

EU Data Act Addendum

1. Scope of this Addendum

This Addendum is agreed further to Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 concerning harmonized rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (the **"Data Act"**) and it applies when each of the following conditions is met:

- (i) in respect of Ultimo data processing services as defined in the Data Act (for example SaaS, hosting or cloud services) to which Customer has subscribed pursuant to an ordering document ("Order Form");
- (ii) where Customer's address in the Order Form is in the European Union; and
- (iii) Customer has made either a switching or deletion request pursuant to the Data Act as described herein.

2. Switching and Deletion Requests

- 2.1. A **"Switching"** request is a request to migrate Customer Data to a third-party service provider providing same service type in the meaning of Article 2(9) of the Data Act, in which case Customer shall provide the necessary details of that provider in the Switching request, or Customer's on-premise infrastructure, and a **"Deletion"** request is a request for deletion of Customer Data (as defined in the agreement between Ultimo and Customer) held by Ultimo.
- 2.2. To make either a Switching or Deletion request, Customer is required to submit a support ticket to that effect (**"Support Ticket"**), using the same process as used for support requests, identifying it as either a Switching or Deletion request further to the Data Act, as appropriate.
- 2.3. Within 14 days of receipt of a Switching request, Ultimo will respond to confirm that it will provide Customer with an export of the Customer Data that Ultimo holds by the expiry of the **"Transition Period"** which must be within 30 calendar days after the expiry of either:
 - 2.3.1. the 2 month period following receipt of the relevant Support Ticket;
 - 2.3.2. a period not to exceed 7 months following receipt of the relevant Support Ticket where a 2-month period is technically unfeasible, providing to Customer a reasonable explanation for the technical unfeasibility and stating the alternative Transition Period; or
 - 2.3.3. within the period requested by the Customer, being between the aforementioned 2 months and 7 months following receipt of the relevant Support Ticket periods, where requested by the Customer within the Support Ticket and that is reasonably appropriate and technically feasible in the circumstances.
- 2.4. Throughout the Transition Period, Ultimo will provide reasonable assistance, act with due care to maintain business continuity, maintain the agreed level of security and inform Customer regarding known risks to service continuity.
- 2.5. Where Customer makes a Deletion request, Ultimo will delete Customer Data in accordance with the procedures and timeframes specified in the Agreement, but in any event within 3 months from termination or expiration of the request unless and save to the extent that retention is permitted under the Agreement or required by applicable law. Retained data is subject to the confidentiality provisions of the Agreement.
- 2.6. Where, and solely to the extent that, Ultimo may be permitted by the Data Act to charge for services that it provides to Customer in association with its compliance with any Switching or Deletion request, Customer agrees to pay for such services at Ultimo then-standard applicable rates, save where and to the extent that such services have been previously included in Customer's agreement with Ultimo without additional charge.

3. Termination

- 3.1. Data processing services in respect of which Customer has submitted a Switching or Deletion request in

accordance with this Addendum will automatically terminate upon the export or deletion of Customer Data, as appropriate (the “**Termination Date**”), but not any associated ancillary services.

- 3.2. Customer agrees and understands it is obliged to pay any outstanding committed fees in respect of data processing services terminated in accordance with clause 3.1 for the period prior to the Termination Date, plus, notwithstanding the termination, all future fees for the remainder of the term that had been committed in the Order Form for those services as an early termination fee, unless specified otherwise in the applicable agreement between Ultimo and Customer.

4. Exclusions

To the extent permitted by the Data Act, Switching and Deletion requests will not be accepted:

- 4.1. In relation to custom-built or beta data processing service subscriptions, and otherwise to the extent the Data Act permits Ultimo to reject such requests;
- 4.2. For data processing services provided for a limited period of time specifically for testing and evaluation purposes;
- 4.3. For only part of the data processing services; or
- 4.4. If the Data Act is repealed, suspended or otherwise amended and as a result Ultimo may reject such requests;

5. Indemnification and Liability

- 5.1. Customer is solely responsible for ensuring that it has all rights and permissions concerning any Switching or Deletion request made by its personnel.
- 5.2. Ultimo requires assurance that the Switching or Deletion request is acceptable to Customer’s organization. Consequently, Customer will defend Ultimo and Ultimo Affiliates against any third party claim, demand or proceedings and for any related expenses and costs (including without limitation court costs and reasonable legal fees) alleging that Ultimo’s compliance with a Switching or Deletion request infringes such entity’s rights or licenses, or breaches the Agreement or applicable law, and will indemnify Ultimo against any damages, attorney fees and costs awarded against Ultimo or an Ultimo Affiliate, or amounts paid by Ultimo or an Ultimo Affiliate in settlement of such a claim against Ultimo, together with any reasonable and verifiable costs and expenses (including without limitation reasonable attorney’s fees) incurred by Ultimo or an Ultimo Affiliate in the defense thereof, provided Ultimo (i) provides Customer prompt written notice of the claim; (ii) gives Customer full control of the defense and settlement of the claim; and (iii) provides Customer with all reasonable assistance reasonable in connection with said defense or settlement, at Customer’s expense; (iv) does not admit liability in connection with such claim.
- 5.3. Without limitation to Ultimo’s obligations set out in section 2.4 above, Ultimo shall not be liable for any damages, losses, costs, or expenses arising out of or in connection with its compliance with any Switching or Deletion request. This exclusion of liability includes, but is not limited to, any issues related to Customer Data integrity or loss, system downtime, compatibility issues, or any other disruptions or failures that may occur during or as a result of the Switching or Deletion request. Customer is fully and solely responsible for the consequences of Ultimo compliance with its Switching or Deletion request.