party, enforceable in accordance with its terms.

8.2. QIVOS Warranties.

- a. Application Services.
QIVOS warrants that:
 - I. the Application Services shall perform materially in accordance with the User Guide and as outlined in the Commercial Agreement;
 - II. the functionality of the Application Services will not be materially decreased during a Subscription Term; and



QIVOS will not transmit Malicious Code to Customer, provided QIVOS is not in breach of this subpart

- III. if Customer uploads a file containing Malicious Code into the Application Services and later downloads that file containing Malicious Code.

For any breach of a warranty above, Customer's exclusive remedy shall be as provided in Sections 12.4 and 12.5 below.

b. Professional Services.

QIVOS warrants that the Professional Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. Customer must report any deficiencies in the Professional Services to QIVOS in writing within 90 days of performance of such Professional Services in order to receive warranty remedies. For any breach of the warranty in this Section 8.2(b), Customer's exclusive remedy, and QIVOS' entire liability, shall be the re-performance of the Professional Services. If QIVOS is unable to re-perform the Professional Services as warranted within 30 days of receipt of notice of breach, Customer shall be entitled to recover the fees paid to QIVOS for the deficient Professional Services.

8.3. Customer Warranties.

Customer represents and warrants that:

- a. the Customer Data shall not infringe on any copyright, patent, trade secret or other proprietary right held by any third party; and
- b. Customer shall not use the Application Services in a manner that violates any international, federal, state, or local law or regulation relating to individual privacy or the distribution of email and other one-to-one digital messages, including without limitation the applicable Data Protection legislation.

8.4. Disclaimer.

Except as expressly provided herein, neither Party makes any warranties of any kind, whether express, implied, statutory or otherwise, and each Party specifically disclaims all implied warranties, including any warranties of merchantability or fitness for a particular purpose, to the maximum extent permitted by applicable law. Application Services provided under a free trial at no charge are provided "as is", exclusive of any warranty or availability commitment whatsoever. Each Party disclaims all liability and indemnification obligations for any harm or damages caused by any third – party hosting providers.

8.5. Beta Services.

From time to time, QIVOS may invite Customer to try, at no charge, QIVOS' products or services that are not generally available to QIVOS' customers ("**Beta Services**"). Customer may accept or decline any such trial in Customer's sole discretion. Any Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, or by a description of similar import. Beta Services are provided for evaluation purposes and not for production use, are not supported, may contain bugs or errors, are subject to change in QIVOS' sole discretion, and may be subject to additional terms.

Customer shall immediately inform QIVOS of any bugs or errors experienced, and otherwise provide its feedback to, and cooperate with QIVOS on Beta Services as reasonably requested by QIVOS. Beta Services are provided "as is" with no express or implied warranty, and QIVOS disclaims any and all liability for Beta Services, except in the case of Section 10.2. QIVOS may discontinue Beta Services at any time in QIVOS' sole discretion, and may never make them generally available.

9. INDEMNIFICATION

9.1. Indemnification by QIVOS.

QIVOS shall defend Customer against any claim, demand, suit, or proceeding made or brought against Customer by a third party alleging that the use of the Application Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a “**Claim Against Customer**”), and shall indemnify Customer for any damages, attorneys’ fees and costs finally awarded against Customer as a result of, and for amounts paid by Customer under a court approved settlement of, a Claim Against Customer; provided that Customer:

- a. promptly gives QIVOS written notice of the Claim Against Customer;
- b. gives QIVOS sole control of the defense and settlement of the Claim Against Customer (provided that QIVOS may not settle any Claim Against Customer unless the settlement unconditionally releases Customer of all liability); and
- c. provides to QIVOS all reasonable assistance, at QIVOS’ expense. If QIVOS receives information regarding an infringement, misappropriation or other claim, QIVOS may in QIVOS’ discretion, and at no cost to Customer,
 - I. modify the Application Services, so that they no longer infringe, misappropriate, or give rise to any other claim, without breaching QIVOS’ warranties under Section 8.2 above,
 - II. obtain a license for Customer’s continued use of the subject Application Services in accordance with this Agreement,
 - III. terminate Customer’s subscriptions for such Application Services upon 30 days’ written notice and refund to Customer any prepaid fees covering the remainder of the term of the terminated subscriptions, or
 - IV. require Customer to immediately, upon receipt of notice from QIVOS, discontinue all use of any Customer Data that may be related to an actual or potential infringement, misappropriation or other claim, to the extent not prohibited by law, or delete or permit QIVOS to delete from the Application Services, any Customer Data, in each case within five (5) calendar days of receipt of notice from QIVOS, except as otherwise provided by the applicable Greek or EU legislation for the storage of personal data. Customer shall, if so requested by QIVOS, certify such deletion and discontinuance of use in writing. In case of deletion, QIVOS shall promptly inform the Customer in writing if any legitimate interests of QIVOS (establishment, exercise or defense of legal claims) require for the storage of the Customer Data and notify the Customer about the retention period or if that is not possible, the criteria used to determine that period. QIVOS shall be authorized to provide a copy of such certification to the third party claimant. QIVOS shall have no obligation to indemnify Customer to the extent any Claim Against Customer arises from a Non-QIVOS Application, Customer’s breach of the terms of this Agreement, or actions of a third-party hosting provider.

9.2. Indemnification by Customer.

Customer shall defend QIVOS against any claim, demand, suit or proceeding made or brought against QIVOS by a third party alleging that Customer Data, or Customer’s use of the Application Services or a Non-QIVOS Application in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a “**Claim Against QIVOS**”), and shall indemnify QIVOS for any damages, attorneys’ fees and costs finally awarded against QIVOS as a result of, or for any amounts paid by QIVOS under a court-approved settlement of, a Claim Against QIVOS; provided that QIVOS:

- a. promptly gives Customer written notice of the Claim Against QIVOS;
- b. gives Customer sole control of the defense and settlement of the Claim Against QIVOS (provided that Customer may not settle any Claim Against QIVOS unless the settlement unconditionally releases QIVOS of all liability); and
- c. provides to Customer all reasonable assistance, at Customer’s expense. In the event QIVOS receives information regarding an actual or potential Claim Against QIVOS, QIVOS may, in QIVOS’ discretion, require Customer to immediately, upon receipt of notice from QIVOS, discontinue all use of any Customer Data that may be related to an actual or potential Claim Against QIVOS and, to the extent not prohibited by law, delete or permit QIVOS to delete from the Application Services, any Customer Data, in each case within five (5) calendar days of receipt of notice from QIVOS, except as otherwise provided by the applicable Greek or EU legislation for the storage of personal data. Customer shall, if so requested by QIVOS, certify such deletion and discontinuance of use in writing. QIVOS shall be authorized to provide a copy of such certification to the third-party claimant. In case of deletion, QIVOS shall promptly inform the Customer in writing if any legitimate interests of QIVOS (establishment, exercise or defense of legal claims) require for the storage of the Customer

Data and notify the Customer about the retention period or if that is not possible, the criteria used to determine that period.

9.3. Exclusive Remedy.

This Section 9 states the indemnifying Party's sole liability to, and the indemnified Party's exclusive remedy against the other Party for any type of claim described in this Section.

10. LIMITATION OF LIABILITY.

10.1. Limitation of Liability.

Under no circumstances:

- i. shall either Party be liable to the other Party for any indirect, incidental, consequential, special or exemplary damages (even if that Party has been advised of the possibility of such damages), such as, but not limited to, loss of revenue, profits or business, costs of delay, costs of lost or damaged data or documentation, or such Party's liabilities to third parties arising from any source; or
- ii. shall the entire liability of either Party to the other Party under this Agreement, with respect to any subject matter of this Agreement under any contract, negligence, strict liability or other legal or equitable theory, exceed the aggregate fees paid or owed by Customer to QIVOS in the twelve (12) month period preceding the incident in question.

10.2. Exceptions to Limitation of Liability.

The exclusions and limitations of section 10.1 above do not apply to:

- i. Acts of gross negligence or willful misconduct, including misappropriation by Customer of QIVOS' intellectual property; or
- ii. Any breach of Customer's undisputed payment obligations

11. FORCE MAJEURE

Neither Party is responsible for any failure to comply and perform its obligations under this Agreement, if it is prevented or delayed in performing those obligations by a "Force Majeure Event", as defined in clause 1.

Where there is an event of force majeure, the Party prevented from or delayed in performing its obligations under the Agreement must immediately notify the other Party in writing giving full particulars of the event of force majeure and the reasons for the event of force majeure preventing that Party from, or delaying that Party in performing its obligations under the Agreement and that Party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its or their performance of the Agreement and to fulfil its or their obligations under the Agreement.

Upon completion of the "Force Majeure Event", the Party affected must as soon as reasonably practicable recommence the performance of its obligations under the Agreement. Where the Party affected is QIVOS – T&M engagement – QIVOS shall provide a revised program rescheduling the Services to minimize the effects of the prevention or delay caused by the "Force Majeure Event".

A "Force Majeure Event" does not relieve a Party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of the event.



The Customer has no entitlement and QIVOS has no liability for a) any costs, losses, expenses, damages or the payment of any part of the Fees during a “Force Majeure Event”, b) any delay costs in any way incurred by the Customer due to a “Force Majeure Event”.

12. TERM AND TERMINATION

12.1. Term of Agreement.

This Agreement commences on the Effective Date and continues until all subscriptions granted in accordance with this Agreement have expired or been terminated (the “Term”).

12.2. Term of Subscriptions.

Subscriptions to the Application Services commence on the Subscription Start Date specified in the applicable Commercial Agreement and continue for the Subscription Term specified therein. Except as otherwise specified in the applicable Commercial Agreement, all subscriptions shall automatically renew for additional periods equal to the expiring Subscription Term or one year (whichever is shorter), unless either Party gives the other notice of non-renewal at least 30 days before the end of the relevant Subscription Term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless QIVOS have given Customer written notice of a pricing increase at least 60 days before the end of such prior Term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Application Services in the immediately prior Subscription Term, unless the pricing in such prior Term was designated in the relevant Commercial Agreement as promotional or one-time.

12.3. Term of Commercial Agreement.

Professional Services shall commence on the Implementation Start Date and shall continue until such Professional Services are completed.

12.4. Termination for Cause.

A Party may terminate this Agreement for cause:

- I. upon 30 days’ written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period, or
- II. if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.5. Refund or Payment upon Termination.

Upon any termination for cause by Customer, QIVOS shall refund Customer any prepaid fees covering the remainder of the Term after the effective date of termination. Upon any termination for cause by QIVOS, Customer shall pay any unpaid fees covering the remainder of the term of all Commercial Agreements after the effective date of termination. In no event shall any termination relieve Customer of the obligation to pay any fees payable to QIVOS for the period prior to the effective date of termination.

12.6. Return of Customer Data.

For a period of 30 days after termination of this Agreement, Customer, using its existing login credentials, shall be able to access the Customer Data stored in the Application Services, and to export such data in CSV format using the standard

export functions provided by the Application Services. Only Customer itself shall be permitted to export the Customer Data. Any transfers or exports of Customer Data that cannot be performed by the Application Services' standard functions will have to be performed by QIVOS at an additional cost to be determined by QIVOS in its reasonable discretion. At the conclusion of the 30-day period, QIVOS shall delete the Customer Data from the Application Services and shall destroy any corresponding documents under its control, except to the extent that QIVOS is bound by law to continue storing such Customer Data. In case of deletion, QIVOS shall promptly inform the Customer in writing if any legitimate interests of QIVOS (establishment, exercise or defense of legal claims) require for the storage of the Customer Data and notify the Customer about the retention period or if that is not possible, the criteria used to determine that period.

12.7. Surviving Provisions.

Section 5 (Fees and Payment), Section 6 (Proprietary Rights), Section 7 (Confidentiality), Section 8 (Warranties; Disclaimers), Section 9 (Indemnification), Section 10 (Limitation of Liability), Section 12.5 (Refund or Payment upon Termination), Section 12.6 (Return of Customer Data), Section 12.7 (Surviving Provisions) and Section 13 (Miscellaneous) shall survive any termination or expiration of this Agreement.

13. MISCELLANEOUS

13.1. Notice.

Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon:

- I. Verified personal delivery;
- II. the second business day after mailing;
- III. the second business day after sending by confirmed facsimile; or
- IV. except for notices of termination or an indemnifiable claim ("Legal Notices"), the first business day after sending by email. Billing-related notices to Customer shall be addressed to the relevant billing contact designated by Customer, and Legal Notices to Customer shall be addressed to Customer and be clearly identified as Legal Notices. All other notices to Customer shall be addressed to the relevant administrator designated by Customer.

13.2. Relationship of the Parties.

The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.

13.3. Compliance with laws

Customer shall in the performance of this Agreement, comply with and ensure its officers, employees, agents and contractors comply with, the laws from time to time in force in the State, Territory, or other jurisdictions (including foreign jurisdictions) in which any part of this Agreement is to be carried out.

13.4. Agreement to Governing Law and Jurisdiction.

This Agreement including its Annexes and Amendments and any arrangements regarding its performance, shall be governed, construed and enforced in accordance with the Laws of the Hellenic Republic. In the event of a dispute, claim or disagreement arising out of or in connection with the present Agreement (including a breach of its terms), the Parties shall make every possible effort to amicably settle such dispute, claim or disagreement in good faith. The courts of Athens, Greece shall be the only competent courts for the resolution of any disputes, of legal or tortious nature that may arise out of or in connection with this Agreement, including any question regarding its existence, validity or termination.

13.5. Further Assurance

Each Party shall use all reasonable endeavors to procure that any necessary third party shall promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

13.6. Waiver of Jury Trial.

Each Party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

13.7. Export Compliance.

The Application Services, other technology QIVOS makes available, and derivatives thereof may be subject to export laws and regulations of the United States, the European Union (“E.U.”) and other jurisdictions. Each Party represents that it is not named on any U.S. government or E.U. denied-party list. Customer shall not permit Users to access or use the Application Services in a U.S. or E.U.- embargoed country (currently Cuba, Iran, North Korea, Sudan, or Syria) or in violation of any U.S., E.U. or other applicable export law or regulation.

13.8. Anti-Corruption.

Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of QIVOS’ employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

13.9. No Third-Party Beneficiaries.

There are no third-party beneficiaries to this Agreement.

13.10. Waiver.

No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right.

13.11. Severability.

Any partial invalidity of the terms of the present Agreement, does not result in the total invalidity of the Agreement; any terms found to be invalid shall be supplemented and interpreted by the provisions of the applicable legislation and in accordance with the Parties’ real intentions.

13.12. Attorney Fees.

If QIVOS successfully prosecutes any arbitration, action at law or in equity, or for declaratory relief, to secure or protect any rights under, or to enforce any provision of this Agreement against Customer, then, and in addition to any judgment, order, or other relief obtained in such proceedings, QIVOS, as the prevailing Party, shall be entitled to recover from Customer, as the non-prevailing Party, all reasonable costs, expenses, and attorney’s fees incurred by QIVOS in connection with such proceedings, including attorney’s fees incurred for consultation and other legal services performed prior to the filing of such proceeding.

13.13. Subcontractors.

QIVOS may use subcontractors to perform the Services only if:

- I. Customer agrees thereto in advance,
- II. Customer grants a prior specific or general written authorization and
- III. QIVOS executes a written agreement with such subcontractor that obligates such subcontractor to protect Customer and Customer Data to the same extent as is required of QIVOS hereunder. Upon request, QIVOS shall disclose such subcontractors to Customer.

QIVOS shall be responsible for all acts and omissions of any such subcontractor to the same extent as if QIVOS had performed the Services.

13.14. Assignment.

Customer may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of QIVOS (not to be unreasonably withheld). Notwithstanding the foregoing, Customer may assign this Agreement in its entirety (including all Commercial Agreements), without consent of QIVOS, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of QIVOS. If Customer assigns any of its rights or obligations hereunder in violation of the foregoing terms and such assignment is valid by operation of law, Customer shall compensate QIVOS for any losses, damages, expenses, or other costs arising from such assignment, and QIVOS may fulfil its obligations with full discharging effect to either Customer or its assignee, as determined by QIVOS in its sole discretion. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assignees.

13.15. Entire Agreement.

This Agreement is the entire agreement between Customer and QIVOS regarding Customer's use of the Application Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the Party against whom the modification, amendment, or waiver is to be asserted.

The Parties agree that any term or condition stated in Customer's purchase order or in any other of Customer's other documentation (excluding Commercial Agreements) is void. In the event of any conflict or inconsistency between the provisions in the body of this Agreement and any Commercial Agreement, the terms of such Commercial Agreement shall prevail.

13.16. Interpretation.

A reference to a statute, statutory provision or any subordinated legislation made under a statute is a reference to such statute provision or subordinated legislation amended or reenacted from time to time, whether before or after the date of this Agreement and in the case of a reference to a statute is also to all subordinate legislation made under that statute whether before or after the date of this Agreement provided that as between the Parties no such amendment or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of any Party.

13.17. Written form.

Where this Agreement provides that statements of a Party must be made in writing, it is sufficient to transmit a scanned copy of the statement as a personally signed paper document by fax or email attachment (but not the transmission of the statement as a mere email text). In such case either Party can subsequently demand that the statement is paper document.