

Specific Terms: ASC Compliance Recording

The service-specific terms and conditions set out in this document ('**Specific Terms**') are incorporated in and apply to the SOW formed between NTT DATA and Client for the provision of ASC Technologies Services, including ASC Compliance Recording (the '**ASC Services**'), which Client acknowledges are Third-Party Services.

These Specific Terms are maintained by NTT DATA at this URL (or successor site) and may be updated by NTT DATA from time-to-time (effective upon publication).

1 Applicable Third-Party Terms

- 1.1 Notwithstanding anything to the contrary in the Agreement, Client's (and its Users) use of and access to the ASC Services, as procured through NTT DATA and/or used in connection with any Services provided by NTT DATA, are subject to and conditioned on Client's agreement to, and compliance with, the terms set out in these Specific Terms in Attachment A below and related documentation ('**Third-Party Terms**').
- 1.2 Client expressly accepts and agrees to be bound by the applicable Third-Party Terms referenced in clause 1.1 above and, for purposes of such Third-Party Terms, references to 'you', 'Customer', or 'Client' (or any substantively similar term identifying the party subject thereto) will be interpreted to refer to Client and, as applicable, its relevant Users.
- 1.3 Notwithstanding anything to the contrary in the Agreement, if required to comply with NTT DATA's agreements with the applicable third-party supplier or provider, NTT DATA (or the applicable third-party supplier or provider) may amend the Third-Party Terms, including the location of the attached or referenced documents, from time to time by notifying Client, either through disclosure of the updated version or by publishing the updated version (as applicable).
- 1.4 Client must promptly notify NTT DATA of any actual or suspected breach of any applicable Third-Party Terms and further agrees to provide reasonable assistance to NTT DATA in order to protect the applicable third-party supplier's or provider's rights in connection with the third-party products (including software) or services.

Attachment A ASC Technologies Third Party Terms

For any SOW (or order) including the provision of **ASC Technologies Services** (the '**ASC Services**'), the following Third-Party Terms apply (including any terms and conditions located at the referenced URL's maintained by the third-party service provider or licensor, which are hereby incorporated by reference).

Capitalized terms used but not defined in these Third-Party Terms will have the same meaning otherwise set out in the Agreement. For purposes of these Third-Party Terms, '**ASC**' means ASC Technologies A.G., which is the licensor of the ASC Services; and '**Users**' means individual users to whom Client grants access to the ASC Services under Client's account.

ASC Technologies or NTT DATA retains the right to update these Third-Party Terms from time to time. Should any provision of these Third-Party Terms be or become invalid, this shall not affect the validity of the remaining provisions.

Client acknowledges that its (and all Users') use of the **ASC Services** is subject to, and Client expressly accepts, the following:

1 Terms of Use

Acceptance

- 1.1 By using the ASC Services, Client accepts these present Third-Party Terms, in their entirety, at any time, and without limitations.

Acceptable Use and Prohibited Use

- 1.2 Client is expressly obligated to:
- (a) pay the agreed consumption-related usage fee ('Service Charges') in due time;
 - (b) name all Users authorized by Client to use the ASC Services and to notify ASC and/or NTT DATA upon request of any changes in the assignment of Users caused by organizational changes, staff changes, etc.;
 - (c) protect the usage and access authorizations assigned to Client and the Users of the Service as well as the identification and authentication security measures against the access of third parties, and not pass them on to unauthorized users;
 - (d) make sure that all Intellectual Property Rights are observed (e. g., when transferring text and data of third parties to ASC's servers);
 - (e) ensure that the provisions of the European General Data Protection Regulation (EU 2016/679) - hereinafter 'GDPR'- or any other Applicable Laws or regulations related to Personal Data are observed and complied with at all times, without restriction and under all circumstances;
 - (f) have a legal basis for the processing of Personal Data within the scope of the usage of the Service in accordance with the meaning of art. 6 GDPR or of other Applicable Laws or regulations related to Personal Data;
 - (g) not misuse the Service or allow others to misuse it; particularly not to transfer information with illegal or immoral content or share information that serves incitement to hatred and violence against individual persons, groups or minorities, induces or invites criminal offences or glorifies or trivializes violence, is sexually offensive or pornographic, capable of causing serious moral harm to children or adolescents or damages the reputation of ASC and/or NTT DATA;
 - (h) refrain from trying to obtain illegal access to information or data or have unauthorized third parties do so or to intervene or have third parties intervene with programs operated by ASC or illegally intrude into ASC and/or NTT DATA data networks;
 - (i) not use the Service for sending unsolicited messages or information to third parties for advertising purposes;
 - (j) release ASC and/or NTT DATA of any claims based on the illegal usage or the tolerated illegal usage of the Service or which particularly stem from data protection, copyright, or other legal disputes connected to the usage of the Service. As soon as Client is aware of or in the position to recognize such a violation, Client is obligated to immediately inform NTT DATA or ASC about it;
 - (k) reimburse ASC and/or NTT DATA for the expenses incurred for checking equipment following the submission of a fault report if the check shows that the fault was not in ASC's equipment and that Client could have recognized this if Client had made a reasonable effort to find the fault;
 - (l) not hold ASC and/or NTT DATA responsible for effectively launching the recording feature of the Service, and for the content of said recording. Client acknowledges it is solely responsible for enabling the Service on its end, without any responsibility being imputable to ASC and/or NTT DATA on this matter.

2 Intellectual property rights, licensing and third-party rights

- 2.1 The parties expressly acknowledge and agree that all industrial property rights, copyrights, exploitation rights, trademarks, titles and the Intellectual Property Rights to the ASC Services and the underlying software including their documentation are and remain exclusively, unrestrictedly, and completely with ASC.

- 2.2 Limited to the term of the applicable SOW containing the ASC Services, Client and the Users authorized by Client are granted the spatially unlimited, non-exclusive right to access the ASC Services via telecommunication and to use the functionalities associated with the ASC Services by means of a software application or a browser. Client does not receive any additional rights to the ASC Services, i.e. neither to the underlying software itself nor to the databases, the system software, or the operating system.
- 2.3 Client may not copy, modify, or transfer the ASC Services to others, in whole or in part, except as expressly provided in these Third-Party Terms. The ASC Service contains trade secrets of ASC, and Client may not reverse engineer, disassemble, decompile, or translate the ASC Service, or otherwise attempt to derive its source code or the source code through which the ASC Service is accessed, or authorize any third-party to do any of the foregoing. The license granted hereunder is personal to Client, and any attempt by Client to transfer any of the rights, duties or obligations hereunder shall terminate Client's rights in respect of the ASC Service and make the license set out herein void. Client may not rent, lease, loan, resell, or distribute the ASC Service or any part thereof in any way including, but not limited to, making the ASC Service available to others via shared access to a single computer, a computer network, or by sharing access information, which includes Client username and password.
- 2.4 If the (lawful) use of the ASC Services is affected by third-party property rights without fault of ASC or NTT DATA, then ASC and/or NTT DATA is entitled to refuse the provisioning of the ASC Services with immediate effect. ASC and/or NTT DATA will inform Client without delay and grant Client access to Client data in an appropriate way. In this case, Client is no longer obliged to pay the Service Charges related to the affected ASC Service; Client's other claims and rights remain unaffected.

3 Sanctions lists and export restrictions

- 3.1 If the check of compliance with sanction lists or export restrictions of the Federal Republic of Germany, the European Union, the United States of America or supranational organizations detects a relevant indication, ASC and/or NTT DATA is/are bound to immediately suspend the subscription and to prevent the usage of the ASC Services. ASC and/or NTT DATA will inform Client as well as the responsible authorities of the detected indication. Until the matter has been settled, Client does not have to pay the Service Charges associated with the ASC Services.

4 Fair Use Policy

- 4.1 This clause 4 details the fair use policy that is applicable to the ASC Services, ('**Fair Use Policy**'). This Fair Use Policy ensures that Client and Users responsibly access the Service and therefore do not compromise the quality of service or the stability, security, and performance of the ASC Services. The Fair Use Policy defines the responsibilities when accessing the ASC Service, potential consequences if the ASC Service is used unreasonably, and prohibitions supplementary to Sections 1.2, 2, 3, and 5 on using the ASC Service in an unlawful manner or for reasons ASC and/or NTT DATA consider a material breach of these Third-Party Terms.

Subscription Models

- 4.2 The ASC Service provide a variety of functionalities and associated subscription models that may include limits on transactions, processing, or storage of data. This Fair Use Policy applies to the use of the ASC Service even if no limit is specified in a particular subscription.
- 4.3 Subscriptions are typically based on defined parameters described in the service description e.g. "Named User", which means a license per individual person is required. In this example, the subscriptions are designed to support the recording needs of a single business that engages in typical business activities, during standard business hours within the respective geographic region.

Breach of the Fair Use Policy.

- 4.4 The following examples provide a non-exhaustive guidance on cases which ASC and/or NTT DATA considers as "unreasonable use" of a ASC Service and therefore as a breach of this Fair Use Policy:
- (a) Use of a ASC Service that causes significant congestion, disruption or otherwise adversely affects our or a third party's network;
 - (b) use of a ASC Service that affects adversely any other User of this same ASC Service;
 - (c) the ASC Service is used in a way which could not be reasonably regarded as ordinary business use;
 - (d) Client or any of it Users set up software or algorithms to alter or overcome the subscription or Service Charges; or
 - (e) effective daily usage of recording, processing, replay, or transaction volumes repeatedly falls beyond the standard deviation of general usage by all ASC customers.
- 4.5 Notwithstanding any other rights in these Third-Party Terms, ASC and/or NTT DATA reserves the following countermeasures to enforce the Fair Use Policy:
- (a) contact the Client to alert a breach of the Fair Use Policy and of other sections of these Third-Party Terms in ASC's and/or NTT DATA's reasonable discretion;

- (b) suspend or limit the ASC Service in accordance with the conditions of the applicable Agreement without prior notification in severe and urging cases, in its entirety or selected features thereof, for any period ASC and/or NTT DATA regards as reasonably required in the circumstances given; or
- (c) terminate the ASC Services in accordance with the applicable Agreement.

5 Non-conforming use of the ASC Services

- 5.1 ASC and/or NTT DATA has the right to block the access to the ASC Services or to the saved data if Client or Users authorized by Client commit a material breach of the obligations under these Third-Party Terms or under the applicable Agreement. In such case Client shall continue to be obliged to pay the current Service Charges.
- 5.2 If a User breaches these Third-Party Terms (and the duties defined therein), Client is obliged upon request to immediately provide ASC and/or NTT DATA with all information, especially with the name and address of the User, to assert claims against this User.
- 5.3 ASC is entitled to delete the respective data in case of an uncured material breach of clause 1.21(g) above.
- 5.4 ASC is entitled to claim damage against Client in case of a breach of these Third-Party Terms.

6 Applicable Documents

- 6.1 The following documents are supplementary to, and incorporated in, these Third-Party Terms, and will be binding upon Client in respect of its and its Users use of the ASC Services:
 - (a) any applicable service levels;
 - (b) any applicable service description;
 - (c) any applicable statement of work; and
 - (d) any applicable training requirements.