

*Only the German text is binding. The English translation is for convenience.*

## **Framework agreement for internal data processing within the group**

between

1. Fabasoft AG, FN 98699x, Honauerstraße 4, 4020 Linz;
2. Fabasoft R&D GmbH, FN 190091x, Honauerstraße 4, 4020 Linz;
3. Fabasoft International Services GmbH FN 271303a, Honauerstraße 4, 4020 Linz;
4. Fabasoft Austria GmbH, FN 199728v, Honauerstraße 4, 4020 Linz;
5. Fabasoft Schweiz AG; register number CHE-102.895.828, Spitalgasse 36, 3011 Bern;
6. Fabasoft Deutschland GmbH, trade register no. HRB 52211, THE SQUAIRE 14, Am Flughafen, 60549 Frankfurt am Main;
7. Mindbreeze GmbH, FN 262155y, Honauerstraße 2, 4020 Linz;
8. Mindbreeze Corporation, 311 West Monroe Street, Suite 303, Chicago, IL 60606, United States of America;
9. Xpublisher GmbH, trade register no. HRB 190478, Schleißheimer Straße 6-10, 80333 Munich;
10. Xpublisher Inc., Convene 3rd floor, 311 W Monroe Street, Chicago, IL 60606, United States of America;

(hereinafter also referred to jointly as “contracting parties”, and individually as “controller” or “processor”)

## 1. Preamble

1.1 Together the contracting parties constitute a group of undertakings (hereinafter also referred to as “Fabasoft Group”) pursuant to Art. 4 (19) of the General Data Protection Regulation (EU) 2016/679 (hereinafter also referred to as “GDPR”).

1.2 There are different interfaces and data processing steps within the Fabasoft Group, in which the different individual personal data (hereinafter also referred to as “data”) processing services are carried out among them (hereinafter also referred to collectively as “data processing service”).

1.3 The following regulations reflect the respective roles of the companies of the Fabasoft Group listed above as joint controllers in a transparent manner pursuant to Art. 26 GDPR or as controller and processor pursuant to Art. 28 GDPR as well as the lawful form of this legal relationship, in particular in compliance with the regulations of the GDPR or the respective national data protection regulations (hereinafter referred to jointly as “applicable data protection regulations”).

1.4 Terms that are not explicitly defined in this agreement are subject to the definition provided in the GDPR.

1.5 The contracting parties are aware of the fact that insofar they are joint controllers under data protection law, that the contracting parties determine with this agreement the manner in which each controller participates in determining the purpose and means of the joint processing or the individual steps in a set of operations and which controller shall fulfil the obligations deriving from the GDPR.

1.6 The contracting parties declare that data processing within the group has been undertaken in compliance with this agreement since 25/05/2018, taking into consideration any updates made since then and the respective individual entry into the group of the respective contracting party.

For this reason, the contracting parties agree the following:

## 2. Subject of the agreement

2.1 The contracting parties perform mutual data processing services among themselves, in which personal data (among others from employees, customers, suppliers and other data subjects) are processed. Due to the corporate group structure, there is a legitimate interest in compliance with Art. 6 (1)(f) GDPR to transfer, exchange and manage personal data centrally in the Fabasoft International Services GmbH, FN 271303a, Honauerstraße 4, 4020 Linz for the purposes of internal administration, process optimisation and data minimisation.

Fabasoft AG, FN 98699x, Honauerstraße 4, 4020 Linz, provides hardware for its contractual partners in the form of servers in its rented data centres. Please refer here to the respective latest version of the document “Performance Characteristics Data Centre Operation”.

2.2 The significant influence on the purposes of the processing of personal data, the data and data subjects concerned in such processing (nature, scope, category of the data subjects) and the means used for the processing are laid down in the form of a functional description in the Group Procedure Directory, which is updated and versioned regularly and whose latest version is valid.

Fabasoft International Services GmbH FN 271303a, Honauerstraße 4, 4020 Linz; carries out the regular updating and management of Group Procedure Directory in the GDPR Toolbox, in collaboration with the contracting parties.

The provisions laid down in Point 4 of this agreement apply in such cases in which the data processing services are to be qualified pursuant to Art. 28 GDPR.

2.3 The data processing services undertaken jointly in compliance with Point 2.2 may be supplemented and amended by mutual agreement. These amendments must be incorporated directly in the Group Procedure Directory.

2.4 Notwithstanding the provisions in this agreement, the contracting parties each undertake to observe the applicable data protection regulations with regard to the personal data to be processed or that have been processed. This agreement regulates the roles and in part the distribution of tasks under data protection law in the context of joint controllership (pursuant to Art. 26 GDPR) or in the context of a processor (pursuant to Art. 28 GDPR), but does not release any contracting party from complying with the applicable data protection regulations and the obligations imposed on it under data protection law as an independent controller or processor.

2.5 This agreement is of unlimited duration. The joint controllership of the contracting parties or the processor relationship between them arises with the actual joint processing of personal data or with the processing of personal data by the respective processor on behalf of the respective controller.

This agreement regulates the scope of the respective legal relationship between the contracting parties. The contracting parties shall at regular intervals check that the provisions of this agreement are accurate and up-to-date and shall adapt them where necessary.

Cancellation or withdrawal on the part of a contracting party is not deemed fulfilled until such time as the (last remaining) contracting party no longer actually carries out any joint processing with another contracting party or no longer carries out processing on behalf of another contracting party. The actual withdrawal of a contracting party shall not affect the validity of the agreement, insofar that at least 2 contracting parties still process personal data as joint controllers or one processor processes personal data on the instruction of a controller.

2.6 The contracting parties agree that other companies of the Fabasoft Group may enter this contractual relationship at any time, insofar they process personal data jointly or process personal data on the instruction of another contracting party. In such a case the entry shall be documented in writing by means of a corresponding supplementary agreement.

2.7 All necessary internal administrative activities and administrative tasks within the group and group-wide marketing are described in the latest valid group allocation agreement including all respectively latest appendixes released for the Fabasoft Group by the supervisory board and are carried out by Fabasoft AG or the Fabasoft International Services GmbH.

### 3. Obligations of joint controllers (Art. 26 GDPR)

3.1 Notwithstanding the responsibilities and obligations to which the contracting parties are subjected respectively in compliance with the applicable data protection regulations, the contracting parties shall regulate the distribution of individual obligations with regard to the joint data processing in compliance with Art. 26 GDPR as follows:

3.2 With regard to the data processing services in compliance with Point 2.2 the contracting parties agree to the following distribution of the obligations under data protection law, as laid down in the Group Procedure Directory.

In compliance with Art. 26 (1)(3) GDPR the central point of contact for the data subjects is the group-wide "Privacy Team" set up in Fabasoft International Services GmbH, FN 271303a, Honauerstraße 4, 4020 Linz. This Privacy Team then notifies the primary controller and agrees

all further action. The response to the enquiries of data subjects or any other obligations under data protection law are then effected in a timely manner either directly by the primary controller or by the Privacy Team.

The primary controller is the company that bears direct responsibility for the data subject (e.g. the employer, etc.).

3.3 The distribution of tasks in compliance with Point 3.2 is concerned primarily with the addressing and protection of the rights of the data subjects (from the joint processing) (in compliance with Art. 13 and 14 as well as Art. 15 to 22 GDPR), fulfilment of the notification and communication obligations in compliance with Art. 33 and 34 GDPR. With regard to the fulfilment of the notification obligation in the event of a personal data breach (Art. 33 and 34 GDPR), the contracting parties agree here and now to carry out a joint risk assessment.

3.4 Each contracting party itself is obliged to maintain and update the processing documentation in the record of processing activities in compliance with Art. 30 GDPR. With regard to the data processing services in compliance with Point 2.2, the respective joint controller shall include such documentation in its procedure directory.

The Fabasoft Group has a Group Procedure Directory. There are also separate procedure directories for the individual divisions (e.g. Finance, etc.) as well as for the respective data protection role (such as controller or processor). Both the Group Procedure Directory and the individual procedure directories are updated and versioned regularly.

3.5 The respective contracting party must judge for itself whether a data protection impact assessment in compliance with Art. 35 GDPR is necessary or not and must then agree the decision with the other contracting parties. Should it be deemed necessary to carry out a data protection impact assessment with regard to data processing services in compliance with Point 2.2, then the contracting parties shall jointly agree, carry out and document such a data protection impact assessment.

This procedure shall also apply for any prior consultation requirements in compliance with Art. 36 GDPR.

3.6 Each controller itself is responsible for ensuring adequate or appropriate safeguards for a transfer to a third country or to a recipient outside of the EEA. With regard to the data processing services in compliance with Point 2.2, the contracting parties shall review, agree and document the guarantee of adequate or appropriate safeguards for a transfer to a third country before the transfer takes place. The binding internal data protection regulations, in particular those arising from the requirements of existing certifications and the management

system implemented within the Fabasoft Group, must be observed hereby (hereinafter also referred to as “internal data protection regulations”).

This procedure shall also apply for any monitoring of compliance with codes conduct in compliance with Art. 40 GDPR.

3.7 Each contracting party undertakes to implement and comply with the necessary technical and organisational measures and the applicable requirements for data security (in compliance with Art. 32 GDPR). Each contracting party is obliged to independently and regularly confirm compliance with the adequate and necessary technical and organisational measures as well as with the binding internal data protection regulations with regard to the data processing services in compliance with Point 2.2.

Fabasoft International Service GmbH carries out the regular updating and management of the technical and organisational measures, in collaboration with the contracting parties, the latest version of which is available at <https://www.fabasoft.com/en/products/fabasoft-cloud/support-and-service/contracts-and-information/service-agreement-intl>.

3.8 The contracting parties shall ensure that the employees involved within the scope of the data processing services in compliance with Point 2.2 are bound to data secrecy when taking up their tasks, in accordance with the applicable data protection regulations – even for the time after the termination of their employment relationship – and that they have received instruction on the applicable data protection regulations.

3.9 Insofar processors in compliance with Art. 28 GDPR are used for the data processing services in compliance with Point 2.2, the respective contracting party that commissions the processor shall assure in advance the suitability of the processor and whether said processor provides sufficient guarantees that appropriate technical and organisational measures are carried out in such a way that processing is conducted in compliance with the requirements of the GDPR and that the rights of the data subject are protected. The respective contracting party is also obliged to confirm in advance compliance with internal processes with regard to security-relevant processors.

3.10 The contracting parties confirm in advance that the transfer of data within the scope of the data processing services in compliance with Point 2.2 is conducted lawfully. Each contracting party must ensure the personal data to be processed are accurate and up-to-date before such data are transferred.

3.10.1 Each contracting party is independently responsible for procuring effective declarations of consent, documenting that consent has indeed been given, informing the data subject of the

right of withdrawal of the consent at any time, processing withdrawals and determining age and if necessary procuring the consent of the legal representative.

3.10.2 Each contracting party itself shall independently undertake the legal assessment and obligation of documentation and the justification of a legitimate interest in compliance with Art. 6 (1)(f) GDPR.

3.10.3 Each contracting party must independently ensure that the personal data processed within the scope of the data processing service in compliance with Point 2.2 are erased on expiry of the period of storage.

3.11 Should a data subject request information from a contracting party about the essential regulations on which this agreement is based, then this contracting party is obliged to inform the data subject of the joint controllership in compliance with Art. 26 GDPR and to inform the other contracting parties of the request. Under observation of the group-wide implemented processes, the respective contracting party shall provide the necessary information in a timely manner and document the entire procedure. The same shall apply in the event of any review by the supervisory authority.

3.12 On termination of the data processing services, the joint controller contracting parties shall each return or delete the personal data received, unless there are any legal provisions to the contrary.

3.13 Notwithstanding the distribution of tasks in compliance with Point 3.2, the Fabasoft Privacy Team established in Fabasoft International Services GmbH, FN 271303a, Honauerstraße 4, 4020 Linz shall, in compliance with Art. 26 (1)(3) GDPR, be designated the central point of contact.

3.14 In the event of an infringement of the provisions of this agreement and/or of applicable data protection regulations, Fabasoft International Services GmbH undertakes to assume the liability for claims of a data subject. The data subjects therefore have a place of jurisdiction available to them for the assertion of their rights within the EU in the event of a breach of the provisions of this agreement and/or of applicable data protection regulations, whether due to a company of the Fabasoft Group which has its headquarters outside of the EU or by a company of the Fabasoft Group which has its headquarters within the EU. In the event that an infringement of the provisions of this agreement and/or of applicable data protection regulations is due to a company of the Fabasoft Group which has its headquarters outside of the EU, the Fabasoft International Services GmbH is obliged to prove that the breach/infringement was not due to a company of the Fabasoft Group outside of the EU.

In general, the contracting parties hereby undertake to mutually indemnify and hold each other harmless in the event of and/or in connection with infringements of this agreement and/or of applicable data protection regulations, whereby the company of the Fabasoft Group responsible for the breach shall indemnify Fabasoft International Services GmbH.

## 4. Processing carried out as a processor/ Rights and obligations of the contracting parties (Art 28 GDPR)

4.1 Those data processing services not carried out in joint determination of the purposes and means of the processing of personal data, but instead carried out by the processor under the instructions and on behalf of a controller are laid down in the form of a functional description in the Group Procedure Directory.

This exemplification and description in the Group Procedure Directory also constitutes the scope, nature and purposes of the processing as well as the personal data concerned and the data subjects.

4.2 The data processing services carried out on behalf of a controller in compliance with point 4.1 may be supplemented and amended by mutual agreement. These amendments must be incorporated directly in the Group Procedure Directory.

4.3 The internal data processing services of the respective processor are carried out on the instructions and on behalf of the respective controller. These data processing services are carried out solely in compliance with the provisions and conditions of the attached agreement on processing data as a processor, which constitute an integral part of this agreement, the latest version of which is available at <https://www.fabasoft.com/en/products/fabasoft-cloud/data-processing-agreement>.

## 5. Data transfer/ Export of data to third countries

5.1 A transfer or export of data to countries outside of the EU or the EEA only takes place if there is an adequate level of protection in the third country, there are appropriate safeguards or if this is necessary for the execution of the data processing service or is agreed with the data subject.

5.2 Those companies of the Fabasoft Group which have their headquarters outside of the EU or EEA undertake, having regard to Point 3.14 of this agreement, to conclude with their respective contractual partners the currently valid EU standard contractual clauses that are



applicable to the specific case before transferring or exporting personal data and where necessary to agree further appropriate safeguards.

## 6. General

6.1 Each contracting party shall receive one copy of this agreement.

6.2 Should the data of a contracting party no longer be secure or be at risk due to its becoming the subject of an attachment, seizure or confiscation or due to bankruptcy or insolvency proceedings or other occurrences or actions by third parties, said contracting party is obliged to notify the other contractual parties immediately and inform all those who approach it in this connection of the fact of the joint controllership in compliance with Art. 26 GDPR or the processing of data as a processor in compliance with Art. 28 GDPR.

6.3 Amendments and/or supplements to this agreement require the written form. This also applies to the amendment, supplement or rescindment of this requirement for the written form. No ancillary verbal arrangements have been made to this agreement. For purposes of clarification it is pointed out that the updating of appendixes referred to in this agreement fulfil the written form requirement.

6.4 The competent court with material jurisdiction for 4020 Linz/Upper Austria is agreed as the exclusive place of jurisdiction for all disputes arising and/or in connection with this agreement, including disputes concerning its conclusion, lawfulness, amendment and termination.

6.5 Should a provision of this agreement be or become invalid or unfeasible, this shall in no way affect the validity of the remaining provisions. The contracting parties undertake to replace the invalid provision with a new valid provision that comes as close as possible to the intent and purpose of the invalid provision. The same shall apply to any gaps in this agreement.

6.6 The following appendixes constitute an integral part of this agreement:

6.6.1 Agreement on processing data as a processor;

6.6.2 EU standard contractual clauses in the context controller and controller;

6.6.3 EU standard contractual clauses in the context controller and processor.

The contractual parties reserve the right to amend this agreement and the appendixes referred to in the agreement.