



**END-USER TERMS AND CONDITIONS OF USE**  
(Applicable as of September 30th 2020)

**Welcome to KLAXOON!**

The KLAXOON Company and/or its U.S affiliate KLAXOON Inc. (collectively hereinafter "**KLAXOON**") publishes, markets and operates the KLAXOON software solution (the "**Software**") which is used to organize seminars, meetings and/or interactive training sessions in local network or Software As A Service mode (the "**Services**") between persons using the Software and/or the Services (the "**User(s)**") equipped with a compatible terminal (*smartphone, tablet, computers equipped with IOS, Android or Windows operating systems*) (the "**Terminal**").

The User has access to the Services via private or public use of the Software ("**KLAXOON Use**"), implemented by the User under the User License (as defined hereafter) and/or by any other User and/or third-party holder of a valid KLAXOON license (e.g. a business, school, local authority, etc.) (the "**Third Party License**").

**Article 1. Purpose**

These Terms and Conditions define the terms of access and use of KLAXOON by the Users during a KLAXOON Use(s) for their personal use under the User License or under a Third-Party License (the "**Agreement**").

KLAXOON and the User shall be hereinafter designated as the "**Parties**".

The provisions of these Terms and Conditions of Use shall also govern all updates and/or upgrades provided by KLAXOON, which might replace and/or add to the Software version currently in use when these Terms and Conditions come into force, unless such updates and/or upgrades are subject to a separate licensing agreement. The foregoing also applies to any additional User Generated Content (as defined hereafter).

**Notice to Users**

The Users of a KLAXOON Use administered by a Third Party User Licence holder (the "**Administrator**"), shall be solely responsible for complying with any current rules, house rules, company internal guidelines, codes of conduct or IT charter which may be in force under the Administrator's authority or on the premises where the KLAXOON Use is taking place, and shall be entirely liable for any damages whatsoever caused to the Administrator, to any User or any Third Party by virtue of their use of the Services under a KLAXOON Use administered by a Third Party Licence.

When the Users are Administrator's personnel (*e.g. employees, representatives, agents, etc.*), the Administrator shall monitor the KLAXOON use and shall ensure that such Users comply with any applicable internal rules (*e.g. code of conduct, IT or*

ethical charter, rules in procedure) in force within the legal entity that employs such Users and Administrator.

The User or the Administrator (when the User is part of the Administrator's personnel) is solely responsible for the choice of Services, the means used to access the Software, either by rental of a KLAXOON BOX (the "**KLAXOON BOX**") from KLAXOON or in Software As A Service mode (the "**KLAXOON Cloud**"), for the content, files, information and data transmitted, disseminated or collected, and for the way these data items are used and updated when using the Software.

User access to the Services is currently free, subject to the future integration of new modules and/or features.

**Article 2. Acceptance of the Terms and Conditions of Use and Software access**

Use of the Software and/or Services is subject to the User's prior unconditional acceptance of these Terms and Conditions of Use.

The User hereby declares that he/she has read and accepts the Terms and Conditions of Use before using the Services for the first time.

Whatever the circumstances, any use of the Software and/or part or all of the Services, implies the User's unconditional express acceptance of the Terms and Conditions of Use.

The User hereby accepts these Terms and Conditions of Use as an indivisible whole and may not chose to apply them only in part or accept them with reservations.

Subject to access via a valid Third-Party license, Users may use their User Account

to access a KLAXOON Use via any other user.

**Consumer User** – Pursuant to Article L.121-21-8 of the Consumer Code and due to the nature of the Services, the User expressly waives the 14-day retraction period.

Access to the Software and/or the Services by legal minors is subject to prior authorization of the minor's holders of parental authority, who shall be responsible for the User's compliance with these Terms and Conditions of Use.

**Article 3. Conditions of Use - Software**

When using the Software for the first time, the User shall create a personal KLAXOON account which enables him/her (i) to access his/her "Profile", (ii) to connect to the KLAXOON BOX or KLAXOON Cloud from any Terminal in order to create or join a KLAXOON Use (the "**User Account**").

Entering false, inaccurate, illegitimate, out-of-date or incomplete information or a User name containing abusive, defamatory, violent, or obscene words, or more generally contrary to public order and morality, may lead to the suspension or deactivation of the User Account by KLAXOON.

The User hereby undertakes to keep his/her identifiers and passwords strictly confidential and not to disclose them to any third party, to avoid intrusion or fraudulent User Account use. KLAXOON shall not be liable for any third-party use of a User Account through unauthorized access to the User's identifiers and passwords, by whatever means.

The User hereby undertakes not to create or to use accounts other than the account which was originally created, whether by using his/her own identity or that of a third

party, unless with KLAXOON's express prior authorization. Creating or using new accounts under the User's own identity or under a third-party identity, without KLAXOON's express prior authorization, may lead to the immediate suspension or deactivation of the User's accounts.

After using KLAXOON for the first time, the User will receive an email confirming the creation of the User-Account including the Terms and Conditions of Use.

The User Account is strictly personal and gives the User access to the Services in the course of any KLAXOON Use organized by any User holding a User License or valid Third-Party License.

**Article 4. Conditions of Use - Services**

The User hereby undertakes to access and use the Software and/or the Services in compliance with the provisions of these Terms and Conditions of Use, and according to any applicable statutory and regulatory provisions.

The User hereby undertakes not to access the Services by any means other than that provided by KLAXOON, except with KLAXOON's express prior authorization contained in a separate agreement.

The User hereby acknowledges that the Software may only be accessed and used as part of a KLAXOON Use for its professional means (internal organization, customer relationship and for any event carried out on its behalf). The User prohibits himself to resale (i) the Software; (ii) products or services based on the Software or incorporating all or part of the latter (with the exception of services provided by KLAXOON Partner duly certified or authorized for this purpose by KLAXOON);

**Article 5. Intellectual Property**

KLAXOON shall retain the entirety of its intellectual property rights, including all trademarks, patents, utility models, discoveries, know-how, copyright, software applications, their documentation and preparatory work, data bases, data base producer's rights, drawings and models, company names, trade names, business names and/or domain names including any moral rights related to the foregoing (the "Intellectual Property Rights") pertaining to the Software, its interface, its documentation, the KLAXOON BOX, the Meeting Board the KLAXOON Cloud and any right of intellectual property attached to any future KLAXOON equipment.

The Terms and Conditions of Use imply no transfer of Intellectual Property Rights to the User.

KLAXOON grants to the User a personal, non-exclusive, non-transferable, non-sub-licensable rights to (i) access the Services during a KLAXOON Use under one User License, via the KLAXOON BOX or KLAXOON Cloud, accessed via the User's Terminal and (ii) use the Software via one User Account at any time anywhere in the world (the "User License"), subject to the User's full payment of the applicable KLAXOON sale offer, as the case may be.

By way of consequence, the User may not copy, disclose, disseminate, represent, adapt, translate, modify, decompile, sell, or sub-license any or all of KLAXOON's Intellectual Property Rights, whatever the purpose, medium, duration, territory or means of communication involved, without KLAXOON's express prior written consent.

**Article 6. User-Generated Content**

The User may use the Software and/or Services to generate, host and transfer content, including without limitation any creative work, text, diagram, logo, graphic design, photographic image, illustration and/or animated picture which can be viewed by other users during a KLAXOON Use and enabling (if applicable) identification of the User (the "User Generated Content").

The User hereby declares that he/she holds the Intellectual Property Rights pertaining to the User Generated Content and/or holds all the rights and authorizations required to allow the User Generated Content to be used; copied, represented and disseminated via the Software and/or Services within the territory in which the KLAXOON Use is implemented.

The User owns its Generated Content and acknowledges he/she has full liability for the User Generated Content and more generally for any data that he/she has created, modified, deleted, hosted or transferred via the Software and/or the Services.

The User hereby undertakes not to upload, download, host, display or transmit via the Software and/or the Services any User Generated Content liable to contain (i) any virus, Trojan horse and/or malware or spyware and/or (ii) any material which constitutes or encourages conduct that could be considered a criminal offence, give rise to civil liability, or otherwise be contrary

to the law and/or contain any material which is defamatory, obscene or offensive.

**Third Party User Content:** The User is advised that he may view and use Third Party User Content created and made available by other Users via the KLAXOON Service (the "Third Party User Content").

The User acknowledges that use of Third Party User Content is subject to:

- the stipulations of these Terms and Conditions of Use;
- the respect of the Intellectual Property Rights owned by the Third Party User; and
- the provisions of the applicable legislation.

As a result, the User undertakes to:

- use the Third Party User Content only for personal, non-commercial purposes (i.e., not to market products or services derived from, reproducing or including the Third Party User Content);
- be solely responsible for the consequences resulting from the consultation, the sharing or the use of Third Party User Content;
- obtain the prior authorization of the Third Party User Content's owner before any use likely to infringe Intellectual Property Rights and/or affect the possibly confidential nature of the Third Party User Content (i.e.: removal of any copyright or proprietary notices, modification, translation, creation of a derivative work, reproduction and distribution, etc.) unless required by law.

By providing the Services, KLAXOON is acting as:

For Users in the US	An online service provider as defined in the U.S. Copyright Act
For other Users	web hosting service provider pursuant to article 6-1-2 of French Law n°2004-575 of 21 June 2004 about trust in the digital economy

And, as such, KLAXOON:

- merely provides Users with a storage space for User Generated Content which is to be communicated to participants in a KLAXOON Use;
- carries out no preview and has no knowledge of the User Generated Content; and
- exercises no editorial control over any User Generated Content before it is uploaded, hosted and/or transferred via the Software.

- has no control over the unauthorized use of Third Party User Content by another User.

In case of violation of the Software rules by the User, KLAXOON reserves the right to delete all or part of the disputed User Generated Content. To the maximum extent permitted by applicable law, KLAXOON cannot be held liable for any failure or delay in deleting such User Generated Content.

Notwithstanding, the provisions of **Article 10**, the User hereby grants to KLAXOON and/or to any company which controls, is controlled by, or is under common control with KLAXOON (the “**Affiliates**”), a royalty-free, non-exclusive, nontransferable, and sub-licensable license, to:

- for the sole purpose of implementing the User’s KLAXOON Uses, make, have made, use, import, export, supply, distribute, perform, provide, transmit, copy, adapt, translate, represent, display the User Generated Content on any known or as yet unknown medium (including but not limited to paper, optical, analogical or digital media, web sites, *etc.*); and/or
- anonymously use, adapt, translate the User Generated Content on any known or yet unknown medium (including but not limited to paper, optical, analogical or digital media, web sites, *etc.*) for the purpose of displaying, distributing, and promoting the Software and the Services worldwide, and as long as such use inures to the benefit of User and does not result in the assignment or transfer of the Intellectual Property Rights in or to the User Generated Content to any third party.

#### **Article 7. DMCA Policy – Users in the US only**

KLAXOON respects the intellectual property rights of others and requires that its Users do the same. As such, KLAXOON complies with the Digital Millennium Copyright Act (“**DMCA**”).

If the User believes that any third-party content associated with the Services infringes User’s copyrights, User should notify KLAXOON of such claim in accordance with the following procedures. KLAXOON will process notices of alleged infringement in accordance with the DMCA and other applicable copyright laws. The DMCA requires that notification of claimed infringement be in writing and provided to KLAXOON’s designated agent of service: [legal@klaxoon.com](mailto:legal@klaxoon.com)

To be effective, the notice of infringement must contain the following information: (1) the physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (2) identification of the copyrighted work(s) claimed to have been infringed; (3) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit KLAXOON to locate the material; (4) information reasonably sufficient to permit KLAXOON to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted; (5) a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (6) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

#### **Article 8. Personal Data**

##### **8.1 KLAXOON’s processing of personal data**

**Categories:** When performing the Services, KLAXOON, acting as data controller, collects and processes information concerning the Users and/or belonging to the Users, and/or personal data allowing, directly or indirectly, their identification (“**Personal Data**”). With regard to KLAXOON’s processing activities, KLAXOON’s Privacy Policy is available <https://klaxoon.com/privacy>.

Personal Data required by KLAXOON with regard to the Purposes (as defined below) are as follows: User’s name, surname phone number and email address.

The User is informed that he may choose the pseudonym of its choice and upload an avatar picture to represent him/herself during a KLAXOON Use.

In the event where the User chooses a photograph enabling identification of the User, the User:

- undertakes to choose a photograph where the User appears alone or to obtain the prior consent of any other identifiable person on such photograph;
- grants KLAXOON the worldwide, non-transferable, non-exclusive rights to use, reproduce and display the User’s

photograph for the duration of the Services, for the purposes of providing the Services during a KLAXOON Use.

**Purposes:** The Parties declare and acknowledge that Personal Data collected for creation of the User Account and access or use of the Services are necessary for the provision of the Services, the processing of Users’ inquiries and the performance of this Agreement.

Thus, KLAXOON commits to only use Personal Data for the following purposes (“**Purposes**”):

- to create, manage and administer the User Accounts;
- to host the User Generated Content;
- to identify the Users and to enable KLAXOON Use organizers to interact with their Users during the implementation of a KLAXOON Use;
- to ensure secure access to the User Generated Content;
- to inform Users of any changes to Software functionalities or to the Terms and Conditions of Use;
- to enable performance of the Services available via KLAXOON Cloud;
- to carry out statistical analyses of the Users’ Software use in order to improve Service access and use;
- to respond to User questions;
- to send Users a newsletter or information on KLAXOON products and their features.

**Data retention:** KLAXOON shall store Personal Data as long as the User Account is active. From the date of the User Account deactivation, KLAXOON may retain Personal Data for the necessary duration to comply with any legal or regulatory requirements (including but not limited to purposes of proof) which may compel KLAXOON to (i) retain Personal Data or to (ii) respond to any requirements from competent authority (supervisory authority, law enforcement agencies, *etc.*). If need be, KLAXOON may retain Personal Data in an anonymized form.

**Compliance:** The automatic collection and processing of Personal Data by KLAXOON has been duly declared with the French data protection authority (CNIL), pursuant to the provisions of French law 78-17 of 6 January 1978 on “Information technology, data files and civil liberties” (the “Information technology and Civil Liberties Law”) and Personal Data are processed by KLAXOON in compliance with the provisions of Regulation EU n°2016/679 “**GDPR**” of 27 April 2016 (the Information technology and Civil Liberties Law and the GDPR are

collectively referred to as “Data Protection Legislation”).

**Security:** KLAXOON attaches the utmost importance to User Personal Data confidentiality and has implemented organizational and technical measures intended to ensure the Personal Data security. However, since Internet is not a fully secured network, KLAXOON cannot warrant complete security of electronic transmissions through the Internet and integrity of Personal Data.

**Recipients:** Personal Data is provided by the User for KLAXOON’s exclusive use and/or by any company controlled by KLAXOON, controlling KLAXOON or under common control. The User chooses to whether or not share its Personal Data with the other users of the same KLAXOON Use.

The User is informed that Personal Data relating to the creation of the User Account (last name, first name, telephone number and e-mail address of the User) may be communicated to the Administrator for:

- administrative, accounting or financial management of subscriptions to the Software;
- deployment of the Software within the structure of the holder of a Third Party License;
- the creation of KLAXOON Uses.

The User hereby acknowledges and expressly accepts that all or part of the usage data and content generated by the User (e.g. comments, quiz results, etc.) will be forwarded to the KLAXOON Use organizer in order to (i) ensure the perfect performance of the said KLAXOON Use and (ii) to ensure interaction between the Users.

The User is informed that all or part of Personal Data processing relating to the Services may be carried out by sub-processors which undertake to perform such processing activities in accordance with the provisions of the Data Protection Legislation and ensure an appropriate level of security.

**Transfer:** In the event where KLAXOON transfers Personal Data to a country for which the European Commission has not provided an adequacy decision, KLAXOON shall provide appropriate safeguards in order to ensure the ongoing confidentiality and integrity of Personal Data in accordance with article 46 of the GDPR. KLAXOON undertakes to only select data processors which provide appropriate safeguards with regard to the security,

integrity and confidentiality of Personal Data.

**Users’ Rights:** in accordance with the provisions of the Data Protection Legislation (in particular articles 15 to 22 of the GDPR), the User, at any time, has the right to request from KLAXOON deactivation of the User Account, access to and rectification or erasure of Personal Data or restriction of processing concerning the User or to object to processing (including newsletters or direct marketing from KLAXOON or its partners) as well as the right to data portability. The User may exercise its rights by clicking on the unsubscribe link contained in such notification emails or by notifying KLAXOON of his/her intention by email [legal@klaxoon.com](mailto:legal@klaxoon.com) and/or by letter sent to the following address: KLAXOON, 3 Avenue de Belle Fontaine – 35510 CESSON SEVIGNE (FRANCE). The User may lodge a complaint with the French supervisory authority: *Commission Nationale de l’Informatique et des Libertés* - 3 Place de Fontenoy - TSA 80715 - 75334 PARIS CEDEX 07.

To maintain the ongoing security and confidentiality of Personal Data, KLAXOON reserves the right to request from the User the provision of additional information necessary to confirm the User’s identity, prior to the exercise of the above-mentioned rights (such information shall be erased within thirty (30) days from reception by KLAXOON).

In the event of unfounded or excessive User’s requests (in particular because of their repetitive character), KLAXOON reserves the right to charge a fee or to refuse to act on request, when such requests are subsequent to a prior request relating to the same subject matter which was duly processed by KLAXOON.

KLAXOON has appointed a Data Protection Officer: [legal@klaxoon.com](mailto:legal@klaxoon.com)

**8.2. Personal Data processed by the Users**

The Administrator or the User may collect and process Personal Data of other users taking part in a KLAXOON Use administered by the Administrator or the User.

In this respect, regardless the location of the KLAXOON Use, the Administrator or the User:

- acts as data controller for the processing of Personal Data provided by Users taking part in the KLAXOON Use administered by such User, since

- such Administrator or User determines the purposes and means of such processing of Personal Data;
- chooses on its own the categories of Personal Data that it may share during a KLAXOON Use;
- undertakes to inform the data subjects and obtain their consent prior to the share of such data subjects’ Personal Data.

Users in the US:	<ul style="list-style-type: none"> <li>- shall implement protective measures for the Personal Data that it collects that are no less stringent than those set forth in these Terms and Conditions and KLAXOON'S then-current Privacy Policy; and</li> <li>- hereby undertakes to allow participating users to exercise their right to access, rectify, and erase their Personal Data and their right to restriction of processing concerning the User or to object to processing, pursuant to KLAXOON's then-current Privacy Policy; and</li> <li>- retains full liability for any administrative measures that the User may be required to undertake under applicable laws.</li> </ul>
Other Users	<ul style="list-style-type: none"> <li>- hereby undertakes to allow participating users to exercise their right to access, rectify and erase their Personal Data, and their right to restriction of processing concerning the User or to object to processing pursuant to</li> </ul>

	<p>articles 15 to 22 of the GDPR; and retains full liability for any administrative, technical or organizational measures that the User may be required to undertake or implement under the Data Protection Legislation</p>
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**Article 9. Cookies**

The User is hereby informed that cookies may be installed on his/her Terminal to improve access to and use of the Software and Services.

A *cookie* is a non-executable text file installed on the User's Terminal when using the Software.

The User is hereby notified and acknowledges that installing the *cookies* allows KLAXOON to offer the User personalized content (e.g. history of the User's connections and use of the Services).

The list of cookies and their purposes are set forth in KLAXOON Privacy Policy at <https://klaxoon.com/privacy>.

The User may at any time withdraw his/her consent for the installation of *cookies* by notifying KLAXOON of his/her intention by email addressed to [help@klaxoon.com](mailto:help@klaxoon.com) or by configuring the Terminal settings.

The User hereby declares and acknowledges that refusal to install the *cookies* or deletion of the cookies may negatively impact the quality of access to or provision of the Services.

**Article 10. Confidentiality**

The Parties hereby undertake to maintain the confidentiality of confidential information of any kind that may be exchanged, collected or generated during use of the Software and the provision of the Services, for the entire duration of the User License and for a period of five (5) years starting from the end of the User License, whatever the circumstances. To this end, the Parties shall refrain from communicating any of this information on any grounds whatsoever, in any form whatsoever and for any purpose whatsoever (except for the Administrator's in-house use) and shall undertake to ensure

that all its directors, employees, agents and subcontractors, as the case may be, shall comply with this obligation.

Users accessing the Software through a KLAXOON Use subjected to a Third-Party License undertake to comply with any applicable internal rules pertaining to confidentiality which may be notified to them by the Administrator.

The Parties shall not be bound under the terms of this Article with regard to confidential information for which the receiving Party can prove:

- that the information was disclosed after prior written authorization from the other Party or that the disclosure was made by the said other Party;
- that this information was in the public domain when it was passed on by the other Party, or that it entered the public domain after being communicated without the receiving Party committing any fault;
- that this information was received lawfully from a third party not subject to any confidentiality obligation;
- that on the date on which this information was communicated by the other Party, it already possessed this information;
- that the disclosure of the information was ordered pursuant to a mandatory legal or regulatory provision, or to a definitive legal decision rendered by a court with relevant jurisdiction. The Party which is subject to a disclosure obligation of this kind must, as soon as possible, notify the other Party in advance of any disclosure in order to allow the other Party to take any protective measures against any disclosure, and, where applicable, request the implementation of all the measures or procedures necessary to protect the confidentiality applicable in this instance.

The aforementioned exceptions are not cumulative.

**Article 11. Warranty**

To the extent permitted by law, the Software is provided "as is", which the User hereby acknowledges and accepts.

Due to the very nature of the Internet and of mobile telephone networks, KLAXOON offers no warranty that the User will enjoy permanent and uninterrupted access to the Services and/or to KLAXOON Cloud at all times. In that respect, KLAXOON hereby undertakes to make every effort to provide

the User with the following level of service: 24/7 availability (98% of the time).

KLAXOON offers no warranty that the Software and/or the Services are exempt from faults, errors or bugs and that they will operate without interruption. Users are therefore reminded that they must take all necessary precautions (including regular back-ups) to minimize any damage that may be caused by possible service interruptions or loss of data due to Software use.

The User shall make sure they have access to a Terminal which is compatible with the technical specifications listed in the KLAXOON BOX and Meeting Board documentation or on the KLAXOON Cloud, and is equipped with an updated operating system.

KLAXOON offers no warranty that the Software and/or the Services will operate correctly on a non-compatible Terminal, which the User hereby expressly acknowledges.

KLAXOON offers no warranty as regards the veracity, currency or comprehensiveness of the User Generated Content and/or of any data or information stored, hosted, displayed, disseminated and transmitted in the course of a KLAXOON Use.

**Article 12. Liability**

Subject to any additional limitation of liability provisions hereunder, KLAXOON shall be liable only for direct, foreseeable damage caused by KLAXOON's failure to perform their obligations hereunder.

The User hereby undertakes to hold KLAXOON harmless, at KLAXOON's first request, against any third-party claims for damages that may be entered or any legal action that may be undertaken against KLAXOON, even if the case is still pending, by reason of the User Generated Content produced by the User or any information hosted, displayed or disseminated by the User via the Services or following use of the Services in breach of these Terms and Conditions of Use.

**Article 13. Liability Limitations and Disclaimers**

**13.1. General provisions:**

KLAXOON shall not be held liable for the following:

- the nature, content and quality of the User Generated Content;
- difficulties in accessing the Software and/or the Services due to a breach of some or all of the User's obligations hereunder and/or of the User License, and/or use of a non-compatible Terminal by the User;
- any difficulties in accessing the Services due to a technical maintenance intervention required to ensure full Service operation and/or a data update, or Software update or upgrade;
- any malfunction, slow operation, or interruption of access, or impossible and/or poor quality access to the Services (i) due to the intrinsic nature of the Internet, the telephone networks and wireless networks and/or (ii) digital communication network failure and/or overload (whether by Internet, intranet, or wireless network) caused in particular by the configuration, architecture and/or location of the places where the KLAXOON Use is being implemented and which are beyond KLAXOON's control;
- virus contamination of the User's data and/or Software, when the User is responsible for virus protection;
- any loss of data and damage to the Terminals due to data downloads carried out by the User by choice and under the User's full responsibility;
- third party intrusions designed to cause willful damage to the User Generated Content on the KLAXOON Cloud, despite the security measures implemented by KLAXOON;
- User misuse of the Software and/or the Services;
- any damage to the User's Terminals, which are under the User's full responsibility;
- any password or confidential code theft and more generally the theft of any information of a sensitive nature for the User, for which the User accepts full responsibility;
- any damage to or deterioration of access to and/or use of the Services due to the User's refusal to allow or removal of the cookies;
- any damage resulting from the use of a third-party software associated to the Service (e.g., videoconferencing tools), the use of such third-party software being governed by the terms and conditions of use of such third-party software.
- indirect incidental, special, indirect or consequential damage, i.e. not directly and exclusively caused by part or total failure of the Software and/or of the Services;

- if the User fails to comply with any internal rules of any kind in force within the premise where the KLAXOON Use takes place.

Under these Terms and Conditions of Use, KLAXOON is only contractually bound to perform the Services on a commercially reasonable "best effort basis", which the User acknowledges and hereby expressly accepts.

### 13.2. User Generated Content

KLAXOON may not be held liable as publisher of the User Generated Content and of any data and information displayed, stored, disseminated and/or transmitted in the course of a KLAXOON Use, and which are beyond KLAXOON's control.

The User therefore accepts full responsibility in civil and criminal law, for the User Generated Content and more generally for its use under the Services by the User, other users or by any third party attending a KLAXOON Use session.

### 13.3. Limitation of Liability

Whatever the circumstances, it is hereby expressly agreed by the Parties that, subject to the applicable laws, the total amount of any compensation, damages and costs of any kind and for whatever cause, which may be incurred by KLAXOON on the User's account, or paid by KLAXOON to the User hereunder, subsequent to a definitive decision rendered by a court with competent jurisdiction, cannot exceed a maximum amount (excluding VAT) for all disputes combined, equal to the highest of the two (2) following amounts: (i) any sums (excluding VAT) paid by the User to KLAXOON for the User License during the twelve (12) months prior to the event having caused the dispute, or (ii) fifty (50) Euros.

Any legal proceedings, disputes or demands of any kind undertaken or introduced by the User with regard to KLAXOON, relating to access to and/or use of the Software shall be initiated no later than one (1) year after the occurrence of the event which prompted the proceeding, dispute or demand; failing which any action shall be voided notwithstanding any applicable statutory limitations.

### Article 14. Force majeure

<b>For Users in the US</b>	The failure of a Party hereunder to perform any obligations, due to governmental action, law or regulation, or due to events,
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	such as war, act of public enemy, strikes or other labor disputes, fire, flood, acts of God, or any similar cause beyond the reasonable control of such Party, is excused for as long as said cause constitutes to exist. The Party prevented from performing shall promptly notify the other Parties of such non-performance and its expected duration, and shall use all reasonable efforts to overcome the cause thereof as soon as practicable.
<b>For other Users</b>	In cases of force majeure, pursuant to article 1218 of the French Civil Code, the obligations of the Parties hereunder shall be suspended for the entire duration of the force majeure event and shall resume when the latter ceases.

No recourse is possible for failure to access the Software and/or non-performance of the Services attributable to a force majeure event. If such an event should prevent KLAXOON from fulfilling its commitments, KLAXOON undertakes to promptly inform the User.

KLAXOON and/or the User may terminate their agreement if the force majeure event persist for more than sixty (60) days starting from the notification to the other Party of a force majeure event, with neither Party being entitled to make any claim for damages.

### Article 15. Termination

The User may cease to use the Software and/or the Services at any time.

The User shall be responsible for notifying KLAXOON of his/her intention to terminate the Agreement, by email sent to [help@klaxoon.com](mailto:help@klaxoon.com). KLAXOON will then send an email confirming the termination.

The Parties expressly agree that the Terms and Conditions of Use may be immediately terminated by KLAXOON and the User Account closed as of right, without the sending of formal notice and without prejudice to KLAXOON's exercise of any other rights and remedies:

- if the User has failed to meet any of his/her obligations hereunder;

- if the User has infringed the provisions of **Article 5 on “Intellectual Property”**;
- if the User has made use of the Software and/or the Services in violation of these Terms and Conditions of Use and/or of the User License;
- in the event of termination of the User License;
- if the User has made use of the Software and/or of the Services in violation of the law or of the applicable regulations.

**Articles 5 (Intellectual Property), 8 (Personal Data), 10 (Confidentiality), 11 (Warranty), 12 (Responsibility), 13 (Limitations and disclaimers)** shall continue to apply as from the date of cancellation or termination of the Terms and Conditions of User, for whatsoever reason.

Within three (3) working days of the User receiving notification of the User License termination, for whatever cause, sent by KLAXOON by email to the address recorded in the User Account, the said User Account will be cancelled, and access to the Services will be interrupted. The User shall be responsible for implementing all back-ups of data in the User Generated Content in the period between the notification of termination of the User Account and the termination date, as the User Generated Content will be permanently deleted as from the termination date.

**Article 16. Reversibility**

**16.1. Professional User**

Subject to the User’s express written request notified by registered letter with acknowledgment of receipt thirty (30) days from the end of the Agreement, for whatever cause and subject to the feasibility of such request, KLAXOON shall, according to the User’s choice, either destroy or return the User data and User Generated Content provided to KLAXOON for the performance of the Services, within thirty (30) days from the sending of the User’s written notification.

This procedure is subject to the prior acceptance of KLAXOON quote by the User.

Upon the termination of the User License and the deactivation of the User Account, KLAXOON will proceed, accordingly with the nature of the Data and the technical complexity related thereto, to the deletion and/or anonymization of all the Personal Data of the User Account.

The data will be returned by digital file transfer or on digital media in a standard “flat” file format.

KLAXOON may draw up an estimate in the case of additional costs generated by the User’s special requests related to data and User Generated Content transferability (e.g. conversion to a complex digital format, etc.). Whatever the circumstances, the reversibility procedure implemented by KLAXOON hereunder does not include User support in the case of a transfer of the User’s data to a third-party service provider.

**16.2 Consumer User**

The User may recover free of charge the User Generated Content, any data that the User has communicated to KLAXOON under the Agreement and any data associated with the User’s User Account, by notifying KLAXOON of their intention by registered letter with acknowledgement of receipt.

These data will be returned as they were at the time of communication to KLAXOON by the User.

The data will be returned by digital file transfer or on digital media in a standard “flat” file format within thirty (30) days of the written notification by the User.

If no written request has been received by KLAXOON within thirty (30) days of the termination of the Agreement according to the provisions agreed above, the User hereby declares and acknowledges that KLAXOON shall proceed to anonymize the data communicated by the User under the Services.

**Article 17. Changes to the Services and Terms and Conditions of Use**

KLAXOON wishes to draw the User’s attention to the fact that KLAXOON’s technology and the type of Services available are subject to change. The User is therefore hereby informed that KLAXOON may implement any Software and Service changes, particularly with regard to certain functionalities, required by evolving technologies, without any loss of quality or changes to fundamental Service characteristics for the User.

KLAXOON therefore reserves the right to modify these Terms and Conditions of Use in line with the changes implemented in the Software and/or the Services.

Any changes to the Terms and Conditions of Use related to the Software and/or the Service specifications shall be sent to the User (i) by email with a link to the modified Terms and Conditions of Use in a PDF or similar compatible format (ii) as a pop-up display on the Terminal screen when the Software is launched, making Software use subject to User acceptance of the modified Terms and Conditions of Use.

Using the Software and/or the Services after notification of the modified Terms and Conditions of Use shall imply unreserved acceptance of the said changes.

**Article 18. No-waiver clause**

Failure by KLAXOON at any given time to invoke one of the clauses hereunder shall not be deemed to constitute a waiver of KLAXOON’s subsequent right to invoke the same clause.

**Article 19. Governing law and jurisdiction**

The execution, validity, interpretation, performance and implementation of these Terms and Conditions of Use and performance of the Services are governed as followed:

For Users in the US	exclusively by the laws of the State of New York without regard to conflict-of-laws principles
For other Users	By French law

Users hereby expressly agree to abide by all the laws, government orders and national regulations applicable to the use of the Services via their Terminals.

**Disputes – Users in the US**

Any dispute and/or demand relating to the dispute which is not resolved amicably shall be decided by a court of competent jurisdiction in the State of New York.

**Disputes with Professional Users – Users outside the US**

Any dispute and/or demand relating to the dispute which is not resolved amicably shall be submitted, subject to the applicable regulation, to a court with competent jurisdiction under the jurisdiction of the Rennes Court of Appeal (FRANCE).

**Disputes with Consumer Users – users outside the US**

The User shall forward any claim pertaining to the performance of these Terms and Conditions of Use, by registered letter with acknowledgement of receipt to KLAXOON's customer service.

The Consumer User is informed and aware that he/she may resort to the consumer dispute mutually-agreed mediation procedure or to any other out-of-court dispute settlement procedure to obtain the amicable settlement of any

dispute relative to these Terms and Conditions of Use.

Mediation procedure: pursuant to articles L.151-1 and following, and R.152-1 and following of the French Consumer Code and subject to their application hereunder, the Consumer User is hereby informed that he/she has the right to have recourse, free of charge, to mediation in order to amicably settle a consumer dispute with a trader, subject to (i) having beforehand

attempted to solve the dispute amicably with KLAXOON, and (ii) appealing to the relevant mediator within twelve (12) months of the date on which the written claim was sent to KLAXOON.

Failing an amicable settlement, the dispute shall be submitted by the first Party to take action to competent jurisdiction.