

## TERMS OF DIGITAL SERVICES

### 1. Definitions

Capitalized terms used in the Agreement, unless expressly otherwise stated or evident in the context, shall have the meanings set forth in the Service Agreement or in this Terms of Digital Services ([Appendix 1](#)).

### 2. Installation of Equipment and Commencement of the Services

The Customer shall ensure that the necessary connections, products, lighting systems and related equipment are installed at the Delivery Site at the Customer's expense and in compliance with the requirements defined in the Agreement and/or as otherwise instructed by Helvar (the "Necessary Equipment") prior to the commencement of the Services and during the entire Term of the Agreement.

In addition, the Customer shall grant Helvar a necessary access to each relevant Delivery Site for the installation of connectivity enabler(s) for the Services (the "Helvar Cloud Gateway(s) or ActiveAhead Controller(s)"). Helvar shall have a right to select, modify and update the Helvar Cloud Gateway(s) or ActiveAhead Controller(s) at Helvar's sole discretion from time to time.

Helvar shall provide the Customer with user accounts and commence providing the Services to the Customer (i) on the agreed date of commencement of the Services defined in the Agreement; (ii) 30 days from the installation of the Helvar Cloud Gateway(s) or ActiveAhead Controller(s) by Helvar; or (ii) 30 days from the installation of the Necessary Equipment by the Customer, whichever is the latest (the "Service Commencement Date").

### 3. License Grant and Intellectual Property Rights

Subject to full and timely payment of the Service Fees, Helvar grants the Customer as part of the Services, a limited, non-exclusive and non-transferable right to access Helvar's cloud based software platform (the "Cloud Platform") and to use the information, drawings, models, reports and/or other similar materials concerning the Delivery Site created as a result of the Services and made available through the Cloud Platform or through other means determined by Helvar (the "Deliverables"). If separately agreed to in the Agreement, the Customer shall in addition have an access to the Cloud Platform through an API interface connected to the Customer's software. The Customer shall have a right to access the Cloud Platform and the Services and to use the Deliverables for the Customer's internal business purposes.

The Customer shall have the right to grant a third party acting on behalf of the Customer ("Third Party User(s)")

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access to the Cloud Platform and a right to use the Deliverables for the Customer's internal business purposes. The Customer shall not have the right to grant any sublicenses or any access rights for other purpose than set forth in this section 3, to the Cloud Platform and/or the Deliverables to any third party. The Customer shall be liable for the access to and/or use of the Cloud Platform, Services and/or the Deliverables by the Third Party User as for its own.

The Customer's right to access the Cloud Platform and the Services is restricted to the Term, and shall expire upon termination or expiration of the Agreement. For the avoidance of any doubt, the above license is limited to the Delivery Site and Service Description as defined in the Agreement.

All right, title and interest, including without limitation ownership of intellectual property rights, in and to the Helvar Cloud Gateway(s) or ActiveAhead Controller(s), the Services, the Deliverables, and the Cloud Platform, including any modifications and updates thereto, shall vest at all times in and be the sole and exclusive property of Helvar or its third party licensors (as applicable).

The Customer shall access the Cloud Platform and use the Deliverables only for lawful purposes, in compliance with any and all applicable laws and regulations in Finland, in the country in which the Customer accesses the Cloud Platform and in the country in which the relevant Delivery Site is located, as well as in accordance with all policies and instructions notified by Helvar to the Customer as applicable.

Helvar and/or its service providers shall have a right to use data collected by the Necessary Equipment at Helvar's discretion, including, *e.g.*, for the purposes of research and development and for the provision of services and products, taking into account relevant data protection laws.

### 4. Provision of the Services

The Services are performed using Helvar's general business models and working methods, unless the parties have separately agreed in writing upon specific requirements in the Agreement. The Services are generic services of Helvar and Helvar reserves all rights to develop, improve and/or to modify the Services and Cloud Platform.

Helvar shall provide the Services, the Cloud Platform and the Deliverables "as is" and "as available", and without any warranties whatsoever. Helvar expressly disclaims any warranties as to the accuracy, completeness, authenticity, usefulness, timeliness, reliability or appropriateness of the Services, the Cloud Platform and the Deliverables including without limitation implied warranties of title, non-infringement,

merchantability, satisfactory quality and fitness for a particular purpose.

## **5. Errors**

Helvar does not represent or warrant that the provision of the Services, the Cloud Platform and the Deliverables will be uninterrupted or error-free.

If the Customer reports on an error in the Services, Cloud Platform or Deliverables to Helvar in writing with a reasonable detail and if the error is attributable to Helvar, Helvar shall have the right to correct or re-perform the Services. The Customer's sole remedy for an erroneous Service is to require correction of the Service and/or the Deliverables.

For the avoidance of doubt, Helvar does not guarantee and is not responsible for availability or error-free operation of any third party products or services (*e.g.* third party cloud service providers' services) or for the services or products the Customer has performed or acquired itself (*e.g.* installation of lighting systems, third party products and components). Helvar shall not be liable in the event the set-up of the Customer's products, lighting systems and related equipment is not suitable for the Services or if the installation at the Delivery Site is not compliant with Helvar's instructions. Helvar shall not be liable for any compensation or damages for any unavailability or errors in such services, products or systems, nor shall Helvar be liable for any additional costs, which have been caused by such third party products or services.

## **6. Changes to and Suspension of the Services**

Helvar shall have the right to make changes to the Services, the Deliverables and/or Cloud Platform from time to time that (i) relate to the production environment and does not substantially limit the agreed scope of the Services; (ii) is necessary in order to prevent the Cloud Platform from a severe data security risk; or (iii) is due to a legal or regulatory requirement. If such a change has a substantial effect on the scope of Services provided to the Customer, Helvar shall make a reasonable effort to inform the Customer about the change in advance, or if it is not feasible, without delay after Helvar has made the change.

Helvar shall have the right to suspend the Customer's access to the Cloud Platform for a reasonable duration if required in order to perform installation, change or maintenance work relating to the Cloud Platform. If Helvar suspends the access to the Cloud Platform for a reason specified in this section, Helvar shall make a reasonable effort to (i) inform the Customer of the suspension and the duration of the suspension in advance; and (ii) minimize any inconvenience resulting from the suspension.

In addition, Helvar shall have the right to suspend the access to the Cloud Platform due to installation, change or maintenance work of general communications network, due to a severe data security risk related to the Cloud Platform, if required by law or an authority, or due to a force majeure event. In such case, Helvar shall make a reasonable effort to inform the Customer of the suspension and the duration of the suspension in advance or, if this is not reasonably possible, without delay after Helvar has commenced the suspension.

In addition, Helvar may suspend the provision of the Services if the Helvar Cloud Gateway(s) and/or all Necessary Equipment is not appropriately installed.

Helvar disclaims liability for any loss or damage the Customer may suffer or incur as a result of the suspension of the provision of the Services and/or the Customer's access to the Cloud Platform or any part thereof pursuant to this section 6.

## **7. Responsibilities of Helvar**

Helvar shall have no liability whatsoever towards the Third Party Users based on the provision of the Services, access to the Cloud Platform, delivery and/or use of the Deliverables or any other form whatsoever. The Customer shall be fully responsible for the access to the Cloud Platform and the Services and for the delivery and/or use of the Deliverables by its personnel and/or the Third Party User(s) and/or their personnel.

## **8. Responsibilities of the Customer**

The Customer shall pay the Service Fees as set out in the Agreement.

The Customer shall provide to Helvar any information that is reasonably required for the provision of the Services. If required for the provision of the Services, the Customer shall grant the necessary access and work space to Helvar's personnel providing support for the Services on-site.

The Customer shall be responsible for the data communication and other comparable costs related to the use of the Services.

The Customer shall keep and shall cause its personnel and Third Party Users and their personnel to keep all user identifiers, passwords and any details regarding access to the Cloud Platform secret at all times and not disclose them to any third party. The Customer shall at all times be and remain fully responsible for the access to the Cloud Platform by using the Customer's or Third Party Users' user identifications and passwords. The Customer undertakes to inform Helvar immediately, if any user identifier or password have been revealed to any third party or if the Customer has a reason to suspect misuse of any such user identifier or password. The Customer shall change and shall cause its personnel and

Third Party Users and their personnel to change the password required for the access to the Cloud Platform upon written request of Helvar, if deemed necessary by Helvar due to data security risk to the Cloud Platform or otherwise.

The Customer shall indemnify, defend and hold Helvar harmless against any and all claims, expenses, costs, liabilities and damages (including but not limited to any damages awarded to a third party claimant by judgement or compensation payable in settlement) that relate directly or indirectly to the Third Party User's access to the Services and/or Cloud Platform, and/or use of the Deliverables.

The Customer shall inform Helvar in writing of any change in the Customer's contact details.

### **9. Service Fees and Payment Terms**

The Service Fees are set forth in the Agreement. Unless otherwise agreed in the Agreement, Helvar shall invoice the Service Fees fully in advance. Helvar may, at its sole discretion include features and development of Services in the Service Fees. Further development of the Services, such as any new functionalities made available by Helvar are subject to additional fees. Any such development work shall be agreed by the parties under a separate service agreement or an amendment to the Agreement.

The payment term shall be thirty (30) days net from the date of the invoice, unless otherwise agreed in writing. The Customer agrees to settle the invoices in full without any deductions or set-offs. Any crediting shall be issued by Helvar. In case of overdue payments, Helvar may suspend the Services under the Agreement and any other contractual relationship between the parties. Interest on overdue amounts shall accrue without notice at the statutory rate prevailing under the applicable law.

Unless the parties agree on fixed Service Fees for a period of time, Helvar is entitled to adjust its Service Fees by notifying the Customer of the change in writing at least 60 days before the effective date of the change.

The Service Fees do not include value added tax or similar local taxes. Such taxes, if applicable according to local laws and regulations, shall be added to the invoiced Service Fees.

### **10. Data Protection**

The Customer acknowledges and agrees that in order to provide the Services Helvar shall process data collected from the relevant Delivery Site through the Helvar Cloud Gateway(s) or ActiveAhead Controller(s), analyse the data to create the Deliverables and make the Deliverables available to the Customer through the Cloud Platform or through other means, as applicable.

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The data processed includes data on the occupancy and usage of different rooms and spaces at the site, which may be connected to the persons using the site. The categories of data subjects include data subjects who use the Delivery Site.

For processing of personal data as part of providing the Services, Customer is the controller of the personal data and Helvar is the processor of personal data.

Unless and to the extent the context otherwise requires, the following words and expressions shall have the meaning set out as follows: (i) "Data Protection Legislation" shall mean the data protection or privacy laws and regulations, and any decisions, guidance and instructions which are issued by a competent court or regulatory or supervisory authority, and which are binding towards a Party, including applicable national and EU legislation (as may be enacted or amended from time to time) and may refer to, inter alia, the Finnish Data Protection Act (1050/2018) and/or the General Data Protection Regulation (as defined below); and (ii) "personal data", "processing", "controller", "processor" and "data subject" each shall have the same meaning as in the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the "General Data Protection Regulation").

The Customer shall ensure that it has a legal basis for processing personal data related to the Services and that the processing of personal data is and will continue to be carried out in accordance with the applicable laws and Data Protection Legislation. The Customer shall have the right to give instructions to Helvar on the processing of personal data. Such instructions shall be in accordance with applicable laws, regulations and Data Protection Legislation and will become binding towards Helvar upon their written acceptance by Helvar. Should Helvar's performance of such instructions require any measures exceeding the obligations set out in this Agreement, the fulfilment of such instructions may be subject to separate fees. If Helvar considers that it is unable to accept the instructions of the Customer, the Customer shall have the right to terminate the Agreement with a six (6) months prior written notice. The Customer shall at all times be deemed to have instructed Helvar to provide the Service as defined and agreed under the Agreement.

When processing personal data on behalf of the Customer for the purpose of providing the Services, Helvar shall:

- i. process personal data solely in accordance with the documented instructions of the Customer; unless otherwise required by laws applicable to Helvar, in which case Helvar, to the extent provided by applicable

- laws, will prior to such processing inform the Customer of such requirement;
- ii. insofar as this is possible and taking into account the nature of the processing and the information available to Helvar, assist the Customer with appropriate technical and organizational measures in responding to requests for exercising the data subjects' rights and in fulfilling the controller's mandatory obligations under the General Data Protection Regulation regarding data security, data breach notifications and data protection impact assessments. However, Helvar is obliged to assist the Customer only to the extent the Customer is unable to fulfil the respective obligations without Helvar's assistance;
  - iii. to the extent it is necessary to demonstrate Helvar's compliance with its obligations laid down in this section 10, document its data processing activities and provide such information to the Customer at the Customer's request; and
  - iv. insofar and to the extent expressly agreed in writing, allow for and contribute to audits conducted by the Customer or on behalf of the Customer; and
  - v. ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

Helvar shall have the right to invoice the work resulting from the assistance required by the Customer under sections (ii), (iii) and (iv) above in accordance with its prevailing prices.

Helvar shall implement and maintain appropriate organisational and technical measures to protect personal data against accidental, unauthorized or unlawful destruction, loss, alteration, disclosure or access.

If Helvar becomes aware of a personal data breach affecting the personal data processed on behalf of the Customer, Helvar shall notify the Customer of the personal data breach without undue delay.

Helvar is entitled to use sub-processors in the processing of personal data. Where Helvar subcontracts its tasks related to personal data processing, Helvar shall enter into a written agreement with each sub-processor. Such written agreement shall impose similar obligations on the sub-processor as are imposed on Helvar under this section 10. The Customer has the right to terminate such part of the Agreement which the sub-processing would be related to by way of thirty (30) days' prior written notice if the Customer does not approve Helvar's proposal for a new subcontractor due to justified grounds. The Customer agrees that Helvar has a general approval to use Helvar's subsidiaries, affiliated companies, branches and other companies which belong to the same group of companies as sub-processors when processing personal data.

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Helvar may, at its discretion, transfer the personal data it processes for the purposes of providing the Services outside the EU or EEA. The transfers of personal data shall be carried out in accordance with the Agreement and Data Protection Legislation.

Unless otherwise required by applicable laws or agreed upon in writing between the parties, Helvar shall cease collecting and processing personal data on behalf of the Customer after the end of the provision of the Services.

The Customer acknowledges and understands that the Customer is responsible for notifying the data subjects in accordance with the General Data Protection Regulation of the processing of their personal data.

### **11. Limitation of Liability**

Neither party shall be liable for any indirect, incidental or consequential damage or loss arising out of or relating to the Agreement, including but not limited to, loss of profits or revenue, loss of data or interruption of production or operations.

The maximum liability of Helvar under the Agreement is in any event limited to the Service Fees received under the Agreement by Helvar during six (6) calendar months prior to the issue giving rise to the claim.

The limitations of liability shall apply to the fullest extent permitted by mandatory law, but shall, however, not apply where the damages are caused by (i) wilful misconduct or gross negligence; or (ii) breach of the license grant set forth in section 3: "License Grant and Intellectual Property Rights" and/or infringement of Helvar's and/or its third party licensors (as applicable) intellectual property rights in and to the Services, Deliverables and/or Cloud Platform by the Customer or any Third Party User.

No action may be brought against Helvar more than one year after the cause of action has occurred.

### **12. Termination**

Each party is entitled to terminate the Agreement with a six (6) months prior written notice.

Either party may terminate the Agreement by a written notice to the other party if (i) the other party commits a material breach of the Agreement and (if such breach is capable of being remedied) fails to remedy the breach within thirty (30) days of written notice by the non-breaching party; or (ii) if the other party becomes insolvent or bankrupt, makes arrangements with its creditors, or enters into liquidation or rearrangement of debts.

The Customer acknowledges that Helvar may immediately by notice to the Customer suspend the

Customer's and Third Party Users' access to the Cloud Platform if the Customer has committed a material breach of the Agreement.

### **13. Subcontracting**

Helvar has the right to subcontract its obligations in part or in whole under the Agreement. Helvar shall be liable for the performance of its subcontractors as for its own performance.

### **14. Confidentiality**

Each party shall keep in confidence and not disclose to any third party; without the other party's prior written consent all material and information received from the other party if the information is marked as confidential or if the information should be reasonably understood to be of confidential nature (the "Confidential Information"). The Confidential Information of the other party may be used only for the purposes of the Agreement. The receiving party shall keep all Confidential Information with no less a degree of care as is used for its own Confidential Information and at least with reasonable care.

The confidentiality obligations shall not apply to material or information, which (i) is generally available or otherwise made public; (ii) the receiving party has received from a third party without any obligation of confidentiality; (iii) was in the possession of the receiving party prior to receipt of the Confidential Information; (iv) the receiving party has independently developed without using the Confidential Information of the other party; or (v) which the receiving party is required to provide due to mandatory law or regulation or a judicial order.

The undertakings including in this section shall survive the expiration or termination of the Agreement for any reason and shall bind the parties for a period of five (5) years after the expiration or termination of the Agreement.

### **15. Force Majeure**

Helvar shall not be held liable for any default or delay in the performance of its obligations under the Agreement caused by a reason of force majeure event or other circumstances or impediments beyond Helvar's control including without limitation to industrial or labour disputes, riots, fires, floods, wars, embargoes, shortage of labour, raw materials, energy or means of transportation, whether affecting Helvar or any subcontractor, or for circumstances caused by reason of laws, regulations, orders or acts of any government or authority.

### **16. Applicable Law**

The Agreement is governed by and construed in accordance with the laws of Finland, excluding any choice of law provisions thereof.

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### **17. Dispute Resolution**

Any dispute, controversy or claim arising out of or relating to the Agreement, or the breach, termination or validity thereof shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The number of arbitrators shall be one. The seat of arbitration shall be Helsinki, Finland. The language of the arbitration shall be English. The Emergency Arbitrator provisions shall not apply.

### **18. Notices**

Any notice, request, consent and other communication to be given by a party under the Agreement shall be in English and deemed to be effective if personally served on the other party or sent by registered prepaid mail or by e-mail to the contact persons defined in the Agreement.

A notice shall be deemed to have been given at the time of personal service, or five (5) days after mailing or on the day of transmission if sent by e-mail, provided that no notification of an unsuccessful transmission has been obtained.

### **19. Amendments**

Helvar may modify these Terms of Digital Services unilaterally with thirty (30) days' written notice. The Service Agreement may be modified only by an instrument in writing signed by both parties.

### **20. Assignment**

Helvar may assign its rights and obligations under the Agreement in part or in whole to any of its subsidiaries, affiliated companies, branches or other companies which belong to the same group of companies, distributors and agents or to a third party in connection with the sale of all or substantially all of Helvar's assets relating to this Agreement.

The Customer may not assign its liabilities under the Agreement to any third party without prior written consent from Helvar.

### **21. Severability**

If any provision of the Agreement is held to be invalid or unenforceable, it shall be deemed to be severed from the Agreement and shall be of no force and effect and shall not affect the validity and enforcement of the remaining provisions of the Agreement. The parties agree to replace, to the extent permitted by the applicable legislation, such individual term or condition by a provision of the same or similar effect or meaning or having as close as possible the same economic purpose initially pursued by the parties through such individual term or condition.

### **22. Entire Agreement**

The Agreement form the entire agreement between the parties relating to the subject matter hereof and supersede all prior communications, written or oral, between the parties.

### **23. Order of Precedence**

In case of any discrepancies or inconsistency between the Service Agreement and its Appendices, the order of precedence is as follows: (i) the Service Agreement, and (ii) an Appendix with a lower number having priority over an Appendix with a higher number.

The parties may deviate from the terms and conditions of these Terms of Digital Service only by expressly agreeing in the Service Agreement that the said term is a deviation of a specific section of these Terms of Digital Service.

### **24. Surviving Clauses**

Sections 11, 14, 16, 17, 24 of these Terms of Digital Services including without limitation any other provisions of this Agreement, which by their nature should reasonably survive termination or expiration of this Agreement, shall survive termination or expiration of this Agreement.

### **25. Sale of Equipment**

The necessary hardware products, lighting systems and other related equipment are sold by Helvar under Helvar's general terms and conditions of sale and in accordance with the price list of Helvar as in force from time to time and are not subject to this Agreement.