Theta Software License

This software licence constitutes a legal agreement between you and Theta Systems Limited (Theta) a company incorporated in New Zealand. Theta (we, us or our) offers technology consultancy and software products designed and developed for businesses. The software listed below are Theta products. By accessing and using one or more of the software solutions listed (the Software) you accept and agree to be bound by these terms and conditions (Terms) in respect of each product.

These licence terms apply in respect of all Theta-made applications/apps for Microsoft Business Central published in the Microsoft AppSource marketplace. A current list can be found at this link: Business Apps – Microsoft AppSource.

If more than one Software solution is subscribed for then these Terms apply as an agreement between Theta and you in respect of each such product.

1. Terms

These Terms may be varied by Theta on the posting of modified terms on the AppSource website (from where the Software product is offered) or otherwise by providing written notice to you. By continuing to access and use the Software from the date on which the Terms are updated, you agree to be bound by the updated Terms.

2. Licence

A. Subject to these Terms, Theta grants you a limited, personal, non-transferable, and non-exclusive licence to use and display the Software and provide access to use the Software to your employees and contractors for your internal business uses for the term of your licence.

B. You shall not make the Software available to nor permit any other person or entity to use the Software on a timesharing, sub-licenced or other basis.

C. Licence Fee: The fee payable for the Software (Fee) is detailed on the AppSource website (Business Apps – Microsoft AppSource) under the relevant Software listing. The Fee will be invoiced to you and charged to your credit card (or via invoice where agreed). Payment of the Fee must be made in advance of your use of the Software.

D. Theta may suspend or terminate your access to the Software where you fail to make payment of any Fee payable to Theta under these Terms on the due date.

E. Access to the Software is subject to the following conditions:

you must not attempt to undermine the security or integrity of any third party hosting the Software.

you must not attempt to gain access to materials other than those you have been given express permission to access within the Software or on the systems on which the Software is hosted.

you must not transmit or input to the Software any content or files that may be offensive, in violation of any law, in breach of copyright or trade secret, or which may damage any other computing devices or software.

3. Support

A. Assistance: Theta will provide access to the Theta help link (internet-based access) from each app listing page to log issues and faults with the Software. Theta will attend to logged issues on a prioritised basis during Theta's normal business hours Monday to Friday (excluding public holidays) in New Zealand.

B. Updates: Theta shall from time to time make available to you amended versions, releases, updates, bug fixes and error correction and other modifications to the Software which are generally made available by Theta for access by Theta's customers (collectively, Updates). All Updates made accessible by Theta shall be deemed a part of the Software licenced to you under these Terms.

C. Error Correction: Theta will use reasonable endeavours to correct Software faults through Updates. Software faults shall be defined as a function of an item of the Software not operating in accordance with the warranties set out below. Theta will use its reasonable endeavours to correct Software faults:

which are not attributable to malfunction of equipment or software other than the Software; or

which are not attributable to incorrect use of the Software by you.

Theta will at its own option either advise you as to the correction or avoidance of the Software faults or make available Updates in a timely manner. Where the Software is hosted by a third party, Theta will provide the Update to the third party for it to make available for your use.

4. Theta's warranties

A. Theta warrants that the Software will perform in substantial conformance with the online Documentation published for the Software.

B. Theta warrants that the Software does not and will not infringe any copyright or trade secret of any third party arising under law. Theta's sole obligations in the event of a breach of this warranty are those set out below. Theta indemnifies you from costs, expenses, losses, damages, judgments arising out of any breach or alleged breach of the warranty in this clause to the limit of the liability established in clause 5; PROVIDED THAT you have notified Theta in writing as soon as practicable of any such infringement, suspected infringement or alleged infringement and you cooperate with Theta in the defence of such claim. Theta shall have the right to control the defence or settlement of any claim. If in Theta's determination your use of the Software is or is likely to be enjoined by any action or proceeding, Theta shall have the right, at its expense, to:

obtain the right for you to continue to use the Software; and/or

modify the Software to avoid any infringement of the rights of third parties as set out in the first sentence of clause 4.B; and/or

create or procure for you the right to use a substitute for such portions of the Software that avoid any such actual or alleged infringement or violation.

Upon Theta making any such remedy available, it shall be in lieu of Theta's indemnity obligation set out above. Notwithstanding and without limiting the foregoing provisions of this clause 4.B, Theta shall not be obligated to indemnify you to the extent such infringement, suspected or alleged infringement arises from:

use of the Software in a combination by any means and in any form with computer software and/or systems, including, but not limited to hardware, not specifically approved or recommended by Theta, if such claim would not have occurred but for such combination;

use of the Software in non-conformance with these Terms; or

modification or alteration of the Software, without prior consent in writing of Theta, if such claim would not have occurred but for such modification or alteration.

C. Except for the express warranties in these Terms, Theta makes no representations or warranties, express or implied, with respect to the Software or support and any warranties otherwise implied by common law or statute or arising out of custom or course of dealing are excluded from these Terms to the fullest extent permitted by law. Except as expressly provided in these Terms, Theta does not represent, warrant, or covenant that the functions contained in the Software will meet any requirements or needs, or that the Software will operate error free, or in an uninterrupted fashion, or that any defects or errors in the Software will be corrected, or that the Software is compatible with any platform.

5. Limitation of liability

A. You agree that Theta's cumulative liability for damages under or in connection with these Terms, regardless of the form of action, is limited to the fees paid by you to Theta in the 12 months preceding the warranty/claim event. In no event shall Theta be liable (regardless of

the form of action, whether in contract, tort, or otherwise) for any indirect, special, incidental, exemplary, punitive or consequential damages (including, without limitation, any loss of data or records, lost profits or other economic loss) arising out of or in connection with these Terms and/or any obligation of confidentiality, even if Theta had been advised of the possibility of, or could have foreseen, such damages or losses. You acknowledge and agree that the amount of the Fees payable under these Terms is related to the foregoing limitations on Theta's liability and that the Fees would be greater if Theta's liability were not so limited.

6. Intellectual property

A. As between the parties, all copyright, and all other intellectual property rights in or related to the Software and the services provided by or on behalf of Theta shall remain the property of Theta and/or its licensors and you shall acquire no rights in any of the foregoing except as expressly provided in these Terms. You agree that it will not, and will not permit others to, use, copy, reproduce, display, deploy, perform, distribute, transmit, make available, create derivative works of the Software or Documentation or, except only to the extent expressly permitted at law, to decompile or reverse engineer any of the Software provided by or on behalf of Theta.

B. Title to, and all intellectual property rights in, the Customer Data stored by the Software remains with you. Subject to clause 7, access to the Customer Data is contingent on you having a current licence and any applicable Fees being paid in full and on time.

C. You grant (or will procure that your relevant licensor grants) to Theta a non-exclusive royalty free worldwide irrevocable, non-transferable, non-sublicensable, fully paid up, royalty free and limited right and licence to access, collect, compile, store, use and otherwise process the Customer Data from your use of the Software solely for the purposes of providing the Software and related services in accordance with these Terms.

7. Data protection

A. Each party acknowledges and agrees that it will comply with all Data Protection Laws applicable to each party in carrying out its obligations under these Terms.

For the purposes of this clause, *data controller, data processor, data subject, personal data, personal data breach, processing, sub-processor, supervisory authority, special categories of personal data* and *appropriate technical and organisational measures*, shall have the meanings ascribed to them under the relevant Data Protection Law.

B. The parties acknowledge and agree that you as the user of the Software are the data controller in respect of any personal data Theta may process in providing the Software and related services (other than business contact data processed by Theta to allow it to manage your account). The parties acknowledge that New Zealand is a country which the European

Commission has recognised as ensuring an adequate level of protection for the rights of individuals in connection with the transfer of their personal data outside the European Economic Area.

C. Theta agrees to:

only process personal data transferred by you within the framework of these Terms and on your instruction or as otherwise required by applicable laws.

promptly refer to you any requests, notices or other communication from data subjects for you to resolve and provide reasonable assistance to you to assist you to respond to such communication;

provide such information as you may reasonably require, and within the timescales reasonably specified by you, to enable you to comply with the rights of data subjects, including subject-access rights, or with notices served by a supervisory authority;

within 90 days of the date of termination of these Terms, return or delete from Theta's systems all personal data processed under these Terms;

implement appropriate technical and organisational security measures against unauthorised or unlawful processing of data to ensure a level of security appropriate to the risk associated with Theta's processing of the personal data, including those set out in Schedule 2 (Security Measures); and

promptly notify you upon becoming aware of any personal data breach

D. You authorise Theta to appoint the third-party sub-processors to assist in the management of the Software and the related services.

E. You warrant that:

you own or have obtained all necessary rights, title and interest in the personal data and all intellectual property rights and other rights contained therein, as well as the consent of any data subjects, necessary for the parties to perform their respective obligations under these Terms;

you have disclosed to any data subjects in compliance with applicable laws how you will collect, use and disclose personal data;

you will use the personal data in accordance with these Terms and that such use will not constitute an infringement of the intellectual property rights, publicity or privacy or other proprietary rights of a third party, or the violation of any applicable laws, rules or regulations or a violation of any applicable privacy policy or terms and conditions; and

you will indemnify Theta from and against all reasonable losses, damages, costs, liabilities, and expenses (including reasonable legal expenses) arising out of or in connection with any breach by you of this clause 7.

F. To the extent Theta processes personal data relating to a natural person who is a resident in a Protected Area, the parties agree to carry out their respective obligations under these Terms and those set out in the Data Processing Agreement at Schedule 1.

G. To the extent Theta processes personal data relating to a person who is a Californian resident, the parties agree that Theta shall not:

sell (as defined under the California Consumer Privacy Act (CCPA)) such personal data;

retain, use, or disclose such personal data for any purpose other than providing the Software or performing the services specified in these Terms (or as otherwise permitted by the CCPA), including without limitation retaining, using, or disclosing such personal data for any *commercial purpose* (as defined under the CCPA) other than providing the Software or performing the Services specified in these Terms; or

retain, use, or disclose such personal data outside of the direct business relationship between you and Theta.

H. Theta certifies that it and each of its employees, agents, and representatives who will receive personal data understand, and shall comply with, the restrictions set forth in this clause 7.

I. Unless stated otherwise in these Terms, Theta reserves its right to charge additional reasonable fees for any assistance provided by Theta to assist you with complying with your obligations under applicable Data Protection Laws which Theta considers go beyond a reasonable level of support and/or assistance, provided that such fees will be pre-agreed by the parties in writing.

8. Term and termination

A. Term: These Terms shall become effective on the date that the Software is first accessed by you.

B. Termination: Theta, in addition to all other rights and remedies it may have, shall have the right to terminate these Terms and all licence rights granted to you by notice in writing to you if:

you breach a material term of these Terms; or

you become insolvent or bankrupt, or enter liquidation or receivership under the law of any jurisdiction, whether compulsory or voluntary; or

the Software is hosted on a third party's platform and the third party determines not to host the Software.

You may terminate these Terms and your right to use the Software, with or without cause, at any time by discontinuing use of the Software, and by deleting all copies of the Software from your systems.

9. Disputes

A. The parties shall use all reasonable efforts in good faith to resolve any dispute which arises between them in connection with these Terms. This provides for a form of alternative dispute resolution and is not a reference to arbitration.

B. A party will, as soon as reasonably practicable, give the other party notice of any dispute in connection with these Terms.

C. Any dispute will be referred initially to a designated representative of Theta and your designated representative, who will endeavour to resolve the dispute within 10 days of the giving of the notice; and if the dispute is not resolved within the 10 days, to your Chief Executive and the Chief Executive of Theta who will endeavour to resolve the dispute within a further 10 days.

D. If, following the dispute resolution procedures set out in (A) to (C) above, the parties fail to resolve the dispute then the parties will try to settle their dispute by mediation before resorting to litigation. Either party may initiate mediation by giving written notice to the other. The mediator shall be agreed by the parties but if the parties cannot agree on one within 5 days after the mediation has been initiated, then the mediator shall be selected by the New Zealand Dispute Resolution Centre, or its successor.

E. No formal proceedings for the judicial resolution of any dispute between the parties may be commenced until a dispute has proceeded through the dispute resolution processes set out above; provided that, with respect to any claim by Theta of actual or alleged infringement of any confidentiality or intellectual property right of, or licenced to, Theta, Theta, in its sole discretion, may at any time seek judicial resolution with or without resorting to the dispute resolution and mediation processes set out above.

F. All dispute resolution procedures shall be held in Auckland, New Zealand, unless otherwise agreed in writing.

10. Confidential Information

Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as these terms. Each party remains responsible for the use of Confidential Information by its representatives and, in the event of discovery of any unauthorised use or disclosure, must promptly notify the other party. A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party

(if legally permissible) to enable the other party to seek a protective order. These obligations apply: (i) for Customer Data, until it is deleted by Theta; and (ii) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

11. General

A. Theta reserves all rights not expressly granted in these Terms. The Software is protected by copyright and other intellectual property laws. No rights will be granted or implied by waiver or estoppel.

B. No waiver of any breach of any provisions of these Terms shall constitute a waiver of a prior, concurrent, or subsequent breach of the same or any other provision, and no waiver shall be effective unless made in writing.

C. Theta intends the Software to be available to the maximum extent possible, however there will be occasions where the Software may be unavailable to allow for maintenance or development activities to take place. Theta will endeavour to publish in advance when such activity will take place when Theta considers that the non-availability will be longer than normally expected.

D. These Terms contain the entire agreement between Theta and you with respect to the Software and the provision of it to you by Theta, including, but not limited to, the licencing of the Software and provision of the support specified in clause 3.

E. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this Agreement. Theta will comply with all laws and regulations applicable to its provision of the Software. Theta will obtain and maintain any approvals, licenses, filings, or registrations necessary to its performance, and will comply with all applicable laws. You must also comply with laws applicable to your use of the Software.

F. You must not assign, transfer, or grant a security interest in your rights under these Terms except if approved in writing by Theta.

12. Definitions

Confidential Information is non-public information that is designated confidential or that a reasonable person should understand is confidential, including, but not limited to, Customer Data, Support Data, these Terms, and your account authentication credentials. Confidential Information does not include information that: (i) becomes publicly available without a breach of a confidentiality obligation; (ii) the receiving party received lawfully from another source without a confidentiality obligation; (iii) is independently developed; or (iv) is a comment or suggestion volunteered about the other party's business, products, or services.

Customer Data means all data, including all text, sound, software, image, or video files that are provided to Theta by, or on behalf of, Customer through use of the Software. Customer Data does not include Support Data.

Data Protection Laws refers to applicable legislation protecting the personal data of natural persons, including (but not limited to):

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and Directive 2002/58/EC including, where applicable, any local implementing laws, as updated from time to time;

the Data Protection Act 2018, as amended or superseded from time to time, being the United Kingdom's implementation of the General Data Protection Regulations (UK GDPR);

the California Consumer Privacy Act of 2018, as amended or superseded from time to time (CCPA);

New Zealand Privacy Act 2020;

Australia Privacy Act 1988;

binding guidance and codes of practice issued from time to time by relevant supervisory authorities.

Documentation means all user manuals, handbooks, training material, requirements, and other electronic material Theta makes available for, or that result from use of, the Software.

Personal Data means any information relating to an identified or identifiable natural person.

Protected Area means: (i) in the case of European Union personal data, the member states of the European Union and the European Economic Area and any country, territory, sector or international organisation in respect of which an adequacy decision under Article 45 GDPR is in force; and (ii) in the case of United Kingdom personal data, the United Kingdom and any country, territory, sector or international organisation in respect of which an adequacy decision under United Kingdom adequacy regulations is in force.

Representatives means a party's employees, contractors, advisors, and consultants.

Standard Contractual Clauses means the standard data protection clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR.

Support Data means all data, including all text, sound, video, image files, or software, that are provided to Theta by or on behalf of you (or that you authorise Theta to obtain) through an engagement with Theta to obtain technical support for the Software covered under these Terms.

Use means to copy, download, install, run, access, display, use or otherwise interact with.

SCHEDULE 1 – DATA PROCESSING AGREEMENT

Data Processing Agreement

This Data Processing Agreement (DPA) applies insofar as Personal Data is processed by Theta in connection with Theta's provision of the Software to the User of a Protected Area (as defined in the Terms), pursuant to the Terms to which this Schedule is appended.

PART I - INTRODUCTION

1. Background

1.1   Under the Terms, Theta provides the Software and related services (Services) to the User**.**

1.2   This DPA sets out data protection, security, and confidentiality requirements concerning the Processing of Personal Data disclosed or transferred to Theta or collected, stored, accessed, or otherwise processed by Theta in connection with the Terms.

1.3   This DPA consists of four parts:

Part I includes background, definitions, and general principles,

Part II sets out the Parties' roles and responsibilities in terms of Theta acting as a Data Controller,

Part III sets out the Parties roles and responsibilities in terms of Theta acting as a Data Processor,

Part IV sets out general legal provisions not covered in other parts of this DPA.

2. Definitions

Capitalised terms not defined in the Terms, will have the following meaning:

Terms refers to the Theta Software Licence agreed between Theta and the licensed User of the Software, which incorporates this DPA as an integral part.

Theta means Theta Systems Limited, a company having its registered address at Level 2, Theta House, 8 – 10 Beresford Square, Auckland, New Zealand.

Data Controller means the entity which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

Data Processor means the entity which Processes Personal Data on behalf of the Data Controller.

Data Protection Laws refers to, for the purposes of this DPA, the following legislation protecting the personal data of natural persons:

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and Directive 2002/58/EC including, where applicable, any local implementing laws, as updated from time to time; and

the Data Protection Act 2018, as amended or superseded from time to time, being the United Kingdom's implementation of the General Data Protection Regulations (UK GDPR);

Data Subject means an identified or identifiable natural person to whom the Personal Data pertains.

Privacy Policy refers to the privacy statement by Theta that describes how in the provision of the Software personal data is collected and processed by Theta. The current version of the Privacy Policy is available as a linked document from where the Software is procured.

Instructions means this DPA, the Terms, and any further written agreement of the Parties by way of which Theta as the Data Processor is instructed to perform specific Processing of Personal Data.

SCC or **Standard Contractual Clauses** refers to the European Commission's decision of 4 June 2021, on: (i) standard contractual clauses for the transfer of personal data to third countries and (ii) on standard contractual clauses between controllers and processors under Article 28(7) of the GDPR, as amended, supplemented, or replaced, from time to time.

Sub-processing Overview refers to Exhibit A which lists Theta's Sub-processors and locations for processing Personal Data which is attached to this DPA. The sub-processor list is approved by the User and constitutes an integral part of this DPA.

Sub-processor means the entity engaged by the Data Processor or any further sub-processor to Process Personal Data on behalf and under the authority of the Data Controller.

User is the person or entity who has subscribed to licence the Software under the Terms.

References to **Personal Data, Personal Data Breach, Processing, Pseudonymisation, Special Categories** of **Personal Data** and other terms not defined in this DPA or the Terms will have meanings given to them in the GDPR or, as applicable in relation to a Data Subject resident in the United Kingdom, the UK GDPR.

3. General compliance

3.1   Each Party will comply with the requirements of Data Protection Laws as applicable to such Party with respect to the Processing of Personal Data and the roles and responsibilities set out in this DPA.

3.2   The Parties acknowledge and agree that the processing activities, the type, and categories of Personal Data, the Data Subjects whose Personal Data are being processed under this DPA, are reflected in Part II and Part III.

3.3   The Parties acknowledge that certain Data Protection Laws, make specific distinctions between Data Controller and Data Processor responsibilities. When Theta is only acting as a Data Processor as described in this DPA, Theta's compliance obligations are narrowed accordingly in accordance with Data Protection Laws.

3.4   Personal Data is being shared between the User and Theta under this DPA only in the context of the provision or receipt of the Services by the User.

PART II - Theta as Data Controller

4. Data Processing

4.1   The Parties acknowledge and agree that concerning the processing of Personal Data as described in this section 4, Theta acts as a Data Controller. The processing activities, the type and categories of Personal Data, the Data Subjects whose Personal Data are being processed by Theta as Data Controller under this DPA, concern:

The Processing of the following categories of Data Subjects:

Theta's employees, consultants, representatives, and users of Theta's internal systems.

User's employees and representatives in their capacity of facilitating the User's licence of the Services, access, and use of the Services.

The Processing concerns the following potential categories of Personal Data:

First name, last name, email address, city, country, company, title, phone number, banking details, IP address and other information set out in the Privacy Policy.

The Processing concerns the following categories of Data Processing activities:

Administering and billing the orders for the Services.

Providing access to Users and their representatives for the provision of the Services.

Contract management, payment processing, service offering, and business development purposes.

Such other purposes set out in the Privacy Policy.

4.2   To the extent that Theta is acting as a Data Controller pursuant to this section 4, Theta will:

Perform its obligations in accordance with Data Protection Laws incumbent on Data Controllers and only for the purposes stated in this DPA;

Process Personal Data in accordance with the Privacy Policy;

Ensure Data Subjects are provided with appropriate information regarding the Processing of their Personal Data in accordance with Data Protection Laws, including by means of offering a transparent and easily accessible public privacy notice (Privacy Policy);

Ensure that there is a lawful basis for the Processing of Personal Data in accordance with Article 6 of the GDPR;

Ensure that Data Subjects can exercise their data protection rights granted to them under Data Protection Laws.

PART III – Theta as Data Processor

5. Data Processing

5.1   The Parties acknowledge and agree that in the processing of Personal Data as described in this section 5, Theta acts as a Data Processor (or Sub-processor) acting on the User's behalf and the User appoints Theta to process Personal Data to provide the Services to the User.

5.2   The Processing activities, the type and categories of Personal Data, the Data Subjects whose Personal Data are being processed by Theta as Data Processor (or Sub-processor) under this DPA are described here:

The Processing concerns the following categories of Data Subjects:

User's employees, representatives, and users of the Services.

Any other groups of Data Subjects the Personal Data of whom the User discloses to Theta due to the User's use of the Services.

The Processing concerns the following categories of Personal Data:

For User's employees, and representatives:

First name, last name, phone, and email address

Theta is a Data Processor with respect to the following Processing activities:

Providing the Services to the User.

Providing technical support to the User for the provision of the Services. Theta shall not however access the environment for Users – unless explicitly invited by the customer.

Theta will process Personal Data only in accordance with documented instructions from the User.

Other processing activities in accordance with the User's instructions.

5.3   As a Data Processor, Theta processes Personal Data only on documented Instructions from the User.

The terms set out in the Terms and this DPA are the User's complete Instructions to Theta for the processing of Personal Data. Any additional Instructions must be agreed between the Parties in writing.

5.4   The duration of Personal Data processing shall be for the term of the DPA unless further storage of the Personal Data is required or authorised under Data Protection Laws.

5.5 By way of this DPA, the User provides general written authorisation to Theta:

to engage those of Theta's Sub-processors listed in the Sub-processor Overview; and

to transfer and process Personal Data in locations outside the United Kingdom and the European Economic Area (EEA) as listed in the Sub-processing Overview. The notifications about the addition, replacement or changes of Theta's Sub-processors or sub-processing locations for Processing will be communicated to the User by email in accordance with clause 5.7.

5.6   Without prejudice to other obligations of the User under this DPA, the User shall:

Only provide Instructions to Theta that are lawful.

Perform all obligations in conformance with all applicable Data Protection Laws, including in relation to data security and confidentiality obligations.

Ensure that Data Subjects are provided with appropriate information regarding the Processing of their Personal Data, including by means of offering a transparent and easily accessible public privacy notice.

Ensure that there is a lawful basis for Processing of Personal Data in accordance with Data Protection Laws (including Article 6 of the GDPR).

Ensure that Data Subjects can exercise their data protection rights granted to them under Data Protection Laws.

Be solely responsible for: (a) complying with incident notification laws applicable to User and fulfilling any notification obligations related to any Personal Data Breach; and (b) notifying each Data Subject affected by the breach without undue delay, when so required by Data Protection Laws; and

To the extent necessary to comply with Data Protection Laws, inform Theta without unreasonable delay, but in no event more than 48 hours, after it becomes aware of any Personal Data Breach which affects Personal Data processed under the DPA. User will provide reasonable information and cooperation to Theta so that Theta can meet any data breach reporting obligations it may have under (and in accordance with the timescales

required by) applicable Data Protection Laws. User will further take reasonably necessary measures and actions to remedy or mitigate the effects of the Personal Data Breach and will keep Theta informed of all material developments in connection with the Personal Data Breach.

5.7   To the extent that Theta is acting as a Data Processor, Theta will:

inform the User without undue delay if, in its opinion, Instructions infringe applicable Data Protection Laws;

ensure that any person authorised to Process Personal Data in the context of the Services is granted access to Personal Data on a need-to-know basis only and is committed to respecting the confidentiality of the Personal Data;

when required by Data Protection Laws, inform the User without undue delay of any formal requests from Data Subjects exercising their rights under Data Protection Laws, and not to fulfil or resolve such requests, unless instructed by the User in writing, and, if permitted, any requests made by public authorities requiring Theta to disclose the Personal Data Processed in the context of the Services or to participate in an investigation involving such Personal Data.

5.8   If Theta receives any request from a Data Subject in relation to their Personal Data, Theta will advise the Data Subject to submit its request to the User and the User will be responsible for responding to the request.

Nevertheless, Theta shall, taking into account the nature of the processing, assist the User by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the User's obligation to respond to requests from Data Subjects regarding exercising their rights laid down in Data Protection Laws (including Chapter 3 of the GDPR).

5.9   When required by Data Protection Laws, Theta will provide reasonable assistance to the User (such assistance to be at the expense of the User) in ensuring compliance with the obligations of the User under Data Protection Laws, including but not limited to conducting data protection impact assessments and consulting with a supervisory authority, taking account of the nature of the Processing and the information available to Theta.

5.10   Upon the occurrence of any Personal Data Breach, Theta will without undue delay from becoming aware of the Personal Data Breach (i) notify the User in accordance with the notification requirements set out in the Data Protection Laws; and (ii) promptly take reasonable steps to minimise harm and secure Personal Data. Theta notification of or response to Personal Data Breach under this clause will not be construed as an acknowledgment by Theta of any fault or liability with respect to the breach.

5.11   When required by Data Protection Laws, Theta will inform the User by giving reasonable written prior notice (unless unforeseen circumstances requiring Theta to take urgent action mean that Theta cannot provide such notice) of any addition, replacement or other changes of Theta's Sub-processors and provide the User with the opportunity to object to such changes. In the event the User objects to any addition, replacement or other change of Theta's Sub-processor, the User may at its discretion elect to terminate the DPA without any charge if Theta is unable to address the User's objection to its satisfaction (acting reasonably). The User acknowledges that engagement of Theta's Sub-processors is essential to provide the Services and that objecting to the use of Theta's Sub-processor may prevent Theta from offering the Services to the User.

5.12   Theta will enter into a written agreement with Theta's Sub-processors imposing on those Sub-processors substantially the same obligations as those imposed on Theta under this DPA, including appropriate technical and organisational measures (described in Section 7 below). In case Theta's Sub-processor fails to fulfil its data protection obligations under such written agreement with Theta, Theta will remain liable towards the User for the performance of the Theta Sub-processor's obligations under such agreement to the same extent as if Theta itself is liable to the User.

5.13   Except as authorised pursuant to this DPA, Theta will not transfer Personal Data out of the UK or the European Economic Area (EEA) without the prior written approval of the User. Where approval is granted, Theta will comply with Data Protection Laws for the transfer of Personal Data outside of the UK and/or the EEA, including by facilitating the conclusion of Standard Contractual Clauses to the extent applicable. For the avoidance of doubt, the prior written approval of the User is not required if the transfer of Personal Data out of the UK and/or the EEA is required by Data Protection Laws to which Theta is subject to. In such case, Theta shall inform the User of such legal requirement before processing, unless law or authorities prohibits such information.

5.14   Theta will not, and will procure that its sub-processors will not, process or transfer any Personal Data outside of the country such personal data originated in without an adequate level of protection where required under applicable Data Protection Laws. User agrees that Theta's use of the Sub-processors listed in Exhibit A will involve a transfer of Personal Data and the processing of Personal Data by the Sub-processors listed outside of the United Kingdom and the EEA (*relevant transfer*). Theta will ensure that such transfer and processing of personal data by the Sub-processors listed is governed by either Standard Data Protection Clauses issued by the UK Information Commissioner under the United Kingdom's Data Protection Act 2018 (SDPC) or the SCCs in accordance with GDPR. Accordingly, User agrees that Theta may enter into the SDPC and/or the SCCs as *data exporter* on behalf of the User and the relevant Sub-processor as listed in Exhibit A as *data importer* or *sub-processor*.

5.15   Theta will contribute to audits or inspections by the auditor appointed by Theta or, if the User objects to such auditor, by an independent auditor which is acceptable to both parties (acting reasonably), to audit Theta's data processing activities to enable the User to verify and/or procure that Theta and/or Theta's Sub-processors are in full compliance with their obligations under this DPA. The User must notify Theta in advance of a planned audit, with at least twenty (20) Business Days written notice. An audit or inspection may take place only during normal working hours of Theta. Any audits, inspections or other activities intended for demonstrating Theta compliance under this DPA shall be conducted at the expense of the User. Unless required by Data Protection Laws no audits will be conducted more than once in any twelve (12) month period. In addition, Theta will make available to the User, upon request, a summary of any applicable audit report which the User must treat confidentially under the confidentiality provisions of the Terms or under a separate non-disclosure agreement concluded between the Parties, whichever is applicable.

5.16   At the choice of the User, Theta will delete or return all Personal Data to the User after the end of the provision of the Services or fulfilment of all obligations under the Terms, and delete existing copies, unless further storage of the Personal Data is required or authorised by Data Protection Laws.

PART IV – General Legal Provisions

6   Content and valid Basis

6.1   As between Theta and the User, the User is responsible for the content of all the data, including Personal Data, that the User provides to Theta. The User confirms that it has legal grounds to process and has rights to provide Personal Data to Theta for processing.

6.2   Before obtaining Personal Data from Data Subjects and providing it to Theta, the User must obtain their legally valid permission or have another valid legal basis to permit the Processing and transfer of the Personal Data by Theta and Theta's sub-processors, and each Parties' respective representatives and service providers as contemplated under this DPA and the Terms. User shall ensure that Data Subjects whose personal data is processed under this DPA, receive information of Theta processing their Personal Data (including reference to Theta's Privacy Policy, where applicable).

6.3   Parties acknowledge and agree that it is not intended or foreseen that any Special Categories of Personal Data will be Processed under the Terms, inclusive of this DPA.

7   Data security

7.1   Each Party will implement and maintain appropriate technical and organisational measures, internal controls, and data security routines (including pursuant to Article 32 of the GDPR) intended to protect the Personal Data against accidental loss or change, unauthorised disclosure or access, or unlawful destruction, including those set out in Schedule 2, and as appropriate:

pseudonymisation and encryption of Personal Data.

the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services involved in the processing of Personal Data.

the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and

a process for regularly testing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing of Personal Data.

7.2   The User shall notify Theta promptly about any possible misuse of its accounts or authentication credentials or any security incident related to the Services.

8   Aggregated Data

Theta may collect and use information related to the provision of the Services, as aggregated data, provided that *aggregated data* means statistical information that is not identifiable to any person. Theta may use aggregated data to provide and improve the Services, including, without limitations, to conduct research and analysis, to provide the analysis results on the aggregated data to third parties and to market the Services.

9   Miscellaneous

9.1   In the event of a Party's breach and/or failure to comply with the terms and conditions in this DPA, the breaching Party shall be held liable for all damages and costs incurred by the other Party, in accordance with the provisions on liability set out in the Terms. 9.2 Theta shall not bear any liability for the User not complying with obligations listed in this DPA. User shall hold Theta harmless and indemnify Theta against any claims from third parties, including Data Subjects and data protection authorities based on violations of Data Protection Laws or obligations under this DPA by the User or on its behalf.

9.3   From the Effective Date, this DPA replaces and supersedes any earlier data processing agreement, if any, executed by the Parties in its entirety.

9.4   This DPA will have the same duration as the Terms. Notwithstanding, the provisions in this DPA shall remain in force for as long as Theta Processes Personal Data as a Data Processor of the User. In the event of changes in the Services or applicable Data Protection Laws which will affect the Processing of the Personal Data and requires the amendment of this DPA in order for the parties to be able to address the requirements and comply with the applicable laws, the Parties will consult with each other and cooperate in good faith in order to amend this DPA. Any amendments to this DPA can be made in writing by authorised representatives of the Parties.

9.5   This DPA is subject to the terms and conditions of the Terms. Any provision, including but not limited to limitation of liability, confidentiality, governing law and dispute resolution provisions and other terms and conditions of the Terms shall apply to this DPA.

9.6   If any of the provisions of this DPA conflict with the provisions of any other written agreement concluded between the Parties, then the provisions of this DPA shall prevail. Notwithstanding the foregoing, this DPA shall not apply if and to the extent the SDPC or the SCC for the transfer of Personal Data to third countries are concluded and such clauses set out stricter obligations for the Parties. The Parties have carefully reviewed this DPA and agree to its terms and conditions.

Exhibit A - Sub-Processing overview

Name	Corporate address	Processing location	Processing activity
Microsoft Cloud Services	11955 Freedom Dr, Reston, VA 20190, USA	The processing location will be based on the customer's tenant location. For a list of Business Central locations see Country/regional availability and supported languages - Business Central	Microsoft Learn	Customer relationship management
Microsoft Copilot/OpenAI	11955 Freedom Dr, Reston, VA 20190, USA	Customers can select which region they wish to use if enabling these AI features in our apps (Australia/Europe or USA)	Optionally, our apps may use Microsoft Copilot or Microsoft's OpenAI processes to enhance our app features. Meta data from customers is sent to an API hosted by Microsoft. Data submitted is not used for training any AI model.
Stripe, Inc	San Francisco, California, USA and Dublin, Ireland	USA	For payment processing

SCHEDULE 2 - SECURITY MEASURES

This Schedule sets out the security measures Theta takes to ensure a level of security for the personal data appropriate to the level of the risk.

Theta's Business Central apps are covered by Theta's overall ISO27001 certification

Permissions to use the Business Central apps are controlled through the built in Business Central user permission management

Theta staff involved in product development and in partner relations undergo security training and are required to comply with Theta's security polices and privacy policy

All Theta devices are secured by endpoint protection and all staff accounts are protected by multi-factor authentication and conditional access controls.