Terms of Service

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.

The purpose of this Agreement 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.

1. DEFINITIONS

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

1.1. "**Acceptable Use Policy**" or **"AUP"** means the Foleon Acceptable Use Policy available at https://www.foleon.com/acceptable-use-policy, as updated from time to time.

1.2. "**Add-On**" means any additional feature, integration or application that may be purchased or enabled for use with the Service(s). Add-Ons provided by Foleon form part of the Service(s). Add-Ons provided by third parties are Third-Party Products.

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

1.4. "**Aggregate/Anonymous Data**" means (i) data generated by aggregating Visitor 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). This data is used to power Foleon Analytics.

1.5. "**Agreement**" means these Terms of Service together with all Order Forms and the documents listed in Section 2.1, as amended from time to time.

1.6. "**AI Features"** means all features, functionalities, tools, agents and services of or within the Service that use artificial intelligence technologies, whether generative, agentic, or otherwise, as made available by Foleon from time to time, including those offered as Trials and Betas.

1.7. **"AI Terms"** means the Foleon AI Terms available at https://www.foleon.com/ai-terms, as updated from time to time.

1.8. "**Authorized Users**" means the Customer's employees, contractors, agents or anyone (such as agencies or management consultants) who have or may be assigned a Seat to access and use the Service and who are acting for the Customer's benefit and on its behalf.

1.9. **"Beta"** means any feature, functionality or service that Foleon identifies as alpha, beta, preview, early access or similar and that is still in development, whether offered as a closed beta (by invitation) or a public beta.

1.10. "**Confidential Information**" means information that is owned or possessed by a Party, its Affiliates or Personnel that either is marked as "confidential" or "proprietary" or otherwise due to its nature reasonably would be deemed to be confidential, and that is disclosed or accessed pursuant to this Agreement.

1.11. "**Content**" means text, images, videos, code and other materials in any form that are created in, published through or integrated into the Service by or on behalf of Customer or its Authorized Users, including Outputs (as defined in the AI Terms), excluding Foleon Technology.

1.12. "**Customer**" means the legal entity that enters into this Agreement with Foleon, whether by signing or accepting an Order Form that incorporates this Agreement, or by accepting this Agreement when registering for the Service(s).

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

1.14. "**Customer's Administrator(s)**" means the Authorized Users that have been provided with administrator permissions within the Service(s).

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

1.16. **"DPA"** means the Foleon Data Processing Agreement available at https://www.foleon.com/hubfs/pdf/foleon-bv-dpa.pdf, including, to the extent applicable, the Standard Contractual Clauses (Controller – Processor), as updated from time to time.

1.17. **"Foleon Analytics"** means Foleon's native analytics functionality, enabled by default on published Foleon Docs, that provides the Customer with data on the performance of and engagement with its Foleon Docs.

1.18. "**Foleon Doc(s)**" means publications created using the Service(s), which incorporate Content and may incorporate Foleon Technology.

1.19. "**Foleon Technology**" means the Service, including AI Features and their underlying models, prompts and configurations, and all related or underlying Intellectual Property Rights, Documentation, technology, code, know-how, logos and templates, anything delivered as part of customer support or other services, and any updates, modifications or derivative works of any of the foregoing, but excluding Customer Data.

1.20. "**Intellectual Property Rights**" means patents, copyrights (including in software), database rights, trademarks, service marks, trade names, domain names, rights in designs, rights in know-how and trade secrets, moral rights, and all other intellectual property rights, whether registered or unregistered, including applications for registration, and all similar or equivalent rights anywhere in the world.

1.21. "**Order Form**" means any ordering document, quote, online sign-up or subscription flow, or in-product purchase or upgrade, including any amendment, that references or is subject to this Agreement and is executed or accepted by the Customer, including electronically, and accepted by Foleon.

1.22. "**Party**" means Foleon or Customer. "**Parties**" means Foleon and Customer.

1.23. "**Personnel**" means employees, agents, consultants, contractors, and subcontractors, together with the personnel of any of the foregoing.

1.24. "**Pilot**" means a time-limited subscription to the Service(s) for evaluation or proof-of-concept purposes, provided against the fees set out in an Order Form that also sets out its scope, duration and what happens when it ends, including any conversion to a regular subscription.

1.25. "**Professional Services**" means onboarding, implementation, training, design, content creation, consulting and other non-subscription services provided by Foleon on a fee basis.

1.26. "**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).

1.27. "**Service(s)**" means Foleon's proprietary software-as-a-service product(s) specified in the Customer's Order Form, including the features and functionalities (including AI Features) made available by Foleon from time to time and the related Documentation, but excluding Third-Party Products.

1.28. "**Service Level Agreement**" or "**SLA**" means the Foleon Service Level Agreement available at https://www.foleon.com/service-level-agreement, as updated from time to time.

1.29. "**Submitted Data**" means any documents, materials, code, text, images, videos, data or other information uploaded or otherwise submitted to the Service by or on behalf of the Customer or its Authorized Users, including Inputs (as defined in the AI Terms) and Third-Party Content.

1.30. "**Subscription Term**" means, for each Order Form, the period during which the Customer may use the Service(s) under that Order Form, including each renewal term.

1.31. "**Support Services**" means technical support services offered by Foleon for the Service(s) in accordance with the SLA.

1.32. "**Third-Party**" means any party that is not the Customer, Foleon, an Affiliate of the Customer, or a subcontractor of Foleon.

1.33. "**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.

1.34. "**Third-Party Product(s)**" means any application, software, code, platform, Add-On or service not provided by Foleon, such as digital asset management, CRM, marketing automation and AI services, that the Customer selects and connects to or uses with the Service(s), including through an integration made available in the Service(s).

1.35. **"Trial"** means free, time-limited access to the Service(s), or to additional features or capacity of the Service(s), for evaluation purposes, for the scope and period specified by Foleon.

1.36. "**Visitor Data**" means data collected from individuals who access or interact with a Foleon Doc, through Foleon Analytics or other tracking mechanisms enabled in the Service, or that those individuals submit through a Foleon Doc (such as form submissions), including IP address, browser, device and header information, engagement metrics such as visits, page views, time on page, and bounce and exit rates, and, where enabled by the Customer, identity and profile attributes of authenticated or personalized viewers.

Other terms are defined in other sections of this Agreement or in the documents listed in Section 2.1.

2. PARTS OF THIS AGREEMENT

2.1. **Incorporated Documents** - This Agreement consists of these Terms of Service and the following documents, which are hereby incorporated by reference:

2.1.1. Each Order Form

2.1.2. The DPA

2.1.3. The Acceptable Use Policy

2.1.4. The Service Level Agreement

2.1.5. The AI Terms (applicable only if the Customer uses AI Features)

2.1.6. Any other addendum published by Foleon that applies to the Customer in accordance with its terms.

3. ACCOUNT REGISTRATION AND USE

3.1. **Account Information -** Customer must ensure that all account information it provides is accurate, current and complete, and must keep it up to date.

3.2. **Credentials -** The Customer must keep all user IDs, passwords and other access credentials (such as API tokens) confidential. Each account must be assigned to an identified individual, may not use a generic email address and may not be shared. The Customer must promptly remove the access of any Authorized User who leaves or is no longer authorized, and must notify Foleon without undue delay of any security breach or unauthorized use of an account it becomes aware of. The Customer is responsible for all activity under its accounts and credentials, including through integrations, API tokens and agents it configures, except to the extent caused by Foleon's breach of this Agreement.

3.3. **Customer's Administrators -** The Customer is responsible for designating the Customer's Administrators and for the settings they configure, including user permissions and the enabling of features and tracking mechanisms in Foleon Docs.

3.4. **Fair Use -** Customer's use of the Service is subject to the usage limits in the Order Form and the Acceptable Use Policy. If Customer's usage exceeds those limits, Foleon may take the measures set out in the Acceptable Use Policy.

4. ACCESS TO THE SERVICE

4.1. **Rights to the Service -** Subject to compliance with this Agreement, Foleon grants to the Customer and its Authorized Users a non-exclusive, non-transferable, non-sublicensable right during the applicable Subscription Term to access and use the Service(s) designated on the Customer's Order Form.

4.2. **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 (currently available at www.foleon.com/product-updates). Foleon will provide informational updates proactively about major changes to the Service through the Service or by email. Foleon may also make new applications, features or functionalities for the Service(s) available from time to time, the use of which may be contingent upon the Customer's agreement to additional terms, such as the AI Terms.

4.3. **Trials and Betas -** Trials and Betas are optional to the Customer, and either Party may end them at any time for any reason. When a Trial or Beta ends, Foleon may deactivate the relevant features, plans or capacity. Trials and Betas may be inoperable, incomplete or include features that Foleon may never release, and their features and performance information are Foleon's Confidential Information. Use of a Trial or Beta does not entitle the Customer to continued access to the relevant features, which may afterwards be subject to fees or offered only in certain plans. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, TRIALS AND BETAS ARE PROVIDED "AS IS" WITHOUT WARRANTY, INDEMNITY OR SERVICE LEVELS, BETAS ARE PROVIDED WITHOUT SUPPORT, AND FOLEON'S LIABILITY FOR TRIALS AND BETAS WILL NOT EXCEED fifty euros (EUR 50).

4.4. **Pilots -** Pilots are governed by this Agreement and the applicable Order Form. Any Betas included in a Pilot remain subject to Section 4.3.

4.5. **AI Features -** Customer's use of AI Features is subject to the AI Terms, which form part of this Agreement. Use of AI Features constitutes acceptance of the AI Terms unless otherwise agreed. In the

event of a conflict between this Agreement and the AI Terms with respect to AI Features, the AI Terms prevail. AI Features offered as Trials and Betas are also subject to Section 4.3.

5. CUSTOMER OBLIGATIONS

5.1. **Respecting Third-Party Rights -** The Customer represents and warrants that the collection, use, and disclosure of Customer Data will not violate any applicable law or 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 may remove or disable access to the relevant Customer Data in accordance with applicable law and will notify the Customer. 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).

5.2. **Obtaining Consents -** The Customer may have the ability to access, monitor, use, or disclose data available to Authorized Users within their Accounts. The Customer must have a lawful basis, including any required consents, and must provide any required notices to Authorized Users, to allow: (i) Customer's access, monitoring, use and disclosure of such data, and (ii) Foleon to provide the Service(s).

5.3. **Acceptable and Prohibited Use -** Customer must comply with the AUP and ensure that its Authorized Users, Personnel and any Third-Party under its reasonable control do the same. The Customer is responsible for their acts and omissions in connection with the Service as if they were its own, including any Customer Data they create, submit or publish. Any code added to Foleon Docs by or on behalf of the Customer must not contain malicious code or circumvent the security or consent mechanisms of the Service.

5.4. **Customer Affiliates -** Customer's Affiliates may use the Service as Authorized Users of Customer. Alternatively, an Affiliate of Customer may enter into its own Order Form as mutually agreed with Foleon and this creates a separate agreement between Affiliate and Foleon that incorporates this Agreement with the Affiliate treated as Customer. Neither Customer nor Customer Affiliate has any rights under each other's agreement with Foleon, and breach or termination of any such agreement is not a breach or termination under any other.

6. CUSTOMER DATA

6.1. **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 including Outputs to the extent such rights subsist in them, but excluding any Foleon Technology. The Customer hereby grants Foleon and its subcontractors 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, secure, improve and support the Service(s) and related services to the Customer and to comply with applicable law. This includes the right to publicly display and perform Content as directed by the Customer, subject to Section 20.3, and to use insights from Customer's use of the Service to offer tailored guidance and recommendations that help Customer get more value from the Service, such as

features, seats or subscription options suited to its needs. This Section 6.1 does not however limit Foleon's right to generate the Aggregate/Anonymous Data in accordance with Section 6.3 below.

6.2. **Third-Party Products and Customer Data -** The Customer's use of Third-Party Products, and Customer Data accessed by or transmitted to them, is governed by Section 19.

6.3. **Aggregate/Anonymous Data -** Foleon Analytics makes Visitor Data available to the Customer through the Service, and Foleon processes Visitor Data as the Customer's processor in accordance with the DPA. Foleon may generate Aggregate/Anonymous Data from Visitor Data and other data relating to the Service(s), and may use it during or after the term of this Agreement for any business purpose, including to develop and improve the Service(s) and to create and distribute industry benchmarking reports and materials. Aggregate/Anonymous Data is Foleon Technology. Foleon will only disclose Aggregate/Anonymous Data externally in a form that does not identify the Customer, its Authorized Users or any other individual, 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.

6.4. **No Archiving -** Foleon does not provide an archiving service and Customer is responsible for appropriate archiving and backing up Customer Data. The Customer acknowledges that Foleon may, by giving reasonable prior notice, delete Customer 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.

6.5. **Data Export -** During the Subscription Term and for thirty (30) days after its expiry or termination (the "Export Period"), Customer may export Customer Data from the Service using the export features described in the Documentation. After the Export Period, Foleon will delete Customer Data in accordance with its standard retention schedule and procedures and the DPA, unless retention is required by law. If Customer elects to proactively delete its account at any time, all associated Customer Data will be deleted permanently and cannot be retrieved.

6.6. **Visitor Data** - The Customer is responsible for having a lawful basis for collecting Visitor Data through its Foleon Docs, including through Foleon Analytics, SSO tracking and personalization, by obtaining any required consent for cookies and similar tracking technologies and providing appropriate notices to visitors.

7. PERSONAL DATA AND DATA PROTECTION

7.1. **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 and, where applicable, the UK General Data Protection Regulation (UK GDPR) as defined in the UK Data Protection Act 2018) on behalf of the Customer. Such processing shall be subject to the DPA. Each Party agrees to comply with the DPA. Foleon may process personal data relating to the Customer's account and Authorized Users, including for the recommendations described in Section 6.1, as an independent controller in accordance with its Privacy Policy (https://www.foleon.com/privacy-policy).

8. SUPPORT AND PROFESSIONAL SERVICES

8.1. **Support Services -** Foleon provides Support Services through the Service and by email at support@foleon.com, in accordance with the SLA. Support Services are included in the fees for the Service(s) and are not charged separately, unless otherwise specified in an Order Form. Where a support

request requires consulting, custom configuration or other work outside the scope of the Support Services, Foleon may treat it as Professional Services under Section 8.2, quoted at Foleon's then-current rates and subject to Customer's prior written approval.

8.2. **Professional Services -** Foleon may provide Professional Services as set out in an Order Form, or other quote approved by Customer in writing, which specifies their scope, fees and other terms. Deliverables that form part of Customer's Foleon Docs are Content. All other deliverables are Foleon Technology, which Customer may use during the Subscription Term in connection with its use of the Service, subject to Sections 4 and 5.3.

8.3. **Delivery -** Delivery or completion dates for Professional Services are estimates and depend on Customer's timely cooperation and on Customer providing accurate and complete information and materials, such as copy and images. Foleon will promptly notify Customer if it expects a delay and provide a revised estimate.

9. SUBSCRIPTION TERM

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

9.2. **Subscription 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 or accepts the Order Form or this Agreement.

9.3. **Renewals -** Unless otherwise specified in the applicable Order Form, each Subscription Term will automatically renew for the same length as the expiring Subscription Term, unless either Party gives the other Party written notice of non-renewal at least ninety (90) days before the end of the then-current Subscription Term. However, unless otherwise specified in the applicable Order Form, if the expiring Subscription Term is not a multiple of twelve (12) months, it will renew for the largest multiple of twelve (12) months it contains, and in any case for at least twelve (12) months. A late notice does not prevent renewal and takes effect at the end of the following renewal term. The Customer remains liable for all fees for the current Subscription Term and, after a late notice, for the following renewal term, whether already invoiced or not, and is not entitled to any refund or credit.

10. FEES AND PAYMENT

10.1. **Prices and Payment Schedule -** The Customer will pay all fees in the agreed currency in accordance with the package, fees and payment schedule set out in the applicable Order Form. Except as expressly stated in this Agreement, all fees are non-refundable.

10.2. **Taxes -** Foleon's fees are exclusive of all taxes. If Foleon is obligated to collect or pay taxes, the taxes will be invoiced to 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.

10.3. **Additional Purchases and Usage** - If the Customer adds features, Add-Ons, seats or Foleon Docs beyond its existing Order Form, including through an in-product purchase, the applicable fees are those set out in the Order Form or shown at the time of purchase. Unless otherwise stated at the time of purchase, such additions are prorated and coterminous with the then-current Subscription Term. Additional Usage is charged in accordance with the Acceptable Use Policy.

10.4. **Price Changes -** Foleon may change its pricing. Unless otherwise specified in the Order Form, 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 one hundred and twenty (120) days in advance.

10.5. **Payment Method -** Payments must be made by wire transfer, cheque, or credit card. The message of the payment shall include the applicable invoice number or the reference number of the invoice.

11. INVOICING

11.1. **Standard Invoicing Schedule -** Unless otherwise specified in the Order Form, the Service(s) are invoiced on the basis of twelve (12)-month periods in advance. Additional purchases are invoiced on purchase.

11.2. **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.

11.3. **Payment Term and Late Payments -** Unless otherwise specified in the Order Form, invoices are payable within thirty (30) days of the invoice date. Any amount not paid by the due date is overdue and bears interest from the due date at one and a half per cent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less, and the Customer will reimburse Foleon's reasonable costs of collection. If the Customer disputes an invoice in good faith, it must notify Foleon in writing within fourteen (14) days of the invoice date, stating the reasons, and pay the undisputed portion by the due date.

11.4. **Blocked Access/Suspension -** If any undisputed amount is more than thirty (30) days overdue, Foleon may, after prior notice, suspend the Customer's accounts and its own obligations under this Agreement and block access to the Service(s) for all Authorized Users. The Customer's obligation to pay any invoice continues after termination of this Agreement and during any suspension, and fees continue to accrue during suspension.

11.5. **Invoicing Information -** The Customer must provide Foleon with all necessary reference information needed to process each invoice, including a valid billing address and any purchase order number. Failure to provide such information does not relieve the Customer of its obligation to pay an invoice when due.

12. TERM AND TERMINATION

12.1. **Term of Agreement -** This Agreement remains in effect until all Subscription Terms under it have expired or been terminated. Neither Party may terminate a Subscription Term early except as set out in this Section 12 or as required by mandatory law.

12.2. **Termination for Cause -** Either Party may terminate this Agreement (including all Order Forms) with immediate effect by notice if the other Party (i) fails to cure a material breach of this Agreement (including a failure to pay fees) within thirty (30) days after notice; (ii) terminates or suspends its business; (iii) ceases operations without a successor; or (iv) to the extent permitted by applicable law, becomes subject to a bankruptcy, receivership, trust deed, creditors' arrangement, composition or comparable proceeding that is not dismissed within sixty (60) days.

12.3. **Other Termination Rights -** This Agreement or an Order Form may also be terminated as set out in Sections 16.1 (Indemnification by Foleon) and 17.1 (Performance Warranty), and in any other document listed in Section 2.1 that expressly grants a right to terminate.

12.4. **Obligations upon Termination -** Upon the termination or expiry of this Agreement: (i) the rights granted by one Party to the other will cease immediately other than the Customer's right to export its Customer Data under Section 6.5; (ii) all unpaid fees become immediately due; (iii) Foleon will delete

Customer Data after the Export Period in accordance with Section 6.5; and (iv) each Party will, at the other Party's written request, return or destroy the other Party's Confidential Information in accordance with Section 13.5.

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

13. CONFIDENTIALITY

13.1. **Confidentiality Obligation -** The receiving Party must keep the disclosing Party's Confidential Information confidential and use it only to perform this Agreement, including as permitted under Section 6. It may share it on a need-to-know basis with its Affiliates, employees, agents and contractors (for Foleon, including subcontractors under Section 20.4) who are bound by equivalent confidentiality obligations, and remains responsible for their compliance. It must promptly notify the disclosing Party of any actual or suspected unauthorized disclosure or use. Personal data breaches are governed by the DPA.

13.2. **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 prior notice (if permitted by law) and cooperates in any effort by the other Party to obtain confidential treatment for the information.

13.3. **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 injunctive or other equitable relief in addition to any other remedies it may have at law.

13.4. **Duration -** These obligations apply during the term of this Agreement and for three (3) years afterwards; for retained copies, as long as they are retained; and for trade secrets, as long as they remain trade secrets under applicable law.

13.5. **Return or Destruction of Confidential Information -** Within thirty (30) days of the disclosing Party's written request, the receiving Party must take reasonable steps to destroy or erase any of the disclosing Party's Confidential Information in its possession or control, except that the receiving Party may retain copies that: (i) are securely stored in archival or computer back-up systems; (ii) must be retained to meet legal or regulatory obligations; or (iii) are retained in accordance with the receiving Party's bona fide record retention policies, in each case subject to the terms of this Section 13 (Confidentiality).

14. INTELLECTUAL PROPERTY RIGHTS

14.1. **No Transfer of Intellectual Property Rights -** Except as expressly set forth herein, this Agreement 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. SUBSCRIPTION BASIS AND FEEDBACK

15.1. **Subscription Basis -** The Service(s) are provided on an online subscription basis. The Customer acknowledges that it is obtaining only a limited right to use the Service(s) and that irrespective of any use of words such as "purchase", "sale" or similar terms, no ownership rights are transferred to the Customer under this Agreement. Customer has no right to obtain a copy of the software underlying any Service(s).

15.2. **Feedback -** If the Customer provides any suggestions, comments, improvements, information, ideas or other feedback or related materials to Foleon (collectively, "Feedback"), the Customer hereby grants Foleon a worldwide, perpetual, irrevocable, sublicensable, royalty-free right and license to use, copy, disclose, license, distribute, and exploit the Feedback in any format and in any manner without any obligation, payment, or restriction based on Intellectual Property Rights or otherwise. Feedback does not include Customer Data unless Customer agrees otherwise in writing. Foleon will not identify the Customer as the source of the Feedback. Nothing in this Agreement limits Foleon's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

16. INDEMNIFICATION

16.1. **Indemnification by Foleon** - Foleon will defend the Customer against any Third-Party claim alleging that the Service(s), as provided by Foleon and used by the Customer in accordance with this Agreement, infringe a patent, copyright or trademark, and will pay any damages finally awarded and any settlement amounts agreed by Foleon, to the extent the claim results from, and is materially attributable to, the Service(s). 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. Foleon's obligations under this Section 16 (Indemnification) do not apply to the extent a claim arises from: (a) Customer Data, including any code added by or on behalf of the Customer; (b) Third-Party Products, or the combination of the Service(s) with anything not provided by Foleon; (c) modification of the Service(s) by anyone other than Foleon or its subcontractors; (d) the Customer's failure to use an update made available by Foleon that would have avoided the infringement; (e) use in breach of this Agreement; or (f) Trials and Betas. THIS SECTION 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.

16.2. **Indemnification by Customer -** The Customer will defend Foleon against any Third-Party claim, and will pay any damages finally awarded and any settlement amounts agreed by the Customer, to the extent the claim results from, and is materially attributable to, Customer Data, the Customer's use of Third-Party Products or a breach or alleged breach of Section 5 (Customer Obligations).

16.3. **Conditions for Indemnification -** Each Party's defence and indemnification obligations are subject to the indemnifying Party receiving: (i) prompt written notice of the claim, provided that late notice

relieves the indemnifying Party of its obligations only to the extent it is prejudiced by the delay; (ii) the exclusive right to control and direct the investigation, defence, and settlement of the claim; and (iii) all reasonably 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, 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 AND DISCLAIMERS

17.1. **Performance Warranty -** During the Subscription Term, Foleon warrants, for the Customer's benefit only, that 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 or fails to remedy the breach within thirty (30) days of receiving the claim, either Party may terminate the applicable Order Form by notice. Upon termination under this Section 17.1, the Customer will receive a refund of any subscription fees it has pre-paid for the terminated portion of the applicable Subscription Term. This remedy will be the Customer's sole and exclusive remedy (and Foleon's sole liability) for any breaches of the Performance Warranty. The Performance Warranty does not cover and Foleon will not be responsible for: (i) errors in or resulting from Customer Data, 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 Trials and Betas.

17.2. **NO OTHER WARRANTIES** - EXCEPT FOR THE ABOVE PERFORMANCE WARRANTY, ALL FOLEON TECHNOLOGY AND RELATED SERVICES 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. THESE DISCLAIMERS APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT. HOWEVER, ANY STATUTORILY REQUIRED WARRANTIES UNDER APPLICABLE LAW WILL BE LIMITED TO THE SHORTEST PERIOD AND MAXIMUM EXTENT PERMITTED BY LAW.

18. LIMITATIONS OF LIABILITY

18.1. **Excluded Damages -** Neither Party nor its suppliers is liable for any indirect or consequential damages, including but not limited to loss of data, business interruption, lost profits, or reputational harm, even if informed in advance of the possibility of these damages.

18.2. **Liability Cap -** Foleon's aggregate liability arising out of or in connection with this Agreement, whether in contract, tort or otherwise, is limited to the amount paid out under Foleon's insurance in respect of the relevant claim, plus any applicable deductible. If no payment, or only partial payment, is made under that insurance, Foleon's aggregate liability is limited to two (2) times the fees paid or payable by the Customer under this Agreement in the twelve (12) months immediately preceding the event giving rise to the claim. The Customer's aggregate liability is limited to the same amount. These limitations do not apply to the Customer's payment obligations, to either Party's obligations under Section 16, or to liability for fraud, wilful misconduct or gross negligence or any other liability that cannot be limited or excluded under applicable law. Any claim against Foleon must be brought within twelve (12) months after the Customer became aware, or should reasonably have become aware, of the event giving rise to it. Foleon is not liable for damages resulting from hacking or malware if it has complied with its security obligations under the DPA.

19. THIRD-PARTY PRODUCTS AND INTEGRATIONS

19.1. **No Liability for Third Party Products:** Third-Party Products, including any third-party code or scripts and any products designated by Foleon as "powered", "verified" or similar, are governed solely by the terms between the Customer and their provider. The Customer is solely responsible for selecting, enabling and using them. Foleon does not warrant or support Third-Party Products or Third-Party Content, which are outside the scope of the Support Services, and has no liability for them except to the extent caused by Foleon's breach of this Agreement. Where the Service offers an integration with a Third-Party Product, Foleon is responsible only for the integration functionality within the Service, and not for the Third-Party Product itself, its availability, or any changes its provider makes that affect the integration.

19.2. **Customer Data** - Providers of Third-Party Products enabled by the Customer may access Customer Data as needed for those products to work with the Service. Foleon is not responsible for any use, disclosure, modification or deletion of Customer Data once it is accessed by or transmitted to a Third-Party Product, transmitted through code added by or on behalf of the Customer, or otherwise copied or removed from the Service by or at the direction of the Customer.

20. MISCELLANEOUS

20.1. **Notice -** Any notice under this Agreement must be in writing and in English. The Customer must send notices of non-renewal and termination to Foleon by email to notice@foleon.com. A non-renewal or termination notice sent to any other address is valid only if a Foleon employee acknowledges it in writing. All other notices under this Agreement, including notices of breach, warranty and indemnity claims, security or personal data breaches, force majeure and insolvency, must be sent to Foleon by email to legal@foleon.com. Foleon will send notices of non-renewal, termination, suspension or breach by email to the Customer's billing contact and account administrators, and may provide other notices, including operational notices, by email, in the Service or by conspicuous posting on Foleon's website. Foleon is not responsible for any automatic filtering the Customer or its network provider may apply to email notification.

20.2. **Assignment -** This Agreement will bind and inure to the benefit of each Party's permitted successors and assigns. Neither Party may assign this Agreement without the advance written consent of the other Party, except that each Party may assign this Agreement 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 Agreement except as expressly authorized under this Section 20.2 will be void.

20.3. **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 on its website and in other marketing materials, and may feature Foleon Docs that the Customer has made publicly available in its external communications, including social media. Foleon will stop such use upon notice from the Customer. Testimonials, case studies and any other disclosures about the Customer are made only in collaboration with, and with the prior permission of, the Customer.

20.4. **Subcontractors -** Foleon may use subcontractors and permit them to exercise the rights granted to Foleon in order to provide the Service under this Agreement. These subcontractors may include, for example, Foleon's hosting provider. However, subject to all terms and conditions of this Agreement, Foleon will remain responsible for: (i) compliance of its subcontractors with the terms of this Agreement; and (ii) the overall performance of the Service(s) if and as required under this Agreement. The engagement of sub-processors of personal data is governed by the DPA.

20.5. **Independent Contractors -** The Parties to this Agreement are independent contractors. This Agreement 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.

20.6. **Force Majeure -** Neither Party will be liable for any delay or failure to perform its obligations under this Agreement 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, government acts, or cyberattacks that could not have been prevented by reasonable security measures. The affected Party must promptly notify the other Party and use reasonable efforts to mitigate the effects.

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

20.8. **Amendments -** Foleon may modify this Agreement, including the documents listed in Section 2.1 but excluding any Order Form, from time to time by posting the modified version on Foleon's website at https://www.foleon.com/general-conditions or at the relevant link in Section 2.1. Foleon will notify the Customer of the effective date of the updates by email or in the Service. If Foleon does not specify an effective date, the modification takes effect thirty (30) days after it is posted. Modifications required by applicable law may take effect sooner. Foleon may update the Documentation at any time. If Foleon launches new products or optional features that require acceptance of new terms, those terms apply upon the Customer's acceptance or use.

20.9. **No Waiver -** Failure or delay in enforcing any provision of this Agreement will not constitute a waiver.

20.10. **Severability -** If any provision of this Agreement is found by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or replaced by a valid provision that most closely reflects its intent, to the minimum extent necessary so that this Agreement otherwise remains in effect.

20.11. **No Third-Party Rights -** Nothing in this Agreement confers on any Third-Party the right to enforce any provision of this Agreement. Customer acknowledges that each Order Form only permits use by and for the legal entity or entities identified in the Order Form(s) subject to Section 5.4 (Customer Affiliates).

20.12. **Entire Agreement -** This Agreement represents the Parties' complete and exclusive understanding relating to the Agreement'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 Agreement. 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 Agreement 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 Agreement.

20.13. **Governing Law and Dispute Resolution** - This Agreement 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 Agreement, 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 demand, and Customer hereby irrevocably agrees in advance, that the dispute shall be finally settled by arbitration administered by the Nederlands Arbitrage Instituut (NAI) in accordance with the NAI Arbitration Rules then in force, irrespective of the place where this Agreement is performed. The seat of arbitration shall be Amsterdam, the Netherlands. The number of arbitrators shall be one (1). The language of the arbitration shall be English. The arbitral proceedings and award shall be confidential. Notwithstanding the foregoing, either Party may apply to the competent court in Amsterdam for urgent interim relief (kort geding) without this constituting a waiver of the right to arbitration.

21. ORDER OF PRECEDENCE

21.1. The order of precedence is: (i) Order Form(s); (ii) DPA; (iii) the AI Terms, with respect to AI Features; (iv) these Terms of Service; (v) Service Level Agreement; (vi) Acceptable Use Policy; (vii) the Documentation; and (viii) written communication between the Parties.