[ARCHIVED] Foleon General Terms and Conditions

[These terms are no longer in effect and have been superseded by terms on the website]

1st of January 2021

BACKGROUND AND PURPOSE

Foleon's leading content creation platform empowers business teams to create engaging and intelligent content experiences at scale. Organizations use Foleon to produce bespoke content for every stage of the customer journey and give buyers the flexibility to self-educate and consume content at their own pace.

North American Customers

The purpose of this Contract is to define the terms and conditions under which FOLEON INC, registered office in New York, the United States of America, hereinafter referred to as "Foleon" shall provide the Service(s) and potential Professional Services to the Customer (hereafter referred to as "Customer") in exchange for payment for the services. All agreements between Foleon and the Customer are subject to these terms and conditions (hereinafter referred to as "Contract").

All other Customers

The purpose of this Contract is to define the terms and conditions under which FOLEON B.V, registered office in Amsterdam, the Netherlands, listed with the Commercial Register of the Chamber of Commerce under file reference number 58585680, hereinafter referred to as "Foleon" shall provide the Service(s) and potential Professional Services to the Customer (hereafter referred to as "Customer") in exchange for payment for the services. All agreements between Foleon and the Customer are subject to these terms and conditions (hereinafter referred to as "Contract").

1. DEFINITIONS

Unless otherwise defined herein, all capitalized terms used within this Agreement have the following meaning:

1. "**Active Use**" refers to data stored within the Service under a current Order Form or within three (3) months of the expiration of the most recent Order Form.

2. "**Acceptable Use Policy**" refers to the Foleon Acceptable Use Policy as updated from time to time, and as published at [Acceptable Use Policy].

3. "**Add-On**" means integrations, applications, and other add-ons that are used with the Service(s).

4. "**Affiliate(s)**" means any entity which is controlled by, in control of, or is under common control with a Party to this Contract, where "control" means either the power to direct the management or affairs of the entity or ownership of 50% or more of the voting securities of the entity.

5. "**Aggregate/Anonymous Data**" means (i) data generated by aggregating Customer Data so that results are non-personally identifiable with respect to the Customer or any natural person; and (ii) learnings, logs, and data regarding the use of the Service(s).

6. "**Authorized Users**" means the Customer's employees and contractors (such as Agencies or management consultants) who have or maybe assigned a Seat to access and use the Service and who are acting for the Customer's benefit and on its behalf.

7. "**Confidential Information**" means for any such information exchanged under this Contract, that is identified as confidential at the time of disclosure or that should reasonably be considered confidential based on the circumstances surrounding the disclosure and the nature of the information disclosed, for example, code, inventions, know-how, product plans, inventions, and technical and financial information.

8. "**Content**" means text, images, videos, or other content uploaded or integrated with the Service by Customer.

9. "**Contract**" means this Subscription Agreement document and its annexes, appendices, schedules, and amendments, including any Order Forms and service-specific terms as well as any policies or exhibits linked to or referenced herein.

10. "**Customer**" means a company with a current agreement with Foleon for the purchase of Service(s) or a user of a free trial version of Foleon.

11. "**Customer Data**" means: (i) Content; (ii) Submitted Data; and (iii) Visitor Data.

12. "**Customer's Administrators**" means the Authorized Users that have been provided with administrator permissions within the Service(s). Customer's Administrators have broader user permissions to the Service than regular Authorized Users.

13. "**Customer Personnel**" means Customer's employees, agents, consultants, contractors and subcontractors, together with the personnel of any of the foregoing.

14. "**Data Processing Agreement**" means the Foleon data processing agreement, including, to the extent applicable the Standard Contractual Clauses (Controller – Processor).

15. "**Documentation**" means the technical documentation created and provided by Foleon in connection with the Service, available at (learn.foleon.com and academy.foleon.com).

16. "**Foleon Technology**" means the Service and any and all related or underlying Intellectual Property Rights, documentation, technology, code, know-how, logos and templates (including any reports or output obtained from the Service(s)), anything delivered as part of customer support or other services, and any updates, modifications or derivative works of any of the foregoing.

17. "**Intellectual Property Rights**" mean copyrights, software, domain names, trademarks, service marks, designs and registrations and applications thereof, data, and documentation thereof, trade secrets, and know-how (including but not limited to development information, specifications, plans, proposals, and technical data).

18. "**Service(s)**" means the specific proprietary SaaS (Software as a Service) product(s) of Foleon specified in Customer's Order Form, including any related Foleon Documentation, and excluding any Third-Party Products. The Service(s) include access to the features and functionalities made available by Foleon from time to time.

19. "**Service Level Agreement**" means the Foleon Service Level Agreement.

20. "**Support Services**" means technical support services offered by Foleon for the Service(s) specified in the Order Form, Order Form exhibit, or other document referencing this Contract.

21. "**Order Form**" means any Foleon ordering documentation or online sign-up or subscription flow that references this Contract.

22. "**Party**" means either Foleon or the Customer. Together they may be referred to as Parties.

23. "**Professional Services**" means any additional paid Services specified in an Order Form, Order Form exhibit, or other document referencing this Contract. Professional Services can include onboarding, implementation, training, design, and consulting services offered by Foleon.

24. "**Foleon Doc(s**)" means content assets that are created and published using Foleon Service(s).
25. "**Scope of Use**" means the usage limits or other scope of use descriptions for the Service included in the applicable Order Form (including descriptions of packages and features) or Documentation, including any numerical limits on Seats/Authorized Users, Foleon Docs, or Teams.
26. "**Submitted Data**" means data uploaded or otherwise submitted by the Customer to the Service, including Third-Party Content.
27. "**Subscription Term**" means the initial term for the subscription to the applicable Service, as specified on the Customer's Order Form(s), and each subsequent renewal term (if any).
28. "**Seat(s)" or "Account(s)**" means each individual user account granting access to the Service as assigned or assignable by the Customer's Administrator via the users panel within the Service(s).
29. "**Teams**" means departments or business units that work independently from each other within a single Foleon Account using Foleons Team structure.
30. "**Third-Party**" means any party that is not the Customer, Foleon, an Affiliate of the Customer, or Foleon subcontractor.
31. "**Third-Party Content**" means content, data or other materials that the Customer submits to the Service(s) from its third-party data providers, including through Add-Ons used by the Customer.
32. "**Third-Party Product(s**)" means any applications, integrations, software, code, online services, systems, other products, and Add-Ons not developed by Foleon.
33. "**User Data**" is the data collected from a user when they use the Foleon Service(s), including IP address, browser information, and/or header information.
34. "**Visitor Data**" is the data collected from a reader when accessing a Foleon Doc(s), including IP address, browser information, and/or header information.

Other terms are defined in other Sections of this Subscription Agreement or in the relevant policies, or annexes.

2. PARTS OF THIS CONTRACT

1. **Incorporated documents** – This Contract consists of the following documents, some listed as Annexes to this

Agreement, others as hyper-links, which are hereby incorporated by reference:
1. Each executed Order Form
2. Data Processing Agreement ("DPA") (Data Processing Agreement)
3. Acceptable Use Policy ("AUP") – (Acceptable Use Policy)
4. Service Level Agreement ("SLA") – (Service Level Agreement)

3. ACCOUNT REGISTRATION AND USE

1. **Account Information -** All account information provided by the Customer must be accurate, current, and complete.
2. **Credentials -** The Customer must ensure that any user IDs, passwords, and other access credentials (such as API tokens) for the Service are kept strictly confidential and not shared with any unauthorized person. The Customer must notify Foleon immediately of any breach of security or unauthorized use of an account which the Customer has become aware of. Accounts are personal and must not be shared with others. If any Authorized User stops working for the Customer, the Customer must immediately terminate that person's access to the Service. The Customer will be responsible for any and all actions taken using the accounts, passwords, or access credentials designated to the Customer.
3. **Authorized Administrator Access -** The Customer is responsible for designating those individuals who are authorized to access the Customer's Administrators' account(s).
4. **Fair Use -** Foleon wants to ensure optimal user experience for all Customers. To ensure this Foleon may, therefore, without being obliged to compensate for damage or loss suffered by the Customer as a result thereof, take commercial, technical, or other measures in the event it establishes excessive use as defined in the Acceptable Use Policy available at (Acceptable Use Policy).

4. ACCESS TO THE SERVICE

1. **General Conditions -** Subject to the compliance with this Contract, Foleon grants to the Authorised Users of the Customer, non-exclusive, non-transferable, non-sublicensable right during the applicable subscription term to access and use the Service(s) designated on the Customers Order Form. The Service(s) may be used solely by the Customers this means

that use by third-parties, meaning any legal entity other than the Customers, including affiliates of the Customers, is not permitted unless otherwise agreed. For the avoidance of doubt, the Customers will be responsible and liable for all Authorized Users' use and access to the Service and their compliance with the terms and conditions of this Contract and Foleon's policies.

2. **Developments -** The Customer acknowledges that the Service constantly develops and evolves over time. Consequently, Foleon may, at its option, make updates, bug fixes, modifications or improvements to the Service from time to time. Updates to the Service can be found on the Foleon website available at (www.foleon.com/product-updates). Foleon will provide proactively informational updates about major changes to the Service through in-product chat. Foleon may also make new applications, features or functionalities for the Services available from time to time, the use of which may be contingent upon the Customer's agreement to additional terms.

3. **Early Stage Services -** Foleon may provide the Customer with access to "Alpha", "Beta", or other early-stage Services, integrations, or features ("Alpha and Beta Releases"), which are optional for the Customer to use and can be accessed by opting in for these features. An overview of Alpha and Beta features is available at (www.product.foleon.com). Foleon may use good faith efforts in its discretion to assist the Customer with Alpha and Beta Releases. Without limiting the other disclaimers and limitations in this Contract, the Customer acknowledges and agrees that Alpha and Beta Releases may not be complete or fully functional and may contain bugs, errors, omissions, and other problems for which Foleon will not be responsible. Accordingly, Alpha and Beta Releases are provided "as is" without any warranties and any use of Alpha and Beta Releases are at the Customer's sole risk. Foleon makes no promises that future versions of Alpha and Beta Releases will be released or will be available under the same commercial terms. Foleon may terminate the Customer's right to use any Alpha and Beta Releases at any time for any reason or no reason in Foleon's sole discretion, without liability.

5 CUSTOMER OBLIGATIONS

1. **Respecting Third Party Rights -** The Customer represents and warrants that the collection, use, and disclosure of Customer Data will not violate any third-party rights, including Intellectual Property Rights, privacy, and publicity rights. If the Customer receives any takedown requests or infringement

notices related to Customer Data or its use of Third-Party Products it must promptly stop using the related item with the Foleon Service(s) and notify Foleon. If Foleon receives any takedown requests or infringement notices related to Customer Data or Customer's use of Third-Party Products, Foleon will respond in accordance with applicable laws, including the Digital Millennium Copyright Act and Foleon policies, including immediate removal of the relevant content from the Service(s), and will notify the Customer on the next steps. The Customer must not take any action that would cause Foleon or the Service(s) to become subject to any third-party terms (including open source license terms).

2. **Obtaining Consents -** The Customer may have the ability to access, monitor, use, or disclose data available to Authorized Users within the Authorized Users' Accounts. The Customer will obtain and maintain all required consents from Authorized Users to allow: (i) Customer's access, monitoring, use and disclosure of such data, and (ii) Foleon to provide the Service(s).

3. **Acceptable Use Policy/Prohibited Use -** Customer agrees that is shall abide by the terms of the AUP and the Customer shall undertake that its Authorized Users or any third party within the reasonable control of the Customer, in any event including Customer Personnel, shall abide by the terms of the AUP.

4. **Customer Affiliates -** Where Affiliates of the Customer purchase subscriptions to the Service from Foleon (or an Affiliate of Foleon) by executing an Order Form that references this Contract, such agreement shall be deemed to form a separate agreement. For clarification: (i) the Customer or the Customer's Affiliates have no rights under other Customer Affiliate agreements; and (ii) breach or termination by any Customer entity or a Foleon entity of any separate agreement is not a breach or termination under any other agreement between a Foleon entity and another Customer entity.

6. CUSTOMER DATA

1. **Rights in Customer Data -** As between the Parties, the Customer retains all right, title, and interest (including any Intellectual Property Rights) in and to the Customer Data (excluding any Foleon Technology). The Customer hereby grants Foleon a non-exclusive, worldwide, royalty-free right and license to collect, use, copy, store, transmit, modify, and create derivative works of the Customer Data solely to the extent

necessary to provide the Service(s) to the Customer. For Content, this includes the right to publicly display and perform Content (including derivative works and modifications) as directed by the Customer through the Service. This Section 6 (Customer Data) does not however limit Foleon's right to generate the Aggregate/Anonymous Data in accordance with Section 6.3 (Aggregate/Anonymous Data) below.

2. **Third-Party Products and Customer Data -** If the Customer installs or enables Third-Party Products for use with the Service, the Customer acknowledges that providers of those Third-Party Products may have access to Customer Data in connection with the interoperation and support of such Third-Party Products with the Service(s). To the extent the Customer authorizes the access or transmission of Customer Data through a Third-Party Product, Foleon will not be responsible for any use, disclosure, modification or deletion of such Customer Data.

3. **Aggregate/Anonymous Data -** Foleon will have the right to generate Aggregate/Anonymous Data from the Service(s). Aggregate/Anonymous Data shall be regarded as Foleon Technology, which Foleon may use for any business purpose during or after the term of this Contract (including without limitation to develop and improve Foleon's products and services and to create and distribute reports and other materials). For clarity, Foleon will only disclose Aggregate/Anonymous Data externally in a de-identified (anonymous) form that does not identify the Customer or Authorized Users, and that is stripped of all persistent identifiers (such as device identifiers, IP addresses, names, addresses, and cookie IDs). The Customer is not responsible for Foleon's use of Aggregate/Anonymous Data.

4. **No Archiving -** Foleon does not provide an archiving service and Customer is responsible for appropriate archiving and backing up Content and its data. The Customer acknowledges that Foleon may delete Content no longer in Active Use. Additionally, the Customer acknowledges that Foleon may, by giving reasonable prior notice, delete such data relating to a feature of the Service(s) no longer being offered or made available as part of the Service(s). Foleon expressly disclaims all other obligations with respect to storage.

7. PERSONAL DATA AND DATA PROTECTION

1. **Data Processing and DPA -** In the course of providing the Service(s) to the Customer, Foleon may process certain

personal data (as defined in the EU General Data Protection Regulation 2016/679) on behalf of the Customer. Such processing shall be subject to the Data Processing Agreement.

8. SUPPORT/PROFESSIONAL SERVICES

1. **Provision of Support Services -** Foleon makes available web-based support through the Service(s) and also email support (support@foleon.com). Additional Support Services may be available to the Customer upon payment of applicable fees, as specified in Customer's Order Form or Foleon's price list applicable each time. Any Support Services are subject to this Contract and Foleon's applicable support policies. Foleon may also provide onboarding, implementation and other services under this Contract. The scope, pricing, and other terms for these Professional Services will be specified in an Order Form, Order Form exhibit, or other document referencing this Contract. The Customer may use anything delivered as part of these additional services internally during its Subscription Term to support its authorized use of the Service, subject to the restrictions in Section 4 (Access to the Service) and Section 5.3 (Acceptable Use Policy/Prohibited Use) above applicable to the Service(s) itself. Foleon's ability to deliver additional services will depend on the Customer's reasonable and timely cooperation and the accuracy and completeness of any information from the Customer needed to deliver the additional services such as copy, images and other content.
2. **Delivery or Completion Periods -** In cases where Foleon provides Professional Services, the stated delivery or completion periods are by approximation. The delivery or completion periods have been established based on the expectation that there will be no obstacles for Foleon to perform the Professional Services or to undertake the work.
3. **Inability to Perform -** If Foleon is unable to perform its obligations in good time when providing Professional Services, Foleon will promptly notify the Customer, stating the expected period by which the said delivery or completion period will be exceeded.

9. SUBSCRIPTION TERM

1. **Subscription Term -** Unless otherwise specified on the Order Form the Subscription Term shall be for a fixed period of twenty-four (24) months.

2. **Cancellation or Termination -** The Customer cannot cancel or terminate a Subscription Term prematurely except as expressly permitted by Section 12.3 (Termination for cause) and Section 17.1 (Performance Warranty).
3. **Start Date -** If a subscription start date is not specified on the applicable Order Form, the Subscription Term starts the day that the Customer signs the Order Form.
4. **Renewals -** Each Subscription Term is initially valid for twenty-four (24) months, after which it will automatically renew for additional successive twelve-month (12-month) periods unless otherwise stated on the applicable Order Form or unless either Party gives written notice of non-renewal at least sixty (60) days before the end of the then-current Subscription Term.
5. **Written Notice -** The Customer must give written notice to Foleon via email (info@foleon.com). Only termination notices submitted invoicing email address or written acceptance of termination from a Foleon employee are considered valid termination notices.. Foleon must give written notice to the Customer via email to either the customers billing email address or to an admin of the Foleon account.

10. FEES AND PAYMENT

1. **Prices and Payment Schedule -** The Customer is billed according to the package, fees and payment schedule determined in the applicable Order Form. The Customer agrees to pay all fees in the agreed currency and in accordance with the payment schedule specified in the applicable Order Form.
2. **Taxes -** Foleon's fees are exclusive of all taxes. If Foleon is obligated to collect or pay taxes, the taxes will be invoiced from the Customer, unless the Customer provides Foleon with a valid tax exemption certificate authorized by the appropriate tax authority. If the Customer is required by law to withhold any taxes from its payments to Foleon, the Customer must provide Foleon with an official tax receipt or other appropriate documentation to support such payments. Any applicable taxes shall be added to the Customer's invoice.
3. **Additional Services -** If the Customer wishes to add additional features, add-on's, seats or Foleon Docs in excess of the applicable Order Form, Foleon may charge additional fees. These fees will be agreed between Foleon and the Customer and prorated to the end of the Subscription Term.
4. **Price Changes -** Apart from any agreed annual automatic adjustments applicable to an ongoing Subscription Term,

Foleon shall have the full right to make changes to their pricing. Such price changes shall take effect upon the commencement of a new Subscription Term or a renewal thereof. Foleon shall inform any Customers with an ongoing Subscription Term of such price changes at least sixty (60) days in advance.

5. **Payment Method -** The payment shall be made via wire transfer, cheque, paypal or credit card. The message of the payment shall include the applicable invoice number or the reference number of the invoice.

11. INVOICING

1. **Standard Invoicing Schedule -** The Service(s) is invoiced for a 12-month period at the beginning of the Subscription Term. If the Subscription Term exceeds 12-months the Customer will be invoiced in 12-month periods unless otherwise specified on the Order Form.

2. **Invoicing Method -** The invoices shall be sent to the billing address provided by the Customer. The preferred Invoicing method is electronic invoicing via email (as pdf) or e-invoice where available. Foleon has the right to add a reasonable invoicing fee for traditional paper invoices sent via traditional mail.

3. **Payment Term and Late Payments -** The term of invoice payment term is 14 days net unless otherwise stated on the Order Form. Foleon has the right to charge a late payment fee and default interest from the Customer if Foleon has not received payment within the due date. Furthermore, Foleon, in addition to the principal sum, late payment fee and interest, will be entitled to claim compensation of all reasonable judicial and extrajudicial costs incurred as a result of non-payment or late payment, including the costs of lawyers, legal counsel, attorneys, bailiffs and collection agencies.

4. **Blocked Access/suspension -** Foleon has the right to suspend the Customer's accounts and its other obligations under the Contract and to block access to the Service(s) for all users as a result of non-payment. The Customer will be informed in writing or by email prior to the Service(s) being blocked. The Customer's liability to pay any invoice does not cease with the termination of this Contract or with the suspension by Foleon of its obligations thereunder.

5. **Invoicing Information -** The Customer shall provide Foleon with all necessary reference information needed to process each invoice, including a valid billing address. If the Customer has not provided such information to Foleon the Customer

cannot waive the obligation to pay the Invoice even if it does not have the reference information needed to internally process the payment.

12. TERMINATION

1. **Termination -** Either Party may terminate the Contract with sixty (60) days' advance written notice prior to the Subscription Term end date. If the termination notice is submitted later than sixty (60) days prior to the end of the Subscription Term, the subscription shall renew as defined in Section 9.4 (Renewals) and the termination shall commence at the end of the renewed Subscription Term.
2. **Termination Notice -** The Customer shall submit the termination notice via email (info@foleon.com). Only termination notices submitted invoicing email address or written acceptance of termination from a Foleon employee are considered valid termination notices.
3. **Termination for Cause –**
    1. is in material breach of the Contract and fails to cure that breach within (60) days after receipt of written notice;
    2. ceases its business operations or becomes subject to insolvency proceedings; or
    3. is in material breach of the Contract more than two (2) times notwithstanding any cure of such breaches.
    4. becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
    5. pursuant to 11.4 (Termination due to Unpaid Invoices).
    6. in the event of a breach by Customer of section 5.3 (Acceptable Use Policy/Prohibited Use).
    7. The Contract can be terminated by each Party with immediate effect, if the other Party:
    8. The Contract can be terminated by Foleon with immediate effect:
4. **Termination due to Unpaid Invoices -** terminate this Contract if the Customer has either two (2) unpaid invoices or at least one (1) unpaid invoice past due a minimum of 60 days. The Customer's obligation to pay any invoice does not cease with the termination of this Contract.
5. **Obligations upon Termination -** Upon the termination of this Contract: (i) the rights granted by one Party to the other will cease immediately (except as set forth in this Section 12 (Termination); (ii) Foleon shall provide the Customer access to, and the ability to export, the Customer Data for thirty (30) days

at the Company's then-current rates for the applicable Service(s); (iii) after 90 days, Foleon shall delete Customer Data; and (iv) upon request each Party will promptly use commercially reasonable efforts to return or destroy all other Confidential Information of the other Party.

6. **Surviving Terms -** Such Sections of the Contract that by their nature are intended to remain in force after the termination or expiration of the Contract shall survive the termination or expiry of the Contract. Such Sections include, namely, without limitation, Sections 13 (Confidentiality), 14 (Intellectual Property Rights), 16 (Indemnification), 18 (Limitations of Liability) and 20 (General Terms).

13. CONFIDENTIALITY

1. **Confidentiality Obligation -** Each Party (as the receiving Party) must: (i) hold in confidence and not disclose the other Party's Confidential Information to Third Parties except as permitted by this Contract; and (ii) only use the other Party's Confidential Information to fulfill its obligations and exercise its rights under this Contract. Each Party may share the other Party's Confidential Information with its Affiliates', employees, agents or contractors on a legitimate need-to-know basis (which, for Foleon, includes the subcontractors referenced in Section 20.4 (Subcontractors), provided that the Party remains responsible for any recipient's compliance with the terms of this Section 13 (Confidentiality) and that such recipients are bound to confidentiality obligations no less protective than those set herein.

2. **Exemptions from Confidentiality -** These confidentiality obligations do not apply to (and Confidential Information does not include) information that: (i) is or becomes public knowledge through no fault of the receiving Party; (ii) was known by the receiving Party before it received the Confidential Information; (iii) is rightfully obtained by the receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by the receiving Party without using the disclosing Party's Confidential Information, as can be shown by documentary evidence. A Party may also disclose the other Party's Confidential Information to the extent required by law or court order, provided it gives advanced notice (if permitted by law) and cooperates in any effort by the other Party to obtain confidential treatment for the information.

3. **Equitable Relief -** The Parties acknowledge that disclosing Confidential Information may cause substantial harm for which damages alone may be an insufficient remedy, and so on breach of this Section 13 (Confidentiality), each Party is entitled to seek appropriate equitable relief in addition to any other remedies it may have at law.

14. INTELLECTUAL PROPERTY RIGHTS

1. **No Transfer of Intellectual Property Rights -** Except as expressly set forth herein, this Contract does not grant either Party any rights, implied or otherwise, to the other's Intellectual Property Rights. As between the Parties, the Customer owns all Intellectual Property Rights in Customer Data, and Foleon owns all Intellectual Property Rights in the Foleon Technology.

15. FOLEON TECHNOLOGY

1. **Subscription Basis -** The Service(s) is provided in the form of an online service subscription. The Customer acknowledges that it is obtaining only a limited right to use the Service(s) and that irrespective of any use of the words "purchase", "sale" or similar terms, no ownership rights are transferred to the Customer under this Contract. The Customer agrees that Foleon (or its suppliers) retain all rights, title and interest (including all Intellectual Property Rights) in and to all Foleon Technology and that Foleon reserves all rights not specifically granted in this Contract. Customer further acknowledges and agrees that it has no right to obtain a copy of the software behind any Service(s).
2. **Feedback -** If the Customer elects to provide any suggestions, comments, improvements, information, ideas or other feedback or related materials to Foleon (collectively, "Feedback"), the Customer hereby grants Foleon a worldwide, perpetual, non-revocable, sublicensable, royalty-free right and license to use, copy, disclose, license, distribute, and exploit any Feedback in any format and in any manner without any obligation, payment, or restriction based on Intellectual Property Rights or otherwise. Foleon will not identify the Customer as the source of the Feedback. Nothing in this Contract limits Foleon's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

16. INDEMNIFICATION

1. **Indemnification by Foleon** - Foleon agrees to defend and indemnify the Customer from and against any third party claims resulting from infringement of patent, copyright, trademark, or trade secret by the Service(s) itself, as provided by Foleon and used by the Customer in accordance with this Contract. In response to any claim or potential claim of infringement, if required by settlement or injunction, or if Foleon determines these actions are reasonably necessary to avoid material liability, Foleon may at its option: (i) procure a license for the affected portion of the Service(s); (ii) modify the Service(s) so as to avoid infringement but be materially equivalent; or (iii) terminate the Order Form for the affected Service(s) and refund any subscription fees the Customer has pre-paid for the terminated portion of the applicable Subscription Term. Notwithstanding the above, Foleon's obligations under this Section 16 (Indemnification) do not apply to the extent infringement results from: (i) Third-Party Products or combinations with these items; (ii) modification of the Service(s) by someone other than Foleon or its subcontractors; or (iii) use of the Service other than the then-most current release. Foleon's obligations under this Section 16 (Indemnification) also do not apply to use in breach of this Contract, to Customer Data or to Alpha and Beta Releases.

   THIS SECTION 16 (INDEMNIFICATION) STATES THE SOLE AND EXCLUSIVE REMEDY OF THE CUSTOMER AND THE ENTIRE LIABILITY OF FOLEON, OR ANY OF ITS SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, CONTRACTORS OR REPRESENTATIVES, WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

2. **Indemnification by Customer -** The Customer agrees to defend and indemnify Foleon from and against any third-party claims and liabilities to the extent resulting from Customer Data or a breach or alleged breach of Section 5 (Customer Obligations) or Section 13 (Confidentiality).

3. **Conditions for Indemnification -** Each Party's defence and indemnification obligations are subject to the indemnifying Party receiving: (i) prompt written notice of the claim; (ii) the exclusive right to control and direct the investigation, defence, and settlement of the claim; and (iii) all reasonable necessary cooperation of the indemnified Party at the indemnifying Party's expense (as to reasonable out-of-pocket costs). The

indemnifying Party must not settle any claim without the indemnified Party's prior written consent if the settlement would require the indemnified Party to admit fault, pay amounts that the indemnifying Party must pay under this Section 16 (Indemnification), or take or refrain from taking any action (other than with respect to the Service(s) or features). The indemnified Party may participate in a claim through counsel of its own choosing at its own expense.

17. WARRANTY; DISCLAIMERS

1. **Performance Warranty -** During the Subscription Term, Foleon warrants, for the Customer's benefit only, that: (i) the Service(s) shall perform materially in accordance with the applicable Documentation ("Performance Warranty"). The Customer must notify Foleon in writing within thirty (30) days of discovery and include a brief reference to the applicable warranty and detailed description of the potential breach. If Foleon receives a valid warranty claim within this period, it will use commercially reasonable efforts in its discretion to repair the affected portion of the Service(s) or re-perform the services (as applicable). If Foleon determines this remedy is not commercially reasonable, either Party may terminate the applicable Order Form with prompt written notice. Upon termination as a result of a warranty claim under this Section 17 (Warranty; Disclaimers), the Customer will receive a refund of any subscription fees it has pre-paid for the terminated portion of the applicable Subscription Term. The remedy in this Section 17 (Warranty; Disclaimers) will be the Customer's sole and exclusive remedy (and Foleon's sole liability) for any breaches of the Performance Warranty. Notwithstanding the above, the Performance Warranty does not cover and Foleon will not be responsible for: (i) errors in or resulting from Third-Party Products or Third-Party Content; (ii) the Customer's misuse or failure to follow the Documentation; (iii) modifications or services by anyone other than Foleon or its subcontractors; (iv) any version of the Service other than the then most recent release; or (v) any Alpha or Beta Releases

2. NO OTHER WARRANTIES. EXCEPT FOR THE ABOVE PERFORMANCE WARRANTY, ALL FOLEON TECHNOLOGY ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. NEITHER FOLEON NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE,

FITNESS FOR A PARTICULAR PURPOSE, THAT CUSTOMER DATA IS PRESERVED WITHOUT LOSS OR THAT FOLEON TECHNOLOGY WILL BE TIMELY, UNINTERRUPTED OR ERROR-FREE.

THE DISCLAIMERS IN THIS SECTION 17 (WARRANTIES; DISCLAIMERS) WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CONTRACT. THE CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, ANY STATUTORILY REQUIRED WARRANTIES UNDER APPLICABLE LAW, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW.

18. LIMITATIONS OF LIABILITY

1. NO INDIRECT OR CONSEQUENTIAL DAMAGES. IN NO EVENT WILL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE OR CORRUPTED DATA, INTERRUPTION OF BUSINESS, LOST PROFITS, COSTS OF DELAY, REPUTATIONAL HARM, OR ANY (OTHER) INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND HOWEVER CAUSED, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF THESE DAMAGES.

2. FOLEON WILL NOT BE RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY THIRD-PARTY PRODUCTS, THIRD-PARTY CONTENT, OR NON-FOLEON SERVICES (INCLUDING FOR ANY DELAYS, INTERRUPTIONS, TRANSMISSION ERRORS, SECURITY FAILURES, AND OTHER PROBLEMS CAUSED BY THESE ITEMS), FOR PERSONAL DATA OR OTHERWISE REGULATED DATA RECEIVED FROM THE CUSTOMER IN BREACH OF THIS CONTRACT, FOR THE COLLECTION, USE AND DISCLOSURE OF CUSTOMER DATA AUTHORIZED BY THIS CONTRACT, OR FOR DECISIONS OR ACTIONS TAKEN (OR NOT TAKEN) BY THE CUSTOMER BASED UPON FOLEON TECHNOLOGY.

3. FOLEON HAS TAKEN OUT PROFESSIONAL AND CORPORATE LIABILITY INSURANCE ON THE TERMS AND CONDITIONS CUSTOMARY IN THE INDUSTRY. WITHOUT PREJUDICE TO THE PROVISIONS OF THIS SECTION 18 (LIMITATIONS OF LIABILITY), ANY LIABILITY OF FOLEON

VIS-A-VIS THE CUSTOMER FOR WHATEVER REASON, WILL BE LIMITED TO THE AMOUNT, EQUAL TO THE PAYMENT ACTUALLY MADE UNDER FOLEON'S PROFESSIONAL AND CORPORATE LIABILITY INSURANCE.

4. IF FOR WHATEVER REASON, NO PAYMENT WAS MADE UNDER THE PROFESSIONAL AND CORPORATE INSURANCE OF FOLEON, AND FOLEON WOULD BE LIABLE UNDER THIS CONTRACT, FOLEON'S MAXIMUM LIABILITY WILL NOT EXCEED IN AGGREGATE THE AMOUNT ACTUALLY PAID OR PAYABLE BY THE CUSTOMER TO FOLEON FOR THE APPLICABLE FOLEON SERVICE IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM, WITH A MAXIMUM OF FIFTY THOUSAND EURO (50.000 EUR). FOR ALPHA AND BETA RELEASES, FOLEON'S TOTAL LIABILITY WILL HOWEVER NOT EXCEED IN AGGREGATE FIFTY EURO (50 EUR).

5. THE LIABILITY LIMITATIONS IN THIS SECTION 18 (LIMITATIONS OF LIABILITY), DO NOT APPLY TO: (i) THE INDEMNITY OBLIGATIONS UNDER SECTION 16 (INDEMNIFICATION); AND (ii) THE CUSTOMER'S PAYMENT OBLIGATIONS AS EXPRESSLY PROVIDED IN THIS CONTRACT.

6. FOLEON IS NEVER LIABLE FOR DAMAGE OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY HACKING BY THIRD PARTIES OR VIRUS, MALWARE, ETC., PROVIDED THAT FOLEON HAS TAKEN ALL REASONABLE SECURITY MEASURES CUSTOMARY IN THE INDUSTRY .

7. IN CASE THE LAW APPLICABLE TO THIS CONTRACT DOES NOT ALLOW SOME OF THE LIMITATIONS OF LIABILITY IN THIS SECTION 18 (LIMITATIONS OF LIABILITY), THIS SECTION 18 (LIMITATIONS OF LIABILITY) WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

8. THE LIMITATIONS OF LIABILITY REFERRED TO IN THIS SECTION 18 (LIMITATIONS OF LIABILITY) DO NOT APPLY IF THE DAMAGE OR LOSS IS THE RESULT OF FRAUD, WILFUL MISCONDUCT OR GROSS NEGLIGENCE BY OF EITHER PARTY.

19. THIRD-PARTY PRODUCTS AND INTEGRATIONS

1. **No Liability for Third Party Products -** If the Customer uses Third-Party Products in connection with the Service(s), those products may make Third-Party Content available to the

Customer and may access the Customer's instance of the Service(s), including Customer Data. Foleon does not warrant or support Third-Party Products or Third-Party Content (whether or not these items are designated by Foleon as "powered", "verified" or otherwise) and disclaims all responsibility and liability for these items and their access to the Service(s), including their modification, deletion, disclosure, or collection of Customer Data. Foleon is not responsible in any way for Customer Data once it is transmitted, copied, or removed from the Service(s) by the Customer or under the Customer's direction.

20. GENERAL TERMS

1. **Notice -** Any notice or communication under this Contract must be in writing. The Customer must send any notices under this Contract (including breach notices and warranty and indemnity claims) to Foleon, in English, at the following address, support@foleon.com, and include "Attn. Legal Department" in the subject line. Foleon may send notices to the email addresses on the Customer's account or, at Foleon's option, to the Customer's last-known postal address. Foleon may also provide operational notices regarding the Service or other business-related notices through conspicuous posting of the notice on Foleon's website or the Service. Each Party consents to receiving electronic notices. Foleon is not responsible for any automatic filtering the Customer or its network provider may apply to email notification.

2. **Assignment -** This Contract will bind and inure to the benefit of each Party's permitted successors and assigns. Neither Party may assign this Contract without the advance written consent of the other Party, except that each Party may assign this Contract without consent in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of its assets or voting securities. Any attempt to transfer or assign this Contract except as expressly authorized under this Section 20 (General Terms) will be void.

3. **Publicity -** Unless otherwise specified in the applicable Order Form, Foleon may use the Customer's name, logo, and marks to identify the Customer as a customer of Foleon and a user of the relevant Service(s) on Foleon's website and in other marketing materials.

4. **Subcontractors -** Foleon may use subcontractors and permit them to exercise the rights granted to Foleon in order to provide the Service under this Contract. These subcontractors

may include, for example, Foleon's hosting provider. However, subject to all terms and conditions of this Contract, Foleon will remain responsible for: (i) compliance of its subcontractors with the terms of this Contract; and (ii) the overall performance of the Services if and as required under this Contract.

5. **Independent Contractors -** The Parties to this Contract are independent contractors. This Contract does not create a partnership, joint venture, employment, franchise, or agency relationship between the Parties. Neither Party has the power to bind the other or incur obligations on the other Party's behalf without the other Party's prior written consent.

6. **Force Majeure -** Neither Party will be liable for any delay or failure to perform its obligation under this Contract if the delay or failure is due to causes beyond its reasonable control, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or reduction of power or telecommunications or data networks or services, pandemics, including Covid19, and/or government acts.

7. **Export -** The Customer is responsible for obtaining any required export or import authorizations or control laws for the use of any Service(s).

8. **Amendments -** Any modification or amendment to this Contract must be made in writing and executed by an authorized representative of each Party. If, during the Subscription Term, Foleon modifies the service-specific terms relevant for a specific Service purchased under an Order Form, Foleon will provide notice thereof to Customer and the modified version will take effect upon the Customer's next renewal. If Foleon launches new products or optional features that require opt-in acceptance of new terms, those terms will apply upon the Customer's acceptance or use. If Customer accepts new Order Forms or Order Form changes following the modification, the changes will take effect immediately. However, during a Subscription Term, Foleon may update Foleon's policies, including without limitation the Acceptable Use Policy, and Documentation from time-to-time to reflect process improvements or changing practices, provided these changes do not substantially diminish the Customer's rights or create substantial additional Customer obligations during a Subscription Term, and these changes will take immediate effect from the date of posting.

9. **No Waiver -** Failure to enforce any provision of this Contract will not constitute a waiver.

10. **Severability -** If any provision of this Contract is found by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Contract may otherwise remain in effect.

11. **No Third Party Rights -** Nothing in this Contract confers on any third party the right to enforce any provision of this Contract. Customer acknowledges that each Order Form only permits use by and for the legal entity or entities identified in the Order Form(s).

12. **Entire Agreement -** This Contract represents the Parties' complete and exclusive understanding relating to the Contract's subject matter. It supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Foleon Technology or any other subject matter covered by this Contract. Any terms provided by the Customer (including as part of any purchase order or other business form used by the Customer) are for administrative purposes only and have no legal effect. This Contract may be signed in counterparts, including by electronic copy, each of which will be deemed an original, and all counterparts together constituting one and the same Contract.

13. **Governing Law, Jurisdiction and Region-Specific Terms.** Governing law, jurisdiction, and other region-specific terms are set out below:

    1. **US, North and South America –** If Foleon Inc. is the party contracting with the Customer under this Contract, the following terms apply:

    2. **Governing Law, Jurisdiction and Dispute Resolution -** This Contract is governed by the laws of the State of New York without regard to any conflict of law provisions. All disputes will primarily be resolved by negotiation between the Parties. If such negotiations fail, any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the laws of the State of New York, irrespective of the place where the contract is performed. The number of arbitrators shall be one (1). The seat of arbitration shall be state and federal courts located in the County of New York, State of New York, including its preliminary relief judge. The language of the arbitration shall be English. The arbitral proceedings and award shall be confidential. However, Foleon may bring invoice collection actions in Federal or

state courts in any county in which Customer has offices and Customer accepts that such jurisdiction is not inconvenient for Customer and Customer waives any rights to oppose jurisdiction of its local Federal or state courts.

3. **Rest of the World -** If Foleon B.V. is the party contracting with the Customer under this Contract, the following terms apply:

4. **Governing Law and Dispute Resolution -** This Contract is governed by the laws of the Netherlands without regard to any conflict of law provisions. All disputes will primarily be resolved by negotiation between the Parties. If such negotiations fail, any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or validity thereof, shall be litigated exclusively by the competent court(s) of Amsterdam, The Netherlands. If the Customer is not located in the European Union, Foleon may, at its own discretion, deviate from the above and may – at its own discretion - demand, and Customer hereby irrevocably agrees in advance, that a dispute, controversy or claim arising out of or relating to this contract or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the laws of the Netherlands, irrespective of the place where the contract is performed. The number of arbitrators shall be one (1). The seat of arbitration shall be District Court Amsterdam, including its preliminary relief judge. The language of the arbitration shall be English. The arbitral proceedings and award shall be confidential.

21. ORDER OF PRECEDENCE

1. The Order of Precedence is i) Order Form(s) ii) Data Processing Agreement iii) Acceptable Use Policy, iv) this Contract, iv) Service Level Agreement, iv) Annexes in descending order, v) written communication between the Parties.