

# General Terms and Conditions for provision of services concerning LutherOne

General Terms and Conditions for provision of services of the company **LutherOne, a.s.**, with its registered office at: Václavské náměstí 841/3, Nové Město, 110 00 Praha 1, Czech Republic, ID No: 07335377, registered in the Companies Register kept by the Municipal Court in Praha, Section B, Insert no. 23706 (hereinafter „**Luther**“ or “**Provider**”) govern the use of the LutherOne System, subscription to the LutherOne System and contractual relationships established between Luther on one side and its Clients on the other side on the basis of a contract entered into by and between the Parties (hereinafter „**General Terms and Conditions**“).

## 1 Introductory Provisions

- 1.1 In accordance with Section 1751 of the Civil Code, these General Terms and Conditions shall apply to contractual relationships being established between Luther as a provider on one side and legal entities or individual entrepreneurs as clients on the other side regarding (i) the use of Luther system operated by Luther and (ii) Services to be provided by Luther to Clients in connection with Luther system for consideration agreed between the Parties. Luther is not intended and cannot be used by consumers acting as Clients.
- 1.2 These General Terms and Conditions form an integral part of each contractual relationship established between Luther and a Client (i.e. of each Contract in accordance with paragraph 3.1 below), whose subject matter is provision of Services by Luther to the Client under the Contract, unless explicitly otherwise agreed in specific contractual provisions, and these General Terms and Conditions shall be binding upon the Parties for the whole period of duration of the contractual relationship until all receivables that have arisen between Luther and Client are settled in full. Any special regulation at variance with these General Terms and Conditions, that might possibly be agreed between Luther and Client in writing, shall supersede and take precedence over these General Terms and Conditions in relation to a specific business transaction and contractual relationship to the extent, to which the regulation stipulated in these General Terms and Conditions differs from the written agreement between Luther and Client. As regards the rest, these General Terms and Conditions shall apply.
- 1.3 If any provision of these General Terms and Conditions becomes invalid, ineffective or unenforceable, to whatever degree or extent, under the valid legal regulations, the validity, effectiveness, enforceability or another legal perfectness of the remainder of provisions shall not be affected thereby. Immediately after the existence of any of the above-mentioned facts has been ascertained, any such invalid, ineffective or unenforceable provision of the General Terms and Conditions or a written agreement between Luther and Client shall be replaced by a written amendment of the Parties, containing new contents of the concerned provision; to this end, the Parties shall provide each other with the necessary cooperation. The same shall apply in the case of legal gap.

## 2 Interpretation

- 2.1 The capitalized words below shall have the following meaning:

<b>“Add-ons“</b>	additional Services specified in the Specification of Services which are not included in Service Packages to be provided by Luther to the Client as specified in the Contract;
<b>“Availability”</b>	Services availability as set out in Clause 7.4 hereof;
<b>“Client“</b>	individual entrepreneur or legal entity which <u>(i) as a client in connection with their business activities entered into a Contract or (ii) is interested in connection with their business activities to test use of the Services and LutherOne System; for avoidance of doubt the term “Client” excludes consumers who are not eligible to enter into a Contract or test use of Services and LutherOne System provision of Services;</u>
<b>“Client’s Data“</b>	any data provided by the Client or Client’s Personnel in connection with the use of LutherOne and/or the Services and any data submitted, transferred or uploaded to LutherOne System which might include Personal Data and Sensitive Personal Data;
<b>“Client’s Personnel“</b>	employees or individual contractors of the Client including Users who are permitted to use LutherOne and its features;
<b>“Confidential Information“</b>	means all information disclosed by a Party that relates to the business, customers or financial or other affairs of a Party other than information that is in the public domain;
<b>“Contract“</b>	contract on provision of Services entered by and between the Parties to which these General Terms and Conditions apply;
<b>“Data Processing Agreement“</b>	agreement governing the processing of Personal Data under the Contract attached in Annex 2 hereto;
<b>“Data Protection Laws“</b>	all applicable law and regulation concerning data protection and/or privacy in or relating to the European Union, including the EU General Data Protection Regulation (2016/679) as well as all local laws or regulations in force from time to time, in any country which as is a member state of the European Union, implementing, giving effect to, replacing, consolidating or otherwise supplementing the law and regulation concerning data protection and/or privacy in or relating to the European Union, or which otherwise concern data protection and/or privacy;
<b>“Data Protection Policy“</b>	Luther’s Terms & Conditions of Security, Discreetness and Notification of Security Incidents attached in Annex 2 hereto;

<b>“Fees“</b>	the fees payable by the Client to Luther for the Subscriptions, as set out in the Contract in respect of the Term and any Renewal Period;
<b>“LutherOne“</b>	software applications and programs owned or used by Luther which provide the functionality and features of the Services;
<b>“LutherOne System“</b>	the information technology system consisting of <i>inter alia</i> servers, storage and networking equipment, and including LutherOne which is owned or controlled or used by Luther and by which means the Services are accessible by a Client;
<b>“Malware“</b>	thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any part of the LutherOne System or any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices;
<b>“Mobile App“</b>	the mobile/tablet application specified as such in the Contract, or any other application notified to the Client by Luther from time to time which might be used to obtain and access some of the Services as described in the Specification of Services;
<b>“Party“</b>	Luther and/or Client including its legal successors;
<b>“Personal Data“</b>	has the meaning set out in data Protection Laws and includes also Sensitive Personal Data;
<b>“Renewal Period“</b>	each period renewing and extending the Term as agreed in the Contract or any renewal thereof;
<b>“Sensitive Personal Data“</b>	has the meaning set out in Data Protection Laws;
<b>“Services“</b>	the services provided by Luther to the Client under the Contract using LutherOne System and accessible via the Website and/or Mobile App which description is contained in the Specification of Services;
<b>“Service Packages“</b>	set(s) of Services specified in the Specification of Services;
<b>“Service Support“</b>	the support services described in the Specification of Services provided by Luther as agreed in the Contract;

<b>“Specification of Services“</b>	description of Services and Service Support including instructions how to use LutherOne via Website and Mobile App which is attached as Annex 3 hereto as amended by Luther from time to time;
<b>“Subscriptions“</b>	the subscriptions of Services (Service Packages) including Add-ons purchased by the Client, up to the amount specified in the Contract (as may be varied or deemed varied from time to time), by which Client’s Personnel is entitled to access and use the Services and in accordance with the Contract;
<b>“Term“</b>	term of validity of the Contract including Renewal Periods detailed in the Contract and any amendment thereof;
<b>“Trial Period“</b>	part of the Term as specified in the Contract to which special rules as regards the Fees, its payment and termination of the Contract may apply;
<b>“Users“</b>	some of the Client’s Personnel who are authorised by the Client and who have rights of access to additional features and functions of LutherOne as described in the Specification of Services;
<b>“Website“</b>	the website specified as such in the Contract, or any other website notified to the Client by Luther from time to time which is to be used to obtain and access the Services.

2.2 Unless otherwise specified herein:

- 2.2.1 words expressing the singular only shall be deemed to include the plural and vice versa;
- 2.2.2 reference to the Contract or these General Terms and Conditions or to any other document is a reference to the Contract or these General Terms and Conditions or to that document as modified or amended, from time to time as permitted by the provisions of the Contract or these General Terms and Conditions;
- 2.2.3 "person" includes any individual, firm, company, corporation, government, state, foundation, or any association, partnership;
- 2.2.4 "written" or "in writing" includes emails and other forms of communication made using Website and/or Mobile App, but excludes all other messages sent by mobile phone or via any instant messaging or similar.

**3 Formation of and Changes to Contract**

- 3.1 Contract between Luther and Client is concluded either by means of (i) Luther’s express and full written approval of the contents of Client’s written and signed Contract proposal, i.e. by proposal acceptance that takes effect upon delivery to Client of the Luther’s proposal acceptance (hereinafter **„Confirmation of Acceptance“**), or upon (ii) Client’s acceptance of Contract proposal made by Luther via Website or Mobile App, i.e. by accepting such proposal by electronic means (confirming the acceptance using

acceptance/buy button on the Website or in Mobile App) that takes effect upon delivery to Client of the Luther's email confirmation on Contract conclusion (hereinafter „**Confirmation of Contract**“) or upon (iii) conclusion of a separate Contract between Luther and Client.

- 3.2 A Client's written Contract proposal must correspond to template Contract proposal made available to the Client by Luther and be placed in form and have contents specified by Luther. Sending by Client of the signed Contract proposal to Luther shall be deemed to be an express consent of Client to the terms and conditions of the Contract set forth in the Contract and in these General Terms and Conditions (Client thereby grants approval to the terms and conditions of the Contract set forth in the Contract and these General Terms and Conditions) provided that the Contract proposal must include an unambiguous reference to these General Terms and Conditions and Client's express representation that Client has been acquainted with the contents of these General Terms and Conditions and that it agrees with their application to the given contractual relationship with Luther. As a rule, the written Confirmation of Acceptance, based on which the Contract according to paragraph 3.1 (i) above is concluded, shall be sent to Client's email address specified by Client in the Contract proposal.
- 3.3 Contract proposal made by Luther via Website or Mobile App shall include link to these General Terms and Conditions. Applying the acceptance/buy button on the Website or in Mobile App by Client shall be deemed to be an express consent of Client to the terms and conditions of the Contract set forth in the Contract and in these General Terms and Conditions (Client thereby grants approval to the terms and conditions of the Contract set forth in the Contract and these General Terms and Conditions). As a rule, the written Confirmation of Contract, based on which the Contract according to paragraph 3.1 (ii) above is effective shall be sent to Client's email address specified by Client in the Contract.
- 3.4 By concluding the Contract Client expressly consents and agrees to processing of Personal Data according to the Data Processing Agreement and Data Protection Policy.

#### 4 **Contents and Elements of the Contract**

- 4.1 Under the Contract, Luther grants to the Client subject to the payment of Fees a license or a number of licences corresponding to the number of Subscriptions specified in the Contract to use the Services and to allow such use to the Client's Personnel for the Term. The license under the Contract is granted to the Client for its internal purposes as non-exclusive, non-transferable right, without the right to grant sublicences.
- 4.2 The Contract shall include and/or specify:
- 4.2.1 number of Client's Personnel authorised to access and use the Services;
  - 4.2.2 number of users
  - 4.2.3 number of Subscriptions corresponding to the number of licences;
  - 4.2.4 Term;
  - 4.2.5 Service Packages;
  - 4.2.6 Add-ons;
  - 4.2.7 total amount of Fees for the Subscriptions for the Term.

## **5 Changes to the Contract and its renewal**

- 5.1 The Contract may be only changed by agreement of the Parties in form of an amendment to the Contract. Such amendment may be concluded in the form of Client's written proposal and its written acceptance by Luther send via regular post or via email to the addresses specified in the Contract.
- 5.2 During the Term or any Renewal Period the Client may purchase additional Subscriptions exceeding the number of Subscriptions specified in the Contract (or any amendment thereof) for the purposes of additional members of Client's Personnel to access and use the Services and/or the Client may purchase additional Services (including Add-ons) on top of the Services specified in the Contract (or any amendment thereof). Luther undertakes to grant to the Client additional licenses corresponding to such additional purchased Subscriptions and/or Services and grant access to the Services to the Client's Personnel subject to payment of Fees for those additional licenses. The additional Subscriptions and/or Services shall be purchased and valid for the remaining period of the Term or any Renewal Period (as applicable) and the Fees shall be charged from the date of activation by Luther for the remainder of the Term or then current Renewal Period.
- 5.3 The Client shall inform Luther that it requires additional Subscriptions above the number specified in the Contract with details of the date on which the additional Subscriptions and licenses shall be granted.
- 5.4 Unless Luther or the Client notifies in writing at least 30 days prior to the end of Term or Renewal Period (as applicable) the other Party that it does not wish for the Term or Renewal Period to be renewed, the Term or Renewal Period and the Contract shall be renewed for additional period of time same to the previous Term or Renewal Period (as applicable). The terms and conditions of the Contract applicable to the original Term or Renewal Period shall apply to the next Renewal Period similarly unless the Parties agree otherwise and with the exception of Fees for the Renewal Period which shall be charged at Luther's then-current rates specified in Luther's valid Price List.

## **6 Fees and Payment**

- 6.1 The Fees for the Services, Service Packages and Add-ons are specified in the Contract. Luther shall be entitled to change the Fees, including the fees payable in respect of the additional Subscriptions by means of amending the Price List at its own discretion and such amended Price List shall be effective towards the Client upon giving 30 days' prior written notice to the Client.
- 6.2 Upon the conclusion of the Contract according to Clause 3 hereof Luther shall issue to the Client an invoice for the Fees payable in respect of the Term without undue delay of the Contract conclusion and the Client shall pay such invoice within 15 days after the date of such invoice. Provided a Trial Period is agreed in the Contract
  - 6.2.1 Luther shall issue to the Client an invoice for the Fees payable in respect of the Trial Period without undue delay of the Contract conclusion and the Client shall pay such invoice within 15 days after the date of such invoice;
  - 6.2.2 Luther shall issue to the Client an invoice for the Fees payable in respect of the remaining part of the Term without undue delay of the lapse of the Trial Period and the Client shall pay such invoice within 15 days after the date of such invoice.

- 6.3 In case of purchase of additional Subscriptions pursuant to Clause 5.2 hereof Luther shall issue invoice for the Fees payable in respect of the additional Subscriptions without undue delay of receiving the Client's requirement for additional Subscriptions and the Client shall pay such invoice within 15 days after the date of such invoice.
- 6.4 In case of Contract renewal according to Clause 5.4 hereof Luther shall issue invoice for the Fees payable in respect of Renewal Period at least 20 days prior to the end of Term or Renewal Period (as applicable) and the Client shall pay such invoice within 15 days after the date of such invoice.
- 6.5 The Client undertakes to pay the invoice by wire transfer dully and in time. All transaction fees, bank charges and/or fees charged in connection with credit/debit card payments, which are incurred by Luther in connection with payments made under the Contract, shall be the borne by the Client and payable in addition to the Fees.
- 6.6 If the Fees or any part thereof is not received by Luther within the due date, Luther shall have the right to suspend the provision of Services without having any liability to the Client. Within the above right of suspension Luther shall be entitled (without prejudice to any other rights and remedies of Luther) to deny and/or disable accesses to all or part of the Services to any and all Client's Personnel until such invoice is paid in full.
- 6.7 The Client shall pay default interest rate amounting to 0.03% per day for any defaulted monetary payment which is not paid to Luther when due.
- 6.8 Any and all amounts and fees including Fees are exclusive of value added tax, which shall be added to Luther's invoice at the appropriate rate.
- 6.9 Parties may agree on Fees payment in monthly/quarterly/annual arrears. In that case Luther shall issue (i) invoice for each Fees instalment at least 20 days prior to the end of calendar month for the next calendar month, quarter or year or (ii) a payment schedule specifying due dates which is to be attached to the Contract. The Price List may include different amount of Fees for advance payment and payment in arrears.
- 6.10 Any and all amounts and fees payable under the Contract are non-cancellable and non-refundable.

## **7 Services, Service Packages, Add-ons and Availability**

- 7.1 Luther provides Services in Service Packages with the exceptions of Add-ons. Description of Service Packages is included in Specification of Services. Fees for Service Packages are included in the Price List.
- 7.2 Add-ons are additional services not included in Service Packages and as such need to be purchased by the Client separately. Description of Add-ons is included in Specification of Services. Fees for Add-ons are included in the Price List.
- 7.3 Luther shall provide the Services (Service Packages and/or Add-ons) to the Client during the Term and any Renewal Period subject to limitations set forth herein in the scope agreed by the Parties in the Contract.
- 7.4 Luther undertakes to make commercially reasonable effort to ensure that the Services are made available for the Client for at least 99.8% of the Client's business hours which shall not exceed 16 hours a day; specification of the Client's business hours is included in the Contract (the "Availability"). The Client acknowledges that regular maintenance of the LutherOne System is prerequisite for proper functioning of the LutherOne System and provision of Services. Luther is entitled to perform maintenance of the LutherOne

System which might result in Services interruptions only outside the Client's business hours; Luther shall inform the Client on such maintenance at least 2 working days in advance.

- 7.5 Provided the Availability is not met in any month the Client shall be entitled to compensation in a form of credit or fee refund in an amount corresponding to *pro-rata* Fees for every day the Availability is not met; for the purposes of credit or fee refund calculation the 30/360-day count convention applies. The Client is not entitled to compensation pursuant to this provision during the Trial Period. Such compensation (credit or fee refund) shall be awarded or payable to the Client upon its written notification to Luther which need to be deliver to Luther within 30 days of the end of the month in which the Availability has not been met.
- 7.6 Luther shall provide the Client with Service Support on the terms and conditions described in the Specification of Services.

## 8 Client's Obligations

- 8.1 The Client undertakes to provide Luther with all cooperation, assistances and information required by Luther in relation to the Contract which might be necessary for proper provision of Services. Information to be provided by the Client to Luther as Client's Data shall include namely, but without limitation to, information on Client's Personnel detailed in the Specification of Services.
- 8.2 Provision of cooperation, assistances and information according to this Clause 8.1 hereof is prerequisite for provision of Services. Provided the Client fails to provide the required cooperation, assistances and/or information Luther may without having any liability to the Client suspend the provision of, deny and/or disable accesses of the Client and/or Client's Personnel to the Services or adjust any agreed timetable or delivery schedule as necessary.
- 8.3 The Client further shall
- 8.3.1 comply with all applicable laws and regulations;
  - 8.3.2 carry out all other Client's obligations set out in Contract and these General Terms and Conditions in a timely and proper manner;
  - 8.3.3 ensure that the Client's Personnel access and use the Services in compliance with the terms and conditions of the Contract, these General Terms and Conditions and Specification of Services and shall be responsible for any Client's Personnel's breach of the Contract, these General Terms and Conditions and Specification of Service;
  - 8.3.4 use all reasonable effort to prevent any unauthorised access to, or use of, the Services and any such unauthorised access or use promptly notify to Luther;
  - 8.3.5 obtain and maintain all necessary licences, consents, and permissions (including consents and permission to use Client's Data, Personal Data and Sensitive Personal Data from Client's Personnel) necessary for Luther to perform its obligations under the Contract;
  - 8.3.6 ensure that Client's IT systems comply with the specifications provided by Luther from time to time;



- 8.3.7 ensure that the maximum number of Client's Personnel authorised by the Client to use and access the Services at any time shall not exceed the number of Subscriptions purchased by the Client at that given time;
- 8.3.8 be solely responsible for procuring and maintaining the Client's and/or Client's Personnel's internet and other connections and telecommunications links from its IT systems to LutherOne System, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's internet connections or telecommunications links;
- 8.3.9 ensure that each of the Client's Personnel including Users keeps a secure password required for accessing the Services and that such password is kept confidential;
- 8.3.10 not access, store, distribute or transmit any Malware, or any material during the course of its use of the Services that (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, or harassing, (ii) facilitates illegal activity, (iii) depicts sexually explicit acts, (iv) promotes violence, (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, (vi) might cause damage or injury to any person or property, or (vii) the use or analysis of which breaches or would breach its obligations under the Data Processing Agreement and/or obligation arising from Data Protection Law. In these cases, Luther reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's access to any material that breaches the provisions of this Clause;
- 8.3.11 not make any attempts and ensure that such attempts are not made by Client's Personnel to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, de-compile, reverse compile, disassemble, reverse engineer, transmit, or distribute all or any portion of the LutherOne and/or Specification of Services in any form or by any means;
- 8.3.12 not design a software or service which competes with the Services and/or the LutherOne;
- 8.3.13 not use the Services to provide services to third parties;
- 8.3.14 not license, sell, rent, lease, transfer, assign, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Client's Personnel unless these General Terms and Conditions states otherwise;
- 8.3.15 not attempt to obtain, or assist third parties in obtaining, access to the Services.

## **9 Luther's Obligations**

- 9.1 Luther undertakes to perform its duties and obligation under the Contract and these General Terms and Conditions in order to provide the Services to the Client.
- 9.2 Luther shall not be obliged to provide the Services in a manner described in the Contract and these General Terms and Conditions provided that the use of the Services by the Client and/or Client's Personnel does not comply with instructions included in the Specification of Services. The same applies to the use of the Services in modified manner which has not been authorised by Luther.

## 10 **Client's Data and its Protection**

- 10.1 Any and all rights and titles to Client's Data submitted or transferred to LutherOne System remain with the Client which is solely responsible for its usability and accuracy for the Services.
- 10.2 The Client's Data shall be handled by Luther in a manner that complies with Data Protection Policy and Data Protection Laws as further detailed in the Data Processing Agreement.

## 11 **Limitation of Liability**

- 11.1 Regardless anything to the contrary mentioned herein, Luther does not guarantee that the use of Services will be free of errors or interruptions and that it will meet Client's requirements and help the Client achieve anticipated goals.
- 11.2 The Client assumes sole responsibility for all information, notifications, results, data or disclosures (collectively "Data") supplied by Luther to the Client or otherwise obtained or delivered (including automated delivery) in the course of the use of the Services by the Client, and Luther hereby to the fullest extent permissible under applicable law expressly disclaims any and all responsibility and liability to the Client and/or to any affected Client's Personnel in respect of such Data, the Client's conclusions drawn from such Data, reliance upon such Data, or any steps, measures or actions taken or omitted to be taken relating to such Data.
- 11.3 Luther does not make any representation regarding the Services. Therefore, all warranties, representations, conditions and all other terms of any kind whatsoever are, to the fullest extent permitted by applicable law, excluded from the Contract.
- 11.4 Subject to the provision of this Article the total and aggregate liability of Luther to the Client whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising under or in connection with the performance or non-performance or contemplated performance of the Contract shall be limited up to 50% of the total Fees paid for the Subscriptions during the 12 months immediately preceding the date on which the claim arose. The Parties have agreed that Luther shall not be responsible for any indirect or consequential damage caused to the Client.
- 11.5 Luther's liability for any breach of its obligations under the Data Protection Laws towards public authorities or data subjects shall not be affected by limitations included in this Article.

## 12 **Indemnity**

- 12.1 The Client shall defend and indemnify Luther, and its officers, directors and employees, on demand, from and against all claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the use of the Services by the Client and/or by any of the Client's Personnel.

## 13 **Termination**

- 13.1 The Contract is concluded for the Term with automatic renewal as described in Clause 5.4 hereof.

- 13.2 Either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:
- 13.2.1 the other Party fails to pay any amount due under the Contract on the due date for payment and remains in default for more than 30 days after the payment due date;
  - 13.2.2 the other Party commits a material breach of its obligations hereunder or fails to remedy a remediable breach within a period of 30 days of the receipt of a notice in writing requiring such remedy;
  - 13.2.3 the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
  - 13.2.4 the other Party files an application for its bankruptcy/insolvency or an application for its composition
  - 13.2.5 the other Party becomes insolvent or unable to pay its debts under the insolvency laws of any jurisdiction applicable to that Party
  - 13.2.6 an order is made, petition presented or resolution passed for the winding up of the other Party.
  - 13.2.7 an administrator, receiver or manager is appointed in respect of the other Party or all or any of its assets.
- 13.3 Provided the Contract is terminated for any reason:
- 13.3.1 all licenses granted under the Contract shall immediately terminate;
  - 13.3.2 the Client shall immediately cease use of the Services and ensure that the Client's Personnel ceases use of the Services;
  - 13.3.3 the Client shall return and make no further use of any property belonging to Luther;
  - 13.3.4 Luther shall anonymize Client's Data including Personal Data and be allowed to use such anonymized data for its internal purposes without any restrictions;
  - 13.3.5 Luther shall delete any and all Client's Data including Personal Data which have not been anonymized pursuant to Clause 13.3.4 hereof within 180 days of the termination of the Contract.

## 14 Confidentiality

- 14.1 Subject to Clause 14.2 hereof each Party undertakes that it shall:
- 14.1.1 not use or disclose to any person the Confidential Information it has or acquires; and
  - 14.1.2 make every effort to prevent the use or disclosure of the Confidential Information; and
- 14.2 Clause 14.1 does not apply to the disclosure of the Confidential Information:
- 14.2.1 to the extent that it is generally known to the public not as a result of a breach of any duty of confidentiality by the relevant Party;

- 14.2.2 to a director or employee of Luther or the Client who is required to have access to the Confidential Information for the fulfilment of his or her duties and responsibilities;
  - 14.2.3 to the extent that it is required to be disclosed by law, or by a governmental authority or other authority with relevant powers to which Luther or the Client is subject, whether or not the requirement has the force of law, provided that the disclosure shall, so far as is practicable, be made after consultation with the opposite Party and after taking into account the reasonable requirements as to its timing, content and manner of making or despatch;
  - 14.2.4 to an adviser for the purpose of advising the Party in connection with the Contract provided that such adviser shall abide by the terms and conditions of confidentiality as set out herein;
  - 14.2.5 with the other Party's prior written consent; or
  - 14.2.6 for the purposes of any court, arbitral or administrative proceedings.
- 14.3 Upon expiry or termination of the Contract the receiving Party shall promptly return, or (if so requested by the disclosing Party) destroy, all Confidential Information of the disclosing Party with the exception of data which have been anonymized pursuant to Clause 13.3.4 hereof.
- 14.4 No announcement or circular in connection with the existence or the subject matter of the Contract shall be made or issued by or on behalf of a Party without the prior approval of the other Party, such approval not to be unreasonably withheld or delayed. This shall not affect (i) any announcement or circular required by law, and (ii) any standard market press release provided that such press release does not include any specifics of the Contract but only informs of the fact that the contract has been concluded. Luther shall be entitled to use the name and logo of the Client for promotional and marketing purposes.

## 15 Test Use of Services and LutherOne System

- [15.1 Luther may at its discretion make the Services and LutherOne System available to Clients for test use.](#)
- 15.2 Provided the Services and LutherOne System are made available to the Client for test use, these General Terms and Conditions apply to such test use of Services and LutherOne System to the extent and with alterations specified in this Article.
- 15.3 Any and all provisions of these General Terms and Conditions which regulate Client's rights do not apply to the test use of Services and LutherOne System.
- 15.4 Any and all provisions of these General Terms and Conditions which regulate Luther's obligations do not apply to the test use of Services and LutherOne System.
- 15.5 Luther is unilaterally and in its own discretion entitled and allowed to limit and/or change the Client's access to the LutherOne System, Services, Service Packages or Add-ons or prohibit the Client to use the LutherOne System, Services, Service Packages or Add-ons or parts thereof. Namely, Luther is entitled to deny the Client, some of the Client's Personnel, or Users access to the LutherOne System, Services, Service Packages or Add-ons without the Client having any claims or remedies against Luther.

- 15.6 Articles 1, 2, 3, 4, 5, 6 and 7 of these General Terms and Conditions apply to the test use of LutherOne System and Services mutatis mutandis with necessary alterations arising from the application of Clauses 15.2, 15.3 and 15.4 while not affecting the main point at issue.
- 15.7 Articles 8, 10, 12, 14, 15, 16, 17, 18 and 19 and Clauses 11.1, 11.2 and 11.3 of these General Terms and Conditions apply to the test use of LutherOne System and Services without any change.
- 15.8 The total and aggregate liability of Luther according to Clause 11.4 of these General Terms and Conditions shall be limited to CZK 1.
- 15.9 Client acknowledges that any of the Client's Data submitted, transferred or uploaded to LutherOne System may be deleted without the Client having any claims or remedies against Luther.
- 15.10 Client agrees that any of the Client's Data submitted, transferred or uploaded to LutherOne System may be shared with other users of LutherOne System.

## 16 **Entire Agreement**

- 16.1 The Contract, its Annexes and these General Terms and Conditions express the entire agreement between the Parties and supersedes any negotiations or prior agreements on the subject matter of the Contract.
- 16.2 The Parties confirm that their intentions have been in their entirety included in the Contract and these General Terms and Conditions and express clearly the Parties' requirements.

## 17 **Waiver**

- 17.1 Neither the Party's failure to exercise any power given to it under the Contract or to insist on the other Party to comply with any obligation under the Contract nor any custom or practice of the Parties shall constitute any waiver of any of rights under the Contract. Any waiver made by the Party must be in writing and shall not affect or impair the Party's rights in respect of any subsequent default of any kind nor shall any delay by or omission of the Party to exercise any rights arising from any of the other Party's defaults and/or breaches of the Contract shall affect or impair the Party's rights in respect of the said default or any default of any kind.

## 18 **Assignment**

- 18.1 The Client shall not, without the prior written consent of Luther, assign or transfer, all or any of its rights or obligations under the Contract.
- 18.2 Luther may at any time assign or transfer all or any of its rights or obligations under the Contract.

## 19 **Force Majeure**

- 19.1 Luther shall not be liable for failure to perform any obligation under the Contract or for delay when such failure or delay is due to circumstances which cannot be influenced or predicted (force majeure). Luther shall not be deemed to be a party in delay or

otherwise in breach of the provisions of the Contract and shall not be obliged to perform its obligations for as long as force majeure lasts.

20 **Governing Law and Jurisdiction**

- 20.1 The Contract and any dispute or claim arising out of or in connection with it shall be governed by the laws of the Czech Republic without the application of conflict of laws rules which is for the purposes hereof the applicable law. All disputes arising in connection with the Contract or its validity shall be submitted to Czech courts.