

**TERMS AND CONDITIONS**

**for**

**the Services so-called SIMPLICITY**

**by**

**PERRY SOFT s.r.o.**

**dated 21 November 2020**

## INTRODUCTORY CLAUSES

- (i) These Terms and Conditions govern your use of our mobile application, software, platform or other intended instruments for ensuring various online services developed by us (the "Services"). The Services include all services that are made available through the mobile application **Simplicity** that is usually customised and ready for your needs (the "Application") or our website (web platform) [www.simplicity.help](http://www.simplicity.help) (the "Website"), in particular providing news, official documents and information, effective and modern communication tools between residents and its town, and other available functionalities related to individual town, city or municipality. The Services enable you as the customer (the "Customer") to use these Services and other available functionalities.
- (ii) The Services are primarily intended for use by individual towns, cities or municipalities (the "Town"). It means that the Services may be directly ordered by the given Town (for example, we may prepare an official Application for the Town as a part of the provision of our Services); however, in some cases, the Services may be ordered also by an individual, mainly a resident of the Town, and may be used by him/her in the best interest of the said Town (in such case, we may prepare an unofficial Application for the Town based on the resident's requirements).
- (iii) These Terms and Conditions also regulate your relationship with the company **PERRY SOFT s.r.o.**, having its registered office at Palackého 31, Trenčín 911 01, Slovak Republic, Company ID No.: 51 682 265, registered with the Commercial Registry of the District Court Bratislava I, Section: Sro, insert No. 128632/B ("we", "us", or "PERRY SOFT"). Please read these Terms and Conditions carefully as they affect your rights and responsibilities under the law. If you do not agree with these Terms and Conditions, please do not use the Services. If you have any questions on these Terms and Conditions, please contact us via [contact@simplicity.help](mailto:contact@simplicity.help)
- (iv) The Services are developed and operated by us on the SaaS basis. By ordering the Services, you agree to be bound by these Terms and Conditions that form the binding agreement (the "Agreement") between you and PERRY SOFT (the "Parties" and each individual party also as the "Party"). These Terms and Conditions set out the legally binding terms for your use of the Services and/or the Services and are available on the Website as well as in the mobile Application. The technical requirements related to the use of the Services may also be found on the Website.
- (v) This Agreement includes our policy for acceptable use and content posted or shared through the Services, your rights, obligations and restrictions regarding your use of the Services and link to our privacy policy.

## **THE AGREEMENT (TERMS AND CONDITIONS)**

### **1. SUBJECT MATTER OF THE AGREEMENT**

- 1.1. On the basis of this Agreement and under the conditions stipulated herein, we undertake to provide you as our Customer with the Services which are based on any and all SaaS products developed as a result of the activities of PERRY SOFT and as made available to the public and provided by PERRY SOFT. For example the Services consist of customising our Application for the needs of the specific Town; such Application may be used by the Town for providing news about the Town, providing official documents and information from the Town's representatives, communication with residents of the Town via direct messages, management of the Town's calendar, contact directory, discussion forums for residents, surveys and other available functionalities available via the Application or the Website.
- 1.2. Unless you do not use the freemium model of the Services, you shall pay PERRY SOFT the price for the provision of the Services in the amount and under the terms stipulated in Art. 3 hereof.
- 1.3. The setup and basic usage instructions of the Services for Android and iOS and other technical requirements are accessible on the Website.

### **2. GENERAL RIGHTS AND OBLIGATIONS OF THE PARTIES**

- 2.1. We undertake to provide the Services in a professional manner, in compliance with good industry practice and within the agreed scope and quality.
- 2.2. You may commence using the Services after a subscription allows. A subscription may be proceeded by the order form (the "Order Form") through the Website/Application interface, or in some cases, via specific contract entered into between Customer and us. Please see our FAQ and Tier System for more information on ordering subscriptions. The Agreement between you and us is concluded once your Order Form is delivered to us (if you intend to use our freemium or paid-for Services pursuant to our Tier System), or in some cases, once you agreed with our price quotation (if we have offered you a custom quote of the Services – for custom quote please contact us via our email address [sales@simplicity.help](mailto:sales@simplicity.help) anytime).
- 2.3. After the conclusion of the Agreement, we customise the Services, in particular, we customise a mobile Application for your Town, under your instructions. Your subscription commences when we make the Application available to you and continue for the term specified in the Order Form, special agreement or until our relationship is terminated under this Agreement. Please note that if you decide to use our paid-for Services, such Services shall be paid in advance.
- 2.4. You are entitled to issue instructions regarding provision of the Services provided that such instructions and directions are included in the agreed scope of the Services. In particular, you may provide us with the content information which should be published in the Application, as well as the access rights to the homepage of the Town (our Services synchronise the content of the homepage with the content of the Application).
- 2.5. You are responsible for the accuracy of any information, data and/or materials disclosed and/or provided to us in connection with the Services. If you provide us with information, data and/or materials in connection with the Services, you shall have the respective rights to use such information, data and/or materials.
- 2.6. As part of the provision of the Services, the Customer shall identify an administrative contact (log-in and password) for the Customer's account for the access to our Services.
- 2.7. You shall be solely responsible for the security of your account and password to the Services interface. All behaviour and activities conducted through your account on the Website/Application interface will be deemed as your behaviours and activities for which you shall be solely responsible.
- 2.8. We reserve the right to refuse or stop access to the Services anytime to any Customer, with or without notice in cases where the particular Customer breaches this Agreement.

### **3. PRICE AND PAYMENT CONDITIONS**

- 3.1. Freemium and Paid-for Subscription. In general, you may use our freemium model of the Services which are provided free of charge but including only limited set of standard models and limited number of notifications allowed to be sent.
- 3.2. Paid-for Subscription. Please note that the subscriptions of the paid-for Services are divided into several groups within our tier system – each tier has various functionalities and scope of the Services, and each of them is provided for the respective monthly price. In some cases, we may also provide you with a custom quote, in particular, when you prefer to use our Services without any limitations. Please find the tiers and the prices in our Tier System accessible via the website: [www.simplicity.help/pricing](http://www.simplicity.help/pricing) (the “Tier System”).
- 3.3. Payment Terms. Once you intend to use our paid-for Services pursuant to the Tier System, you will need to provide us with your payment details. Please note that you shall pay for the Services in advance. We shall issue invoices for our Services carried out pursuant to the Agreement to the Customer on a monthly basis no later than on fifteenth (15.) day of each calendar month in which the Services to be invoiced are performed. All payments shall become due on fifteenth (15.) day after day of issuing of an invoice by us.
- 3.4. In the event that the Website/Application enables this, the payments may be directly executed via electronic wire transfer. In the said event, the payment for the Services will be automatically charged by means of wire transfer on a monthly basis; the monthly payments will be charged regularly once a month on a day corresponding to the calendar day on which the first monthly payment was exercised.
- 3.5. As soon as your payment is processed, we will grant you the access to our Services covered by your paid-for subscription.
- 3.6. You may also order your access to the Services for more than one month (it means, that the billing period is different, for example, the respective billing period can be for six or twelve months – please see the Tier System or send us your request for more information).
- 3.7. We undertake to ensure that all invoices issued under this Agreement will be correct and complete and will contain all statutorily required information (in particular, but not limited to, those required under the Slovakian Act No. 222/2004 Coll. on Value Added Tax as amended).
- 3.8. Cancellation. You may cancel your subscription at any time. Once you cancel the subscription of the paid-for Services and your payment has been already made, you will continue to have access to the ordered Services until the end of the given billing period. To the extent permitted by the applicable law, the payments are non-cancellable and non-refundable. In principle, when the given billing period is ended, you will have access only to the freemium mode of the Services.
- 3.9. In case you decide to terminate the Agreement, you are obliged to pay for the paid-for Services already provided by us. The payment obligations are non-cancellable and, except as expressly stated in the Agreement, payments already paid are non-refundable.
- 3.10. Interest for the late payment. In case of delay with payments of the invoices pursuant to Art. 3.3 hereof, the Customer is obliged to pay to PERRY SOFT the interest for the late payment in the amount of 0,05 % p.a.
- 3.11. Taxes. The payments are stated exclusive of any taxes, levies, duties, or similar governmental charges of any nature, including, for example, value-added, sales, or withholding taxes, assessable by any jurisdiction (“Taxes”). You are solely responsible for paying all Taxes associated with the purchases of the Services, except for those taxes based on our net income. Therefore, all payments to us from you in relation to the paid-for Services will be treated as inclusive of tax and will not be adjusted. If PERRY SOFT has a legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by the Customer, unless the Customer provides PERRY SOFT with a valid tax exemption certificate authorised by the appropriate taxing authority. Should any payment for the Services be subject to withholding tax by any government, the Customer will reimburse PERRY SOFT for such withholding tax.

#### **4. USE OF THE SERVICES BY THE CUSTOMER**

- 4.1. The Services (including the Application) are made available to the Customer in accordance with the offer of the Services provided via the Website, if not specifically agreed otherwise.

- 4.2. You as the Customer are solely responsible for using the Services, including but not limited, for the Application customised for your needs, and its content and instruction for customisation of the Application.
- 4.3. You are entitled to use and manage the Application via your unique administrator account accessible on the Website via your login credentials like username and password. You are obliged to keep confidentiality on these login credentials and you may provide them only to an authorised person (it means a person who is authorised by you to manage your Application).
- 4.4. You are obliged to inform your end-users (for example, a user who is authorised by the Customer to manage the Application or a user who is entitled to upload any other content to the Application – collectively “End-users”) that they are responsible for the content that they publish, upload, post or display through the Application and for all End-users interactions arising out of, or relating to the conduct of the End-users in connection with the use of the Services. You are obliged to inform your End-users about any illegal or prohibited activities via the Application and the Services pursuant to Art. 4.9 hereof.
- 4.5. You are solely responsible towards us for the content that is published, uploaded, posted, shared or displayed through your Application or any material and information are transmitted to the End-users via the Application (collectively “Content”); including, but not limited to, any text messages, pop-up notifications, and for all your interactions arising out of, or relating to the use of the Application or the Services.
- 4.6. You may subscribe the Services only for the Town, if you may be considered as an official (for example, a mayor or a local MP) or an unofficial (for example, a Town’s resident) representant of such Town. You may not subscribe to the Services for other cities or towns, or allow others to use your account in the Application. You shall immediately notify us if you discover unlawful use of your account by others.
- 4.7. We strongly recommend that you refrain from sending any marketing notifications outside working days before 8am and after 6pm. You further undertake to use prudently the so-called push notifications in the Application and use them in such a way that the recipient of the information is not bothered.
- 4.8. If you contact users of the Application with a marketing notice, under applicable law this shall be done only with prior consent of a recipient of such marketing notice. The Customer is obliged to prove to us that the consent has been granted at any time without delay. Furthermore, it is the Customer’s responsibility to mark the marketing notice as a commercial message, to indicate in the notice their identity as the sender of the notice on whose behalf the communication takes place, and to state clearly and unequivocally how to easily and cost-effectively make a notification on no interest in sending further marketing notices.
- 4.9. You undertake not to use the Services for any illegal or prohibited activities or projects, in particular for the activities or projects that:
  - 4.9.1. are by all accounts offensive and promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;
  - 4.9.2. harass or advocate harassment of another person;
  - 4.9.3. involve the transmission of “junk mail”, “chain letters,” or unsolicited mass mailing or “spamming”;
  - 4.9.4. promote information that to your knowledge is false or misleading, or promote or else involve illegal activities or conduct that is abusive, threatening, obscene, defamatory or libellous;
  - 4.9.5. promote information regarding the gambling services, including lotteries, betting;
  - 4.9.6. promote information regarding the consumer credit and other financing instruments addressed to consumers;
  - 4.9.7. promote an illegal or unauthorised copy of another person’s copyrighted work, such as providing pirated pictures, texts, videos or computer programs or links to them, providing information to circumvent manufacture-installed copy-protect devices, or providing pirated music or video or links to pirated music or video files;
  - 4.9.8. contain restricted or password only access pages or hidden pages or images (those not linked to or from another accessible page);

- 4.9.9. provide material that exploits people under the age of 18 in a sexual or violent manner, or solicit personal information from anyone under 18;
  - 4.9.10. provide instructional information about illegal activities such as making or buying illegal weapons, violating someone's privacy, or providing or creating computer viruses; or
  - 4.9.11. solicit passwords or personal identifying information for unlawful purposes from users;
  - 4.9.12. endanger the mental, emotional or moral development of children.
- 4.10. You shall use the Services and your Content in a manner consistent with any and all applicable laws and regulations (including the laws on advertising and regulation of SPAM messages). You shall also ensure that no viruses or other malicious code will be shared through the Services.
- 4.11. You shall abstain from any activities that could facilitate or encourage any violations of this Agreement, any other our policies, or any right of the third person.

## **5. OUR RIGHTS AND OBLIGATIONS WITHIN PROVISION OF THE SERVICES**

- 5.1. We will:
- 5.1.1. make the Services available to the Customer as described in the Agreement;
  - 5.1.2. ensure registration and publishing of the customised Application to digital distribution platforms such as Google Play and Apple App Store;
  - 5.1.3. not use or process the Customer's Content for any purpose without Customer's prior instructions; provided with the exception of the processing of the Content related to Customer's use of the Services or otherwise necessary for the performance of the Agreement (for example, we are naturally entitled to use Customer's Content, which has been provided to us, for the purpose of customisation of the Customer's Application).
- 5.2. For all paid-for Services (it means all Services except the freemium model), we use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, excluding planned downtime. We do our best to notify you in advance on each planned downtime, if such downtime may exceed one (1) hour. In case of any problems with the availability or using of the Services, you may contact us anytime. However, please note that the extent of our support differs in accordance with the tier which you have subscribed (please see the Tier System or send us your request for more information).
- 5.3. We reserve the right to improve or change the functionalities, design and content of our Services from time to time, at our discretion, with the prior notice addressed to our Customers via our Website.
- 5.4. We will not monitor your using of the Services or the communication with the End-users. We make no representations or warranties as to your conduct via the Services. We do, however, recommend that if you choose to exchange personal or sensitive information with any End-user via the Application, then you will be responsible for the processing of such data as a data controller.
- 5.5. We reserve the right to refuse or stop access to the Services anytime provided that you use the Services for illegal or prohibited activity or projects, in particular for the activities or projects pursuant to Art. 4.9 hereof.
- 5.6. The Parties are aware that illegal or unauthorised use of the Services is prohibited. Appropriate legal action may be taken by us for any illegal or unauthorised use of the Services. We reserve the right to cooperate with appropriate law enforcement agencies with respect to any activities conducted via the Services that may violate any applicable laws.

## **6. INTELLECTUAL PROPERTY**

- 6.1. Access right. The content of the Website and the Application and the Website and the Application itself are protected by copyright, database rights and other intellectual property rights. We retain and reserve all copyright, trademark, intellectual and other property rights pertaining to our Website and the Application, its development and/or use (for example, we are the exclusive right holder of the copyrights to the source code and object code of the Website/Application). We provide the Customer with the non-sublicensable, non-transferable, non-exclusive, time-limited access right to use the Website/Application's functionalities

and the Services pursuant to the terms and conditions of this Agreement. Nothing in this Agreement shall be construed as conferring any license of any intellectual property rights or such materials by us to you. You may use Website/Application and its Services in commonly way pursuant to this Agreement.

- 6.2. You may not post, distribute, or reproduce through Website/Application any copyrighted material, trademarks, or other proprietary information (collectively Content) without obtaining the prior written consent of the owner of such proprietary rights. In case the Customer is in breach of this obligation and takes any action that may harm any rights of intellectual property of any person. We assume no responsibility, nor liability for any infringements of the Customer's or the Town's or any third party's rights to intellectual property.
- 6.3. Rights to the Customer Content. If you share, post, upload, or display any Content through the Services to publicly accessible areas of the Website/Application environment, we do not claim ownership of your Content; however you grant us a worldwide, non-exclusive, non-transferable, limited-term, fully paid, royalty-free consent (license) to access, use, process, copy, perform, modify, export, publish and display the Town's web homepage content and any of its part and any other Content which is used or intended to use within the Application, only as reasonably necessary (i) to use this content within the customised Application during the term of the Agreement, (ii) to provide, maintain and update the Services; (iii) to ensure support or technical issues, (iv) as required by law or as permitted by the Agreement.
- 6.4. Please note that when you share, post upload, or display Content that is covered by intellectual property rights (for example, photos or videos) via the Application, you hereby warrant and represent that you have all legal, moral, and other rights that may be necessary to use the Content in such way.

## **7. PERSONAL DATA PROTECTION**

- 7.1. The Parties undertake to comply with the data protection laws applicable in the jurisdiction of PERRY SOFT. Terms and conditions of personal data processing are included in Annex No. 1 attached hereto.
- 7.2. You acknowledge that you have read and fully understand our Privacy Policy that is accessible at: <https://simplicity.help/legal/privacy-policy/>, which describes how we process the data you or the End-users provide to us or generated when you use the Services. If you have any question, please contact us at: [contact@simplicity.help](mailto:contact@simplicity.help).
- 7.3. The Customer acknowledges that they and their employees and other representatives read the Privacy Policy that is available at the Website before commencement of the using the Services.

## **8. CONFIDENTIALITY**

- 8.1. The Parties undertake not to disclose to a third party any confidential information which they have become acquainted with or which has been provided (made available) to them by the other Party in the course of performance of the Services and/or other services and tasks related thereto. The confidentiality duty shall continue even after the termination of the Agreement without any time limitation.
- 8.2. The confidential Information referred to in the Agreement is defined as any information, facts, materials or data – technical, commercial or otherwise – whether documented or not, which the Parties have learned or which have been provided (made available) to them for the purpose of performance of the Services (including the login credentials and password necessary for the access of the Customer to the Services and its administrator account, as well as a custom fee quote), with the exception of:
  - 8.2.1. information publicly known or publicly accessible otherwise than by breach of the contents of this Agreement by either of the Parties;
  - 8.2.2. information, which the Party can prove beyond doubt were already in its possession before their disclosure by the other Party;
  - 8.2.3. information independently developed or created by the Party without any use of or reference to the information provided by the other Party;
  - 8.2.4. information, which the Party has received or will receive from any third party, without being bound by the confidentiality duty in relation to that third party.

- 8.3. In cases referred to in Art. 8.2 hereof, the Party is not entitled to disclose to a third party that it obtained the same information also from the other Party under this Agreement.
- 8.4. For the purpose of this Agreement the Parties have agreed that the directors, employees, advisors, representatives, and consultants of the Parties who are – due to their position in or towards the Parties – fully entitled to learn about the confidential information and whose entitlement to receive the confidential information has been expressly confirmed by the directors of the Parties, shall not be considered third parties towards which the confidentiality duty shall be applied by the Parties (“Authorised Persons”).
- 8.5. The Parties undertake to ensure that the Authorised Persons do not disclose the confidential information to any third party. It is thus the responsibility of each Party to ensure that the Authorised Persons who are likely to come into contact with the information of a confidential nature, are informed to maintain the same level of confidentiality as the Parties themselves under this Agreement.

## **9. ASSIGNMENT OF RIGHTS AND OBLIGATIONS**

- 9.1. Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred, in whole or in part, to any third party without the prior written consent of the other Party, unless otherwise stated in the Agreement. Any such assignment or transfer without prior written consent shall be invalid and ineffective. Such consent shall not be unreasonably withheld or delayed by the Parties. The Agreement shall be binding upon the Parties’ legal successors and their assignees accordingly.

## **10. DURATION AND TERMINATION OF THE SUBSCRIPTION AND THE AGREEMENT**

- 10.1. Freemium subscription. As regards the freemium model subscription of our Services, the subscription continues until terminated by either Party. The Customer may unilaterally terminate its freemium model subscription immediately without cause. We may unilaterally terminate the Customer’s freemium model subscription without cause, but we shall provide the Customer with fifteen (15) days prior written notice.
- 10.2. Paid-for subscription. The paid-for subscription of the Services has a term that may expire or be terminated. The Agreement on each paid-for subscription remains effective until ordered paid-for subscription under the Agreement is expired or terminated. If not agreed otherwise, the Agreement on the paid-for subscription of the Services lasts during respective billing period; each billing period is automatically renewed (without the need to send an ordered request or execute any other renewal action) until a Party delivered to other Party a notice of non-renewal of the Agreement itself (see below). Either Party may send the other notice of non-renewal at least fifteen (15) days before the end of a given billing period of the paid-for subscription term to cease the subscription from automatically renewing; the Agreement ceases to exist by the end of the given billing period in which the termination notice is delivered to the received Party.
- 10.3. For avoidance of any doubt, each termination of the subscription shall be deemed to be termination of the Agreement itself.
- 10.4. Termination with Cause. In the event that you breach any of your obligations prescribed by Art. 2 or 4 or 6 hereof, we will be entitled:
- 10.4.1. to terminate this Agreement unilaterally via a written notice delivered to you, in particular when your breach is of a material nature or it is repeated breach of the same obligation (more than twice); the Agreement ceases to exist by the end of the given calendar week in which the termination notice is delivered to you;
- 10.4.2. to send you written notice with specification of the identified breach and with the information that the Agreement will be immediately terminated, if you breach the same obligation over again;
- 10.4.3. to block your account at the Website/Application with or without time limitation.
- 10.5. In any case we may immediately delete the Content from the Application that is breached the obligation prescribed by Art. 2 or 4 or 6 hereof without the need to state any reasons.
- 10.6. The provisions of Art. 9.1, Art. 12, 13, 16, 17.4 as well as other provisions hereof the nature of which implies that these should survive the termination hereof, shall not be affected by the termination of this Agreement.



## 11. FORCE MAJEURE

- 11.1. No Party shall be held liable for non-fulfilment of its obligations under the Agreement, in whole or in part, as a result of events beyond its reasonable control, which prevent the Party from complying with any of its obligations under the Agreement. Such events shall include, without limitation, acts of God (such as earthquakes, fires, drought, tidal waves, floods or other natural disasters), strikes (unless solely restricted to employees of the Party), lockouts, riots, acts of war, insurrections, invasions, mobilisation, acts of terrorism, embargoes, epidemics, governmental laws and regulations imposed or amended after the conclusion of the Agreement, communication line failures or power failures ("Force Majeure Events"). Delays in delivery or completion dates due to the Force Majeure Events shall automatically extend such dates for an additional period equal to the duration of the Force Majeure Events. In the event such non-performance lasts for a period of sixty (60) days or more, either Party is entitled to terminate the Agreement by giving written termination notice to the other Party.
- 11.2. Either Party is obliged to notify the other Party without undue delay about the occurrence of the Force Majeure Events in order to obtain the relief pursuant to Art. 12.4 hereof.

## 12. WARRANTIES, LIABILITY LIMITATION AND WAIVERS

- 12.1. We shall provide the Services in the scope agreed in the Agreement and in regular quality.
- 12.2. No Warranty. Unless stipulated otherwise in any relevant agreement, to the full extent permitted by applicable law, the Services are provided "as is", and "as available" without warranty of any kind. Without limiting the foregoing, we expressly disclaim all express and implied, statutory, or otherwise warranties, including all warranties of merchantability, fitness for any particular purpose and non-infringement. The Customer acknowledges that we do not warrant that the Services will be uninterrupted, timely, secure, or error-free basis. Moreover, we make no warranty that the Services, will meet the Customer's requirements. We make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness or reliability of the Services, any service levels with respect to Services. You acknowledge and agrees that if you rely on the Services, you do so solely at your own risk (unless agreed otherwise in the Agreement).
- 12.3. Liability Limitation. If we are in breach of this Agreement, we are only responsible for any losses that the Customer suffers as a direct result of such a breach, to the extent that they are a foreseeable consequence to both of the Parties at the time of the conclusion of the Agreement. No limitation of liability applies in case the damage is caused to the Customer due to our proven intentional conduct.
- 12.4. Waivers. In addition to the Force Majeure Events, our liability shall be limited as follows:
- 12.4.1. In no event shall PERRY SOFT be liable to the Customer for more than greater of (i) the amount of any actual direct damages up to the amount paid by the Customer for the Services pursuant to the Agreement during the twelve (12) months preceding the first incident from which the liability arose, or (ii) 5,000 EUR (in words: five thousand euro). The Parties agree that this clause represents the maximum amount of foreseeable damage at the time of concluding the Agreement, as well as a reasonable allocation of risk.
- 12.5. We shall not be responsible or liable for:
- 12.5.1. loss of data caused by the Customer or the End-user;
- 12.5.2. any damages, losses or liability to the Customer, the End-user or third person, if login credentials, including usernames and passwords, for administrator accounts is not kept confidential by the Customer and such damages, losses or liability is related to the Customer's breach of confidentiality;
- 12.5.3. any incorrect, inaccurate or unlawful content communicated through the Application or in connection with the Services provided, whether caused by the Customer or by the End-user or by any of the equipment or programming associated with or utilised;
- 12.5.4. any incidental, special, punitive, exemplary, indirect costs or consequential damages, including lost profits, litigation costs, loss of data or goodwill or business opportunities or reputation, computer damage or system failure or the cost of substitute services arising out of or in connection with this Agreement or from the use of or inability to use the Services;

- 12.5.5.any modification or development of the Services that is not performed by us, including in the use of any application programming interface (API);
- 12.5.6.the conduct, whether online or offline, of the Customer or the End-user;
- 12.5.7.any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorised access to, or alteration of, the Customer's account or communication through the Services;
- 12.5.8.any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, or traffic congestion on the Internet or at any website or combination thereof, including any injury or damage to the User or to any person's computer related to or resulting from participation or downloading materials in connection with the Services;
- 12.5.9.any loss or damage, including personal injury or death, resulting from use of the Services or from any Customer's or End-user's or third person's content or other activities communicated via the Services or transmitted to the Customer, whether online or offline.

The same limitation of liabilities applies not only to all of the current features of the Services, but also to any features that may be added/offered in future.

### **13. INDEMNITY**

- 13.1. You undertake to indemnify us and repay all damages, costs, expenses, and losses suffered or incurred by us arising out of or in connection with any breach of the warranties, undertakings, covenants and obligations contained in this Agreement. At our request and at your own expense, you shall provide all reasonable assistance to enable us to resist any claim, action or proceedings brought against us as a consequence of that breach.
- 13.2. We undertake to indemnify you and repay damages suffered or incurred by you arising out of or in connection with the using of the Application as permitted under the Agreement infringes or misappropriates a third party's intellectual property right.

### **14. COMMUNICATION**

- 14.1. All notices or requests required to be given under the Agreement shall be made in writing.
- 14.2. Unless otherwise provided herein, any notices, requests, invoices or other communication hereunder made in writing shall be delivered by email or registered mail or courier.
- 14.3. Any notices or requests hereunder shall be deemed to have been given:
  - 14.3.1.if delivered by courier or registered mail, upon its delivery to the recipient or upon recipient's refusal to take it over;
  - 14.3.2.if sent by e-mail, upon three (3) days after its sending to the other Party.
- 14.4. Any changes of the Party's postal address and/or e-mail address must be notified to the other Party without undue delay in accordance with the provisions of this article.
- 14.5. You may contact us via our email address [contact@simplicity.help](mailto:contact@simplicity.help) anytime.

### **15. INFORMATION FOR CONSUMERS**

- 15.1. Please note that the Services are not intend for "consumers" (the concept of a "consumer" is defined under applicable law). You acknowledge that you are aware that the Services are offered primarily for legal persons (such as the Town) and that the Services are not intended for private use. If you intend to use the Services as a natural person, you acknowledge and undertake that you will use the Services in the best interests of the Town and will not use the Services for private purpose.
- 15.2. Despite the abovementioned, however, if you are a consumer under applicable public law, you acknowledge and consent that paid-for subscription of the Services is duly provided after you have made the respective payments under the Agreement and before the expiration of the statutory withdrawal period.

Therefore, a consumer loses its statutory right to withdraw from the Agreement under applicable public (consumer) law.

- 15.3. If you are a consumer under applicable law, you may notify us in writing on all complaints concerning the Services without undue delay, not later than five (5) days the first problem with the Services when arose. However, please note that only the Customer with the paid-for subscription are entitled to file a complaint.
- 15.4. If you are a consumer under applicable law, you have the right to ask us to remedy the situation, if you are not satisfied as to how your complaint has been handled by us, or if you assume that we violated your rights. You have a right to submit a motion for initiation of the alternative dispute resolution (the "Motion") to the subject of the alternative dispute resolution, if we have rejected or have not responded to the request.
- 15.5. You may file the Motion to a competent subject of the alternative dispute resolution which is an authority of the alternative dispute resolution, i.e. Slovakian Trade Inspection ([www.soi.sk](http://www.soi.sk)); the possibility of having recourse to a national court is not affected thereby. In that case, the parties to a dispute are you, as the person who submitted a Motion for initiation of the alternative dispute resolution, and we, against whom the Motion has been filed. The Motion can be submitted in the form of a letter, electronically or orally (on record). You can also submit the Motion via the following online platform of the alternative dispute resolution: <http://ec.europa.eu/consumers/odr/>.

## **16. GOVERNING LAW AND JURISDICTION**

- 16.1. The Agreement shall be governed by the substantive law of the country of the PERRY SOFT's registered office, with the exclusion of any conflict-of-laws provisions.
- 16.2. All disputes arising from or in connection with the Agreement between Parties shall be amicably settled by mutual consultation of Parties. If Parties do not conclude a written agreement about resolution of dispute not even in thirty (30) days from the delivery of written invitation to mutual consultation, each Party is entitled to submit the dispute to the competent court in the state of the PERRY SOFT's registered office.

## **17. FINAL PROVISIONS**

- 17.1. Entire Agreement. The Agreement, together with its appendices constitutes the entire business agreement between the Parties and supersedes any and all prior agreements, arrangements and/or understandings, either written or oral, between the Parties relating to the subject matter of this Agreement.
- 17.2. Severance. If any provision of this Agreement is declared void, invalid, or illegal by a competent judicial or arbitration authority, the validity or legality of any of the other provisions and of the entire Agreement shall not be affected thereby and the Parties shall replace such provision with one as near in substance as possible to the original provision.
- 17.3. Public Procurement. In general, the subscription of the Services is excluded from the applicable public procurement law due to fact that the prices of subscription are usually lower than the statutory thresholds.
- 17.4. Publicity. You hereby grant to us non-exclusive and royalty-free consent to publicly use your business name or name of the Town and logo or Town's coat of arms within the list of references to PERRY SOFT's customers for marketing purposes (in particular, for communication of this information to the public via the Website). If you do not want to be listed among our references, you may send us an email to [legal@simplicity.help](mailto:legal@simplicity.help) stating that you do not wish to be used as a reference.
- 17.5. Amendments: We may update this Agreement from time to time for legal or regulatory reasons or to allow for the proper operation of the Services. Any changes will be notified to you via a suitable announcement on the website or via a private message addressed to your email. The changes will apply to the use of the Services after we have given notice. If you do not wish to accept the amended version of the Agreement you shall not continue to use the Services. If you continue to use the Services after the date on which the changes come into effect, your use of the Services indicates your agreement to be bound by the amended version of the Agreement.



## ANNEX NO. 1

### DATA PROCESSING AGREEMENT

This Data Processing Agreement (hereinafter referred to as "DPA") is concluded pursuant to Article 28 of Regulation of the European Parliament and of the Council (EU) 2016/679 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, whereby repealing Directive 95/46/ES (hereinafter referred to as "GDPR") between:

**PERRY SOFT s.r.o.**, having its registered office at Palackého 31, Trenčín 911 01, Slovak Republic, Company ID No.: 51 682 265, registered with the Commercial Registry of the District Court Bratislava I, Section: Sro, insert No. 128632/B

as the Processor

(hereinafter referred to as "PERRY SOFT ")

and

**Customer** as the Controller

(hereinafter referred to as the "Customer")

(hereinafter PERRY SOFT and the Customer mutually referred to as "Parties" and each individual party also as the "Party");

in the following wording:

## **1. PREAMBLE**

- 1.1. PERRY SOFT is a service provider of the SaaS mobile applications and other services that are made available through the online platform ("Services") and that are provided through the website [www.simplicity.help](http://www.simplicity.help) ("Website").
- 1.2. This DPA sets out the terms and conditions for the processing of the personal data (hereinafter referred to as the "Personal Data") by PERRY SOFT on behalf of the Customer under the agreement (hereinafter referred to as the "Agreement") concluded between the Parties. Pursuant to the Agreement the Customer acquires the Services as defined in the Agreement from PERRY SOFT and PERRY SOFT provides those Services to the Customer. This may involve the processing of Personal Data by PERRY SOFT on behalf of the Customer as part of the provision of the relevant Services.
- 1.3. PERRY SOFT acts as a data processor or sub-processor and the Customer acts as a data controller or as a data processor, pursuant to the definitions contained in the data protection laws that shall mean all applicable data protection laws, including but not limited to the GDPR and Act No. 18/2018 Coll. Personal Data Protection Act as amended and the instructions and binding orders of the data protection authorities (hereinafter collectively referred to as the "Data Protection Regulation").

## **2. THE SUBJECT-MATTER OF THE DPA**

- 2.1. The subject-matter of the DPA herein is the authorisation of PERRY SOFT to process the Personal Data provided by the Customer and on behalf of the Customer for the purposes agreed in the Agreement and this DPA.
- 2.2. PERRY SOFT is entitled to process Personal Data in the scope of, under conditions and for the purpose agreed with the Customer in the DPA and in the manner permitted under Data Protection Regulation.

## **3. PURPOSE AND DESCRIPTION OF PERSONAL DATA PROCESSING**

- 3.1. The purpose of the processing of the Personal Data by PERRY SOFT is to enable the performance of the agreed Services pursuant to the Agreement.
- 3.2. The processing to be carried out by PERRY SOFT is as follows:
  - 3.2.1. the duration of the processing will be throughout the period within which PERRY SOFT performs the relevant Services under the Agreement;
  - 3.2.2. the Personal Data to be processed will be any personal data provided by the Customer to PERRY SOFT and Personal Data acquired and processed by PERRY SOFT in order to enable or facilitate the provision of the Services under the Agreement; the types of processed Personal Data are as follows: email address, name, GPS location, phone number and the categories of data subjects are primarily the end-users of the Services (in particular, mobile application) provided by PERRY SOFT to the Customer.
  - 3.2.3. the obligations and rights of the data controller in relation to the processing are set out below.

## **4. CUSTOMER'S RIGHTS AND OBLIGATIONS**

- 4.1. The Customer shall:
  - 4.1.1. process the Personal Data in compliance with the Data Protection Regulation;
  - 4.1.2. be entitled to give written instructions to PERRY SOFT on the processing of Personal Data. Such instructions shall be binding on PERRY SOFT on the condition that if the completion of the instructions requires the provision of Services under the Agreement, or result in costs emerging on PERRY SOFT's side, the Customer shall simultaneously pay the applicable service fees costs. PERRY SOFT shall not meet any Customer instructions which are contrary to any Sections of this DPA;
  - 4.1.3. retain the control over the Personal Data. If any data subject requests for information on the processing of Personal Data or requests any other rights under Chapter III of GDPR, the Customer shall immediately instruct PERRY SOFT to take the appropriate measures.

## **5. PROCESSING OF PERSONAL DATA BY PERRY SOFT**

- 5.1. In relation to the processing of personal data under this DPA, PERRY SOFT shall:
  - 5.1.1. process the Personal Data (including when making an international transfer) only to the extent necessary in order to provide the Services and then only in accordance with the terms of this DPA, the Agreement, good data processing practices and the Customer's written instructions, unless otherwise required by Data Protection Regulations;
  - 5.1.2. implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by the processing, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed under this DPA;
  - 5.1.3. shall periodically test, assess and evaluate the effectiveness of its technical and organisational measures;
  - 5.1.4. take all reasonable steps to ensure that only authorised personnel have access to the personal data and that any persons whom it authorises to have access to the Personal Data will respect and maintain all due confidentiality in relation to the Personal Data (including by means of an appropriate contractual duty of confidentiality where the persons concerned are not already under such a duty under the law; such duty of confidentiality shall continue even after the legal relationship with persons that are authorised to have access to the personal data has been terminated);
  - 5.1.5. immediately notify the Customer if, in PERRY SOFT's opinion, any instruction given to PERRY SOFT infringes the Data Protection Regulations;
  - 5.1.6. where applicable in respect of any Personal Data processed under this DPA, co-operate with and assist in ensuring compliance with:
    - 5.1.6.1. Customer's obligations to respond to requests from any data subject(s) seeking to exercise its/their rights under Chapter III of the GDPR, including by notifying Customer of any written subject access requests PERRY SOFT receives relating to the Customer's obligations under the Data Protection Regulations;
    - 5.1.6.2. Customer's obligations under Articles 32 – 36 of the GDPR taking into account the nature of processing and the information available to PERRY SOFT;
  - 5.1.7. provide the Customer with all information necessary to demonstrate compliance with Customer's obligations set out in this DPA and in the Data Protection Regulation;
  - 5.1.8. process the Personal Data only during the term of this DPA.
- 5.2. This DPA shall not prevent PERRY SOFT from processing the Personal Data as required by law, regulation or by a competent court or Supervisory Authority. In case a Supervisory Authority or a competent court makes a request concerning the Personal Data, including a request for blocking, deleting, amending the Personal Data, delivering them any information or executing any other actions, PERRY SOFT shall, without undue delay, inform the Customer of all such requests prior to any response or other action concerning the Personal Data, or as soon as reasonably possible in case any law or regulation prescribes an immediate response to the Supervisory Authority or a competent court, unless such notice to the Customer is prohibited by the respective law, regulation or order.
- 5.3. In the event of a personal data breach, i.e., a breach of security leading to accidental or unlawful destruction, loss, alternation, unauthorised disclosure of, or access to the Personal Data, PERRY SOFT shall without undue delay notify the Customer via e-mail.
- 5.4. PERRY SOFT shall take appropriate steps to protect the Personal Data after having become aware of a personal data breach under Art. 5.3 hereof, in order to limit any possible detrimental effect to the data subjects. PERRY SOFT will cooperate with the Customer to respond to said personal data breach.
- 5.5. The both Parties hereby undertake to provide each other with mutual cooperation necessary for the fulfilment of provisions in the DPA herein.

- 5.6. If a breach of the Customer's obligation stipulated in the DPA and/or Data Protection Regulations results into any damage or loss to PERRY SOFT, the Customer is obliged to reimburse PERRY SOFT such a loss in its full amount.

## **6. SUBCONTRACTORS (SUB-PROCESSORS)**

- 6.1. The Customer acknowledges and agrees that PERRY SOFT may engage third-party sub-processors in connection with the processing of Personal Data within the sphere of the Agreement. PERRY SOFT shall make available to the Customer the current list of sub-processors as part of this DPA in Annex 1 that shall include the names and country locations of those sub-processors, alongside with the scope of services they provide for PERRY SOFT. Customer agrees to the application of these subcontractors for the indicated scope of services.
- 6.2. In case of any additions or change to the current list, PERRY SOFT shall notify the Customer in advance - indicating the name, country location, and subcontracted service of the proposed new sub-processor. Unless Customer objects in writing within 15 calendar days of being informed about PERRY SOFT's use of a new sub-processor, PERRY SOFT may apply the new sub-processor for the indicated data processing activities. If Customer made an objection within the given timeline, PERRY SOFT will use reasonable efforts to change the third party to avoid processing of the Personal Data by the "objected-to" new sub-processor. If PERRY SOFT is unable to implement such changes within 30 calendar days, the Customer within further 30 calendar days from PERRY SOFT's notice (or – if PERRY SOFT has failed to reply – from the expiry of the 30 calendar days available for PERRY SOFT's notice) may terminate the Agreement. If Customer fails to send such a termination notice to the PERRY SOFT within said deadline, this shall be deemed to be a consent to the application of the proposed sub-processor.
- 6.3. PERRY SOFT remains responsible for the Personal Data processing activities of its sub-processors as if the processing activities were carried out by PERRY SOFT itself and for this purpose it shall conclude with each subcontractors a written contract that imposes to the subcontractors the same data protection obligations as set out for PERRY SOFT in this DPA.

## **7. CONTROLLER POWERS OF THE CUSTOMER**

- 7.1. PERRY SOFT is obliged to provide the Customer with all the information and documentation necessary to prove the performance of obligations of PERRY SOFT as stipulated in Data Protection Regulation.
- 7.2. At any time during the term of this DPA, the Customer and/or a recognised, independent third-party auditor appointed by the Customer shall have the right to perform audits of PERRY SOFT's and it's sub-processors' facilities in accordance with the Agreement. However, any audit pursuant to this DPA shall be limited to assessing PERRY SOFT's compliance with its obligations under this DPA and shall not extend to granting access to any data of other Customers processed by PERRY SOFT or data related to the usage of security measures by PERRY SOFT.

## **8. TRANSFER OF PERSONAL DATA TO THIRD COUNTRIES**

- 8.1. The processing of Personal Data is exercised by PERRY SOFT within area of the EU/EEA member states. If it is necessary for the providing of the Services, the Personal Data may be transferred outside the EU/EEA territory provided that in such respective transfer the specific conditions stipulated under Article 44- 50 of GDPR are followed.
- 8.2. With regard previous Section, the Parties agree that Personal Data may be transferred from the EU/EEA member states to a third country, particularly if one of the following conditions applies: (a) there is an applicable decision of the European Commission that states that the third country ensures an adequate level of protection; or (b) the transfer may take place because PERRY SOFT has provided appropriate safeguards according to Art. 46 of the GDPR, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available; or (c) the derogations for specific situation under Art. 49 of the GDPR apply.

## **9. DELETION OF PERSONAL DATA**



- 9.1. PERRY SOFT processes Personal Data only during the Agreement and for so long as is necessary for the purpose(s) for which it was originally collected. Upon termination of the Agreement for any reasons, PERRY SOFT shall either delete all Personal Data, except to the extent that it is necessary for PERRY SOFT to continue to process it for the purpose of compliance with legal obligations to which the PERRY SOFT are subject or for another legitimate and lawful purpose (in particular, invoicing data that shall be stored during ten years under respective laws).
- 9.2. Upon Customer's request, PERRY SOFT shall confirm to the Customer in writing that the deletion of Personal Data has been accomplished.

#### **10. FINAL PROVISIONS**

- 10.1. This DPA shall be governed by the same substantive law and have the same jurisdiction like the applicable substantive law and jurisdiction has been agreed in the Agreement.
- 10.2. All terms and definitions used in this DPA herein have the same meaning as terms and definitions used in the Agreement unless otherwise expressly stated.
- 10.3. The Parties declare that prior to the concluding hereof, they have carefully read the DPA, understood its contents and attest that it is executed of their true and free will and that the DPA was not concluded in duress or under grossly unfavourable terms.
- 10.4. The DPA comes into force and shall become effective upon the conclusion of the Agreement.

Current version: dated November 2020

**ANNEX NO. 1 TO THE DATA PROCESSING AGREEMENT:  
LIST OF SUBCONTRACTORS**

<b>Name</b>	<b>Location</b>	<b>Scope of services provided</b>
DigitalOcean	<a href="https://www.digitalocean.com">https://www.digitalocean.com</a>	Cloud services
SparkPost	<a href="https://www.sparkpost.com">https://www.sparkpost.com</a>	Communication services
OneSignal	<a href="https://onesignal.com">https://onesignal.com</a>	Notification services