

# Elliptic US Online Terms and Conditions

1. **INTERPRETATION**
- 1.1. The following definitions apply to these terms and conditions (the “**Terms**”):
- (a) “**Acceptable Use Policy**”: means the then-current acceptable use policy relating to the use of AML Platform and Forensics Platform that is provided to users thereof upon first access to the AML Platform and/or Forensics Platform (as applicable).
  - (b) “**Access Protocols**”: means the user log-in credentials, together with the network link required to enable Authorized Users to set their password, necessary to access the AML Platform and/or the Forensics Platform (as applicable).
  - (c) “**Affiliate**”: means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity.
  - (d) “**Agreement**”: means these Terms and any applicable Engagement Letter(s).
  - (e) “**AML Platform**”: means the software systems and interfaces owned, operated and/or licensed by Elliptic, which are used to examine the provenance of Cryptocurrency for the purposes of assessing the risk of a Cryptocurrency transaction being associated with illicit activity, together with any Elliptic Data comprised therein or accessed thereby.
  - (f) “**AML Platform Package**”: means the commercial package relating to the AML Platform as selected by the Customer and as set out in the relevant Engagement Letter.
  - (g) “**Authorized Users**”: means those employees, agents and independent contractors of the Customer who are authorized by the Customer to access the AML Platform and/or the Forensics Platform (as applicable) as agreed in an Engagement Letter.
  - (h) “**Business Day**”: means any day which is not a Saturday, Sunday or federal holiday in the United States and on which the banks are open for business in the United States.
  - (i) “**Confidential Information**”: shall have the meaning ascribed to it in Section 15.1 below.
  - (j) “**Control**”: means the beneficial ownership of more than fifty percent (50%) of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and the expression “**Change of Control**” shall be construed accordingly.
  - (k) “**Cryptocurrency**”: means any other peer-to-peer electronic money or payment network which uses cryptography to secure transactions, for example Bitcoin.
  - (l) “**Customer**”: means the Party (other than Elliptic) who has executed an Engagement Letter to use the AML Platform, the Forensics Platform or both.
  - (m) “**Customer Data**”: means any data, media, information or other content that is inputted by Customer or Authorized Users in using the AML Platform and/or the Forensics Platform (as applicable).
  - (n) “**Deliverables**”: means:
    - (i) the results of any use of AML Platform and/or Forensics Platform, including but not limited to any graphs showing chains of Cryptocurrency transactions together with all information displayed alongside or within such graphs;
    - (ii) analyses or reports (including drafts thereof) produced by Elliptic under an Engagement Letter; and
    - (iii) any other items identified as being a Deliverable in an Engagement Letter, in any form or media.
  - (o) “**Dispute**”: means any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination or any contractual or non-contractual obligation.
  - (p) “**Documentation**”: means the manuals, product literature, instructions, schematics, and drawings prepared or published by Elliptic that describe or relate to AML Platform and/or the Forensics Platform and its installation, use, operation, features, functionality, capabilities and maintenance.
  - (q) “**Effective Date**” means the date as set out in the Engagement Letter, or, if there is more than one Engagement Letter, the date as set out in the first Engagement Letter issued pursuant to these Terms.
  - (r) “**Elliptic**”: means Elliptic Inc. (a Delaware corporation, having an address at 1732 1st Ave #23346, New York, NY 10128).
  - (s) “**Elliptic Data**”: means any data, media, information or other content that is accessible via the AML Platform or Forensics Platform, but excludes any Customer Data.
  - (t) “**Elliptic Personnel**”: means any of Elliptic’s employees, agents, consultants or contractors together with, as the context permits and requires, the equivalent of its Affiliates and/or subcontractors.
  - (u) “**Engagement Letter**”: means an engagement letter signed by the Parties, which incorporates these Terms.
  - (v) “**Fees**”: means any fees set out in an Engagement Letter for the AML Platform Package and/or Forensics Platform Package (together with any associated access rights), and/or any other services to be provided by Elliptic under that Engagement Letter (including, where relevant, any associated Deliverables).

- (w) **"Forensics Platform"**: means the software systems and interfaces owned, operated and/or licensed by Elliptic, which are used to enable the re-identification of pseudonymous Cryptocurrency users and map chains of Cryptocurrency transactions.
- (x) **"Forensics Platform Package"**: means the commercial package relating to the Forensics Platform as selected by the Customer and as set out in the relevant Engagement Letter.
- (y) **"Initial Term"**: means the period specified for the initial subscription term as set out in the Engagement Letter or, if there is more than one Engagement Letter, the date as set out in the first Engagement Letter relating to the Customer's subscription to the AML Platform Package and/or Forensics Platform Package issued pursuant to these Terms.
- (z) **"Intellectual Property Rights"**: means all copyright and related rights, patents, rights to inventions, utility models, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- (aa) **"Losses"**: means all losses, liabilities, damages, costs, claims, charges, demands, actions, proceedings and expenses (including legal and professional fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).
- (bb) **"Renewal Term"**: means the period specified for renewal subscription terms (as applicable) in the relevant Engagement Letter, or if not stated in the Engagement Letter, twelve (12) months.
- (cc) **"Services"**: means, as applicable, the AML Platform, the Forensics Platform, Documentation, Deliverables, and any services provided by Elliptic related to any of the foregoing.
- (dd) **"Term"**: means the Initial Term and any Renewal Term(s).
- (ee) **"Third Party Content"**: means any and all content, data, media, information, software (including all Intellectual Property Rights relating thereto or subsisting therein) that is owned by and/or licensed from a third party.

- 1.2. To the extent not defined in this Section 1, the terms outlined in an Engagement Letter shall have the meaning given to them therein.
- 1.3. A "person" includes a natural person, corporate or unincorporated body.
- 1.4. Any reference to these Terms terminating shall, where the context requires, include a reference to these Terms terminating by the expiration of the Term.

- 1.5. Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular and references to one gender are references to the other genders.
- 1.6. A reference to a statute of statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7. The words "include" and "including" (or similar) shall be construed as illustrative only and shall not limit the sense of the description, definition, phrase or term(s) that comes before the relevant term.
- 1.8. Any reference to an English legal term for any action, remedy, method or judicial proceedings legal document, legal status, court, official, or any other legal concept shall, in respect of any other jurisdiction than England be deemed to include the legal term which most nearly approximates in that jurisdiction to the English legal term.
- 1.9. Any reference to the **"Parties"** means Elliptic and Customer and **"Party"** shall mean one of them.

## 2. COMMENCEMENT AND DURATION

- 2.1. Unless terminated earlier pursuant to the terms of Section 19, these Terms shall:
  - (a) commence on the Effective Date and shall continue for the Initial Term; and
  - (b) automatically renew for further successive Renewal Terms at the end of the Initial Term and at the end of each Renewal Term, unless either Party gives written notice to the other Party not later than ninety (90) days before the end of the Initial Term or a Renewal Term (as applicable) to terminate these Terms at the end of the Initial Term or that Renewal Term (as applicable).

## 3. CHANGES TO THESE TERMS

- 3.1. Elliptic may amend the Agreement on thirty (30) days' notice to Customer. During such notice period, Customer may terminate the Agreement immediately on written notice to Elliptic.
- 3.2. Any access to or use of AML Platform or Forensics Platform following expiration of the above notice period shall constitute Customer's irrevocable agreement to the Agreement as amended by Elliptic pursuant to Section 3.1.

## 4. FEES

- 4.1. Fees are payable as agreed by the Parties in the relevant Engagement Letter. Where the relevant Engagement Letter does not confirm how Fees are to be paid, the Fees shall be paid quarterly in advance.
- 4.2. Elliptic will issue an invoice for the Fees to the Customer. Unless otherwise agreed in the relevant Engagement Letter, invoices are payable within thirty (30) days of the invoice date.
- 4.3. In addition to any other rights or remedies of Elliptic, if the Customer fails to make any payments by the due date or otherwise in accordance with the Agreement:
  - (a) any portion of any sums that is not paid when due and payable will accrue interest at a rate equal to one and

one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less, from the due date until paid; and

(b) Elliptic may immediately suspend the provision of any access to the AML Platform, the Forensics Platform and/or any other services provided.

4.4. All amounts referred to in the Agreement are exclusive of taxes and similar assessments, which shall be added to such amounts in the relevant invoice.

4.5. As between the Parties, Customer shall be liable for any sales, use, excise, services, consumption and other taxes and duties on amounts payable by Customer in respect of any services supplied or provided by Elliptic to Customer.

4.6. On termination of the Agreement, Elliptic will issue a final invoice to Customer in respect of all outstanding sums payable by Customer under the Agreement in respect of which an invoice has not been issued. The Customer's obligation to pay any such final invoice pursuant to this Section 4.6 shall survive the expiration or termination of the Agreement.

## 5. ACCESS TO AND USE OF THE AML PLATFORM AND FORENSICS PLATFORM

5.1. Subject to Customer's and its Authorized Users' continuing compliance with the Agreement (including payment of all Fees due and payable in accordance with Section 4):

(a) where an Engagement Letter permits the Customer to access and use the AML Platform, Elliptic hereby grants Customer a personal, non-exclusive, non-transferable, non-sublicensable, revocable (on termination) right for its Authorized Users to access and use the features and functions of the AML Platform via its web interface during the Term to the extent strictly necessary for the Customer to examine the provenance of Cryptocurrency for the purposes of assessing the risk of a Cryptocurrency transaction being associated with illicit activity, as part of Customer's internal operations;

(b) where an Engagement Letter permits the Customer to access and use the Forensics Platform, Elliptic hereby grants Customer a personal, non-exclusive, non-transferable, non-sublicensable, revocable (on termination) right for its Authorized Users to access and use the features and functions of the Forensics Platform via its web interface during the Term to the extent strictly necessary for the re-identification of pseudonymous Cryptocurrency users and map chains of Cryptocurrency transactions, as part of the Customer's internal operations;

(c) where an Engagement Letter permits the Customer to access and use both the AML Platform and the Forensics Platform, Elliptic hereby grants to the Customer the rights set out in sub-sections 5.1(a) and 5.1(b);

(d) in all cases, Elliptic hereby grants to the Customer a personal, non-exclusive, non-transferable non-sublicensable, revocable (on termination) right for its Authorized Users to access and use the Documentation applicable to the relevant license(s) above.

5.2. The licenses outlined in Section 5.1 are subject to the terms of the AML Platform Package and/or Forensics Platform Package (as applicable) as set out in the

relevant Engagement Letter. The Customer acknowledges that the functionality of the AML Platform and/or Forensics Platform (as applicable) shall reflect the functionality of the AML Platform and/or Forensics Platform (as applicable) on the date of the relevant Engagement Letter. If Elliptic introduces new functionality or material upgrades to existing functionality of the AML Platform and/or Forensics Platform (as applicable) during the Term, Elliptic reserves the right to charge additional sums in addition to the Fees for the use of the new functionality.

5.3. Customer acknowledges and agrees that prior to accessing AML Platform or Forensics Platform, any relevant Authorized User shall be required to accept the Acceptable Use Policy.

5.4. Customer is solely responsible for all activities that Authorized Users undertake on AML Platform and Forensics Platform. Customer shall immediately notify Elliptic of any unauthorized use of any Authorized User's Access Protocols.

5.5. ELLIPTIC WILL NOT BE LIABLE FOR ANY LOSSES ARISING FROM CUSTOMER'S FAILURE TO ENSURE EACH AUTHORIZED USER MAINTAINS THE CONFIDENTIALITY OF ITS ACCESS PROTOCOLS.

5.6. In relation to the Authorized Users, Customer agrees that it:

(a) shall ensure that:

(i) only Authorized Users access AML Platform and Forensics Platform (as applicable); and

(ii) each Authorized User maintains the confidentiality of the Access Protocols; and

(b) will not allow or suffer any Access Protocols allocated to an Authorized User to be used by more than one individual Authorized User; and

(c) shall immediately notify Elliptic if any Authorized User ceases to be employed or otherwise engaged by Customer.

5.7. Elliptic may modify, suspend or discontinue any part of AML Platform or Forensics Platform or otherwise make any changes it considers desirable to the AML Platform and the Forensics Platform. In the event that any such modification, suspension, discontinuance or change of any part of AML Platform or Forensics Platform creates a material adverse effect on the Customer, the Customer may terminate the Agreement on seven (7) days' written notice to Elliptic, provided that the Customer provides such notice within fourteen (14) days of such modification, suspension, discontinuance or change taking effect.

## 6. OWNERSHIP

6.1. As between the Parties, Elliptic retains sole ownership of all right, title and interest, including all Intellectual Property Rights, in and to the AML Platform, the Forensics Platform, the Documentation and the Deliverables.

6.2. Customer will not acquire any right, title or interest in or to AML Platform or Forensics Platform (as applicable), except as expressly provided in the Agreement.

- 6.3. Elliptic reserves all rights in and to AML Platform and Forensics Platform not expressly granted in the Agreement.
- 6.4. Customer will indemnify, defend and hold Elliptic and its officers, directors, employees and agents harmless from and against any and all Losses arising from or in connection with or relating directly to Customer exceeding the scope of any license, right or permission to use AML Platform, the Forensics Platform, the Documentation or the Deliverables (or any part thereof) granted to it under the Agreement.
- 7. USE OF DELIVERABLES**
- 7.1. Subject to Customer's and its Authorized Users' continuing compliance with the Agreement (including payment of all Fees due and payable in accordance with Section 4), Elliptic hereby grants Customer a personal, non-exclusive, non-transferable, non-sublicensable, perpetual right for it to use the Deliverables as part of Customer's internal operations only.
- 7.2. The Customer shall not use or disclose the Deliverables in relation to any civil proceedings, criminal proceedings or regulatory investigations. However, where the Customer either: (i) is compelled to disclose the Deliverables (or any part thereof) pursuant to any civil proceedings, criminal proceedings or regulatory investigations, or (ii) discloses the Deliverables (or any part thereof) in breach of this Section 7.2, the Customer agrees that it shall:
- (a) give Elliptic reasonable advance notice of such disclosure in respect of a compelled disclosure;
  - (b) use its best efforts to seek all necessary orders, permissions or other actions as may be necessary or desirable to Elliptic to keep confidential all Confidential Information contained in the Deliverables; and
  - (c) indemnify, defend and hold Elliptic and its officers, directors, employees and agents harmless from and against any and all Losses arising from or in connection with the disclosure, including but not limited to all management time and costs incurred by Elliptic's in respect of Elliptic Personnel attending court, co-operating with a regulator or other related matters arising as a result of the disclosure.
- 8. RESTRICTIONS**
- 8.1. Notwithstanding anything to the contrary in these Terms, no agents, consultants or contractors that Customer may engage from time to time that are employed by any third party that Elliptic reasonably deems to be its competitor shall be permitted to:
- (a) access the AML Platform or Forensics Platform; or
  - (b) receive or access any Deliverables.
- 8.2. Without affecting any other right or remedy available to it, in the event that Elliptic determines (acting reasonably) that any Authorized User is employed by any third party that Elliptic reasonably deems to be its competitor, it may:
- (a) deactivate the user account of that Authorized User and disable any associated Access Protocols; and
  - (b) permanently and irretrievably destroy the user account of the deactivated Authorized User and all Customer Data stored therein.
- 8.3. Customer shall not, nor shall it instruct or permit, procure, enable or request any third party (including its personnel, staff and contractors) to, take any action designed or intended to:
- (a) use the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof) in any manner or for any purpose that is inconsistent with the Agreement;
  - (b) provide or otherwise make the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof) available to any third parties other than to Authorized Users;
  - (c) use the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof) to:
    - (i) create, market or distribute any product or service that is competitive with either the AML Platform or the Forensics Platform (or any part thereof); or
    - (ii) act as a service bureau on behalf of, or otherwise provide processing or services support to, any third party;
  - (d) introduce to the AML Platform or Forensics Platform any "back door," "drop dead device," "time bomb," "Trojan horse," "virus," or "worm" (as such terms are commonly understood in the software industry) or any other equivalent code, software routine or instructions designed or intended to disrupt, disable, harm or otherwise impede in any manner the operation of AML Platform or Forensics Platform or any device or system owned or controlled by Elliptic or any third party, or which otherwise may damage or destroy any data or file;
  - (e) modify, copy, resell, rent, lease, sub-license, load, merge, adapt or translate the whole or any part of the AML Platform or the Forensics Platform (or any part thereof);
  - (f) contest, challenge or otherwise make any claim or take any action adverse to Elliptic's ownership of, or interest in, the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof);
  - (g) re-use, disseminate, copy, or otherwise use the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof) in a way that infringes, misappropriates, or violates any Intellectual Property Rights or other right of Elliptic or any third party;
  - (h) remove, alter, obscure Elliptic's trade mark, copyright notice or any other proprietary notice from the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof);
  - (i) interfere with the proper working of the AML Platform or Forensics Platform;
  - (j) circumvent, disable, or interfere with security-related features of the AML Platform or Forensics Platform or features that prevent or restrict use, access to, or

copying the AML Platform or Forensics Platform, or that enforce limitations on use of the AML Platform or Forensics Platform;

- (k) impose (or which may impose, in Elliptic's sole discretion) an unreasonable or disproportionately large load on the AML Platform or Forensics Platform; or
- (l) reverse engineer, decompile, unbundle, disassemble, or create derivative works based on, the whole or any part of the AML Platform or Forensics Platform unless, and to the limited extent that, applicable laws of Customer's jurisdiction require Elliptic to give Customer the right to do so to obtain information necessary to render the AML Platform or Forensics Platform interoperable with other software; **provided, however**, that Customer must first request such information from Elliptic, and Elliptic may (in its sole discretion) either provide such information to Customer or impose reasonable conditions on such use of the source code for the AML Platform or Forensics Platform to ensure that Elliptic and its licensors' proprietary rights in the source code for the AML Platform and the Forensics Platform are protected.

## 9. REPRESENTATIONS AND WARRANTIES

- 9.1. Subject to Section 13 and Section 21.1, Elliptic warrants that during the Term, the AML Platform and Forensics Platform will materially conform to the then-current Documentation when used in accordance therewith and the terms of the Agreement.
- 9.2. The warranty set forth in Section 9.1 shall not apply:
  - (a) in the event that Customer or any third party has breached any of the restrictions outlined in Section 8; or
  - (b) to any defects or issues arising as a result of any use of AML Platform or Forensics Platform in combination with other products, hardware, equipment, software, or data not expressly authorized by Elliptic to be used with AML Platform or Forensics Platform.
- 9.3. Elliptic's sole liability, and Customer's sole remedy, for breach of the warranty in Section 9.1 shall be Elliptic's use of commercially reasonable efforts to remedy defects covered by such warranty within sixty (60) days of receipt of notice of such defect or, at Elliptic's option, a refund of the sums paid by Customer for the defective element of AML Platform or Forensics Platform on a pro-rated basis.
- 9.4. Elliptic further warrants that if any additional services are performed by Elliptic pursuant to an Engagement Letter, these services will be performed with reasonable care and skill consistent with industry standards and practices.
- 9.5. Each Party represents and warrants to the other:
  - (i) that it has the right, legal capacity, power and authority to enter into this Agreement; (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action; and (iii) that the entering into of this Agreement will not constitute a breach or default under any contract or agreement to which it is a party or by which it is bound or otherwise violate the rights of any third party.

- 9.6. Customer will comply with, and will cause its Authorized Users to comply with, all applicable local, state, national and foreign laws in connection with Customer's access and use of the AML Platform, the Forensics Platform, the Deliverables or the Documentation (or any part thereof), including, (i) licenses and registrations requirements for the operation of Customer's business activities; (ii) any applicable foreign exchange or regulatory restrictions; (iii) any governmental or other consents that may need to be obtained; and (iv) any applicable laws related to data protection.

## 10. CUSTOMER DEPENDENCIES

- 10.1. In order to permit Elliptic to provide Authorized Users with access to the AML Platform and/or the Forensics Platform (as applicable) in accordance with the terms of these Terms, the Customer shall ensure that:
  - (a) all Authorized Users have installed a supported version of the internet browsers and operating systems that are listed in the Documentation as supported by Elliptic from time to time for the purposes of installing and accessing the AML Platform and/or the Forensics Platform (as applicable);
  - (b) it has an internet connection with adequate bandwidth for Authorized Users to access and use the AML Platform and/or the Forensics Platform (as applicable);
  - (c) it shall maintain connectivity to the extent necessary to prevent network performance degradation;
  - (d) it shall implement and maintain effective security policies and procedures to prevent unauthorized disclosure of Access Protocols and unauthorized access to the AML Platform and/or the Forensics Platform (as applicable);
  - (e) it shall obtain or procure all authorisations, instructions and/or permissions as may be necessary for Elliptic to provide Authorized Users with access to the AML Platform and/or the Forensics Platform (as applicable); and
  - (f) it shall make available to Elliptic its employees and other staff members (in such number and with such level of seniority) as may be reasonably required in the circumstances to address any issue with the implementation, provision or cessation of access to the AML Platform and/or the Forensics Platform (as applicable).

Elliptic shall be relieved from any failure to comply with its obligations to provide Authorized Users with access to the AML Platform and/or the Forensics Platform (as applicable), if and to the extent that Elliptic can demonstrate that such failure was caused by Customer's failure to meet any obligation or dependency on Customer outlined in this Section 10 above.

## 11. CUSTOMER DATA

- 11.1. As between the Parties, all Intellectual Property Rights in and to Customer Data shall remain the property of the Customer and Elliptic shall not obtain any right, title or interest in the Customer Data, except that Elliptic shall be permitted to use the Customer Data in accordance with the licenses granted in Section 11.2.

- 11.2. Customer hereby grants to Elliptic:
- (a) a non-exclusive, worldwide, royalty-free license, irrevocable during the Term, to use the Customer Data for the purposes described in and anticipated by the Agreement for Elliptic to provide the services described in the Agreement; and
- (b) a non-exclusive, worldwide, irrevocable, perpetual, sublicensable, royalty-free license to use the Customer Data in the conduct of Elliptic's business operations, including:
- (i) for the purposes of integrating the Customer Data with the AML Platform, the Forensics Platform and its other product offerings including its consultancy services in order to continually improve the quality of information Elliptic can provide to the Customer and other customers;
- (ii) for its data analysis and research operations.
- 11.3. Elliptic shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.
- 11.4. Customer warrants and represents on an ongoing basis that, and undertakes that throughout the Term it shall have, the necessary rights, power, consents and authority to transmit Customer Data to Elliptic under, and in the fashion described in, these Terms and to grant Elliptic the licenses to use Customer Data in Section 11.2.
- 11.5. Customer will indemnify, defend and hold Elliptic and its officers, directors, employees and agents harmless from and against any and all Losses arising from or in connection with, Customer's breach of the warranty, representation and/or covenant given in Section 11.4.
- 12. DATA PROTECTION**
- 12.1. Elliptic and the Customer shall comply with their respective obligations in respect of data protection as set out in the Schedule to these Terms (Data Processing Addendum).
- 13. THIRD PARTY CONTENT**
- 13.1. Certain elements of the AML Platform and the Forensics Platform may permit or enable Customer and/or its Authorized Users to search for, find, store, manage, access or use Third Party Content.
- 13.2. Customer acknowledges that Elliptic does not warrant, represent, endorse, support or guarantee the completeness, truthfulness, accuracy, reliability, performance, fitness for purpose or any other attributes of any Third Party Content, nor shall Elliptic be responsible for reviewing or attempting to verify the accuracy or currency of any Third Party Content.
- 13.3. Customer acknowledges that:
- (a) Customer and/or its Authorized Users may be required to enter into certain agreements with the owner(s) or licensor(s) of Third Party Content; and
- (b) in the event the relevant agreements are not entered into, Customer and/or its Authorized Users may be unable to access:
- (i) such Third Party Content; and/or
- (ii) any or all of those elements of the AML Platform and/or the Forensics Platform that permit or enable Customer and/or its Authorized Users to search for, find, store, manage, access or use such Third Party Content.
- 13.4. To the fullest extent permitted by law, Customer expressly disclaims any and all express or implied terms of any nature relating to Third Party Content.
- 13.5. As between Customer and Elliptic, Customer is solely responsible for:
- (a) any Third Party Content installed in, used with or accessed via the AML Platform and/or the Forensics Platform;
- (b) determining the suitability of any Third Party Content for its intended use by Customer; and
- (c) as necessary for its intended use, verifying the authenticity and accuracy of the Third Party Content prior to using it.
- 14. INTELLECTUAL PROPERTY RIGHTS INDEMNITY**
- 14.1. Subject to the remainder of this Section 14, Elliptic shall indemnify Customer from and against Losses incurred by Customer as a result of amounts awarded in judgment or settlement of any third party claim or proceeding against Customer that Customer's use of the AML Platform or the Forensics Platform (as applicable), within the scope of the rights of use granted to Customer under these Terms, infringes the Intellectual Property Rights of a third party ("**IPR Claims**").
- 14.2. Customer shall notify Elliptic in full, accurate and complete detail in writing promptly after it becomes aware of any event or any allegation, claim, demand, proceeding or other action, which it believes may give rise to a claim for indemnification under Section 14.1 (an "**Indemnified Claim**").
- 14.3. Customer shall:
- (a) allow Elliptic sole authority to control the defence and settlement of any Indemnified Claim;
- (b) provide Elliptic with all reasonable cooperation in the defence of such Indemnified Claim; and
- (c) not settle or compromise any Indemnified Claim or make any admission of liability without the express prior written consent of Elliptic.
- 14.4. Notwithstanding Section 14.1 or any provision of these Terms to the contrary, Elliptic shall have no liability whatsoever to Customer in respect of any IPR Claims based on or arising directly or indirectly as a result of:
- (a) Customer exceeding the scope of any right, license or consent to use the AML Platform and/or the Forensics Platform (as applicable) under these Terms;
- (b) any use of the AML Platform and/or the Forensics Platform (as applicable) not in accordance with these Terms or the Documentation;
- (c) a breach by Customer or any third party of any of the restrictions outlined in Section 8;

- (d) any use of the AML Platform and/or the Forensics Platform (as applicable) in combination with other products, hardware, equipment, software or data not expressly authorized by Elliptic to be used with the AML Platform and/or the Forensics Platform (as applicable);
- (e) use of any release of any element of the AML Platform and/or the Forensics Platform (as applicable) other than the most current release made available to Customer; or
- (f) any modification of the AML Platform and/or the Forensics Platform (as applicable) by any person other than Elliptic or its expressly authorized agents or any third party that performs any element of the services described in these Terms for or on behalf of Elliptic.

**15. CONFIDENTIAL INFORMATION**

- 15.1. In these Terms, "**Confidential Information**": means the AML Platform, the Forensics Platform, any Deliverables, any screenshots of the operation of the AML Platform or the Forensics Platform, any of Elliptic or its Affiliates' methodologies, any methodologies of the AML Platform or Forensics Platform, and any information that is clearly labelled or identified as confidential or ought reasonably be treated as being confidential. Confidential Information excludes any information which:
  - (a) is or becomes publicly known other than through a breach of these Terms;
  - (b) was in the receiving Party's lawful possession before the disclosure;
  - (c) is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;
  - (d) is independently developed by the receiving Party and that independent development can be shown by written evidence; or
  - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 15.2. Each Party will hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party unless that third party is subject to an equivalent duty of confidentiality. Neither Party will use the other's Confidential Information for any purpose other than the implementation of these Terms.
- 15.3. Each Party will take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees, agents or independent contractors in breach of the terms of these Terms.
- 15.4. This Section 15 will survive termination of these Terms.

**16. NON-SOLICITATION**

- 16.1. During the Term, and for a further twelve (12) months following termination, Customer agrees that it shall not directly or indirectly employ or engage (without Elliptic's prior written agreement), or solicit for such employment or engagement, any of Elliptic's employees, agents, consultants or contractors who have been engaged in the performance of these

Terms, whether or not such person would commit a breach of contract by reason of leaving service or office.

**17. LIMITATION OF LIABILITY; DISCLAIMERS**

- 17.1. EXCEPT AS EXPRESSLY PROVIDED IN THE TERMS, THE SERVICES ARE PROVIDED "AS IS" AND ELLIPTIC MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT OR FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE. ELLIPTIC DOES NOT WARRANT, AND SPECIFICALLY DISCLAIMS, THAT THE SERVICES WILL BE ACCURATE, WITHOUT INTERRUPTION, ERROR-FREE, OR NOT CONTAIN VIRUSES OR OTHER HARMFUL COMPONENTS. ELLIPTIC WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO THIRD-PARTY HOSTING PROVIDERS WITH WHOM CUSTOMER SEPARATELY CONTRACTS NOR WILL ELLIPTIC BE LIABLE FOR CUSTOMER'S RELIANCE ON OR CONCLUSIONS DRAWN FROM ANY DELIVERABLES. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.
- 17.2. EXCEPT WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, INTERRUPTION OF SERVICE, OR LOSS OF BUSINESS OR BUSINESS OPPORTUNITY, EVEN IF SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. IN NO EVENT WILL ELLIPTIC BE LIABLE FOR THE PROCUREMENT OF SUBSTITUTE SERVICES.
- 17.3. ELLIPTIC'S MAXIMUM AGGREGATE LIABILITY UNDER THE AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNT OF FEES RECEIVED BY ELLIPTIC UNDER THE ENGAGEMENT LETTER APPLICABLE TO THE SERVICE GIVING RISE TO THE CLAIM DURING THE 12 MONTH PERIOD PRIOR TO THE FIRST DATE ON WHICH THE LIABILITY AROSE. THIS SECTION 17 SETS OUT ELLIPTIC'S ENTIRE FINANCIAL LIABILITY (INCLUDING ANY LIABILITY FOR THE ACTS OR OMISSIONS OF ITS EMPLOYEES, AGENTS, CONSULTANTS OR CONTRACTORS) TO CUSTOMER ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT, INCLUDING (i) WITH RESPECT OF ANY USE MADE BY CUSTOMER OF SERVICES AND (ii) WITH RESPECT TO ANY DELIVERABLES OR ANY RELIANCE ON OR CONCLUSIONS DRAWN FROM ANY SUCH DELIVERABLES.

17.4. THE FOREGOING DISCLAIMERS AND LIMITATIONS ON LIABILITY ARE MADE TO THE FULLEST EXTENT PERMITTED BY LAW.

**18. THIRD PARTY RELIANCE INDEMNITY**

18.1. Customer agrees to indemnify, defend and hold Elliptic and its officers, directors, employees and agents harmless from and against any and all Losses arising from or in connection with any allegation, claim, demand, proceeding or other action brought against Elliptic that is based upon, or arises directly or indirectly as a result of, Customer's, or any third party's use of, or reliance upon any Deliverables.

**19. TERMINATION**

19.1. Either Party may terminate these Terms and any associated Engagement Letter(s) in accordance with Section 2.1(b).

19.2. Elliptic may terminate these Terms and any associated Engagement Letter(s) with immediate effect if the Customer is, or Elliptic reasonably suspects the Customer is, in breach of any of the restrictions imposed on it under Section 8.3.

19.3. These Terms and any associated Engagement Letter(s) can be immediately terminated by Elliptic if it suspects that the Customer is in breach of any of its warranties or undertakings.

19.4. Without affecting any other right or remedy available to it, either Party may terminate these Terms and any associated Engagement Letter(s) with immediate effect by giving notice to the other Party if the other Party:

(a) commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified to do so; or

(b) becomes insolvent or unable to pay its debts, files a petition in bankruptcy, reorganization or similar proceeding, or, if filed against, such petition is not removed within ninety (90) days after such filing, discontinues its business, or a receiver is appointed or there is an assignment for the benefit of such Party's creditors.

19.5. Customer agrees to immediately give notice to Elliptic of any Change of Control of Customer. Without affecting any other right or remedy available to it, Elliptic may terminate these Terms in whole or part with immediate effect by giving notice to Customer if Customer undergoes a Change of Control such that Control of Customer passes to any person that Elliptic deems (acting reasonably) to be a competitor of Elliptic; **without limiting the foregoing**, following any Change of Control of Customer, Customer undertakes to enter good faith discussions concerning any revisions or amendments to these Terms that Elliptic determines may be necessary to reflect any such Change of Control.

19.6. The Parties acknowledge and agree that failure by Customer to pay any sums when due shall constitute a "material breach" for the purposes of Section 19.4(a).

**20. CONSEQUENCES OF TERMINATION**

20.1. On termination of these Terms:

(a) notwithstanding Sections 4.1 and 4.2, Customer shall promptly (and in any event within ten (10) Business Days of the date of termination) pay Elliptic any outstanding balances owing to Elliptic under these Terms or relevant part thereof, including any final invoice issued in accordance with Section 4.6 (provided that payment of sums owing under any such final invoice shall be paid to the Elliptic within ten (10) Business Days of the date of receipt thereof);

(b) any and all licenses, permissions and authorisations granted to Customer and/or its Authorized Users by Elliptic under these Terms will terminate automatically; and

(c) each Party will promptly return all Confidential Information received from the other Party, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed.

20.2. Any obligation to return, destroy or permanently erase Confidential Information outlined in Section 20.1(c) shall not apply:

(a) in respect of one (1) copy of the Customer Data, that Elliptic may be entitled to retain as necessary to comply with any legal, regulatory, judicial, audit, or internal compliance requirements; and

(b) to any Confidential Information or Customer Data that is retained by Elliptic on electronic back-up media made in the ordinary course of business and from which it cannot readily be isolated from other information and deleted,

provided that, in each case, the applicable provisions of these Terms relating to data security and Confidential Information shall continue to apply to any such Confidential Information and/or Customer Data.

20.3. Any provision of these Terms that either expressly or by implication is intended to come into or continue in force on or after termination of these Terms shall remain in full force and effect, including: Section 1 (Interpretation), Section 4 (Fees), Section 6 (Ownership), Section 7 (Use of Deliverables), Section 8 (Restrictions), Section 11 (Customer Data), Section 12 (Data Protection), Section 13 (Third Party Content), Section 15 (Confidentiality), Section 16 (Non-solicitation), Section 17 (Limitation of Liability), Section 18 (Third Party Reliance Indemnity), Section 20 (Consequences of Termination), Section 21.6 (Waiver), Section 21.7 (Rights and Remedies), Section 21.8 (Severance), Section 21.9 (Entire agreement), Section 21.10 (No partnership or agency), Section 21.11 (Rights of Third Parties), Section 21.12 (Notices), Section 21.15 (Publicity), Section 21.17 (Dispute Resolution), and Section 21.18 (Governing Law).

20.4. Termination of these Terms shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination.

**21. GENERAL**



- 21.1. **Open source software.** Certain elements of the AML Platform and Forensics Platform are subject to “open source” or “free software” licenses (for the purposes of this Section 21.1, “**Open Source Software**”). Customer acknowledges that certain elements of such Open Source Software are owned by third parties. No Open Source Software is licensed under any provision of these Terms under which Elliptic grants Customer any license to use the AML Platform or Forensics Platform; instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software (for the purposes of this Section 21.1, each an “**OSS License**”). Nothing in these Terms limits Customer’s rights under, or grants Customer rights that supersede, the terms and conditions of any OSS License. If required by any OSS License, Elliptic shall make available relevant pieces of Open Source Software available upon written request.
- 21.2. **Force Majeure.** No Party will be in breach of these Terms nor liable for any failure to perform its obligations under these Terms if that failure results from circumstances beyond its reasonable control (for the purposes of this Section 21.2, a “**Force Majeure Event**”). If a Force Majeure Event continues for three (3) months, the unaffected Party may terminate these Terms by giving thirty (30) days’ written notice to the other Party.
- 21.3. **Subcontracting.** Elliptic may engage any third party to perform its obligations under these Terms, provided that Elliptic shall remain fully liable to Customer for performance of such obligations (subject to the exclusions and limitations outlined herein).
- 21.4. **Assignment.** The Customer will not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement, without the prior written consent of Elliptic.
- 21.5. **Amendment.** Subject to Section 3, no amendment of the Agreement shall be effective unless it is in writing and signed by the Parties (or their authorized representatives).
- 21.6. **Waiver.** A waiver of any right or remedy under these Terms or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a Party to exercise any right or remedy provided under these Terms or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under these Terms or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 21.7. **Rights and Remedies.** The rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.
- 21.8. **Severance.** If any provision or part-provision of these Terms shall be held to be invalid, illegal, void or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Section 21.8 shall not affect the validity and enforceability of the rest of these Terms. If one Party gives notice to the other of the possibility that any provision or part-provision of these Terms is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 21.9. **Entire agreement.** Except as stated otherwise in an Engagement Letter, the Engagement Letter(s) and these Terms constitute the entire agreement and understanding between the Parties relating to the matters contemplated by the Agreement and supersedes all previous agreements (if any and whether in writing or not) between the Parties in relation to such matters, including any standard terms of the Customer. The Parties acknowledge and agree that, except as otherwise expressly provided for in the Agreement, they are not entering into the Agreement on the basis of, and are not relying on and have not relied on, any statement, representation, warranty or other provision (in any case whether oral, written, expressed or implied) made, given, or agreed to by any person (whether a Party to these Terms or not) in relation to the subject matter of these Terms, provided that nothing in the Agreement shall exclude any Party from liability for fraud or fraudulent misrepresentation.
- 21.10. **No Partnership or Agency.** Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorize any Party to make or enter into any commitments for or on behalf of any other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
- 21.11. **Rights of Third Parties.** Nothing express or implied herein is intended to confer, nor shall anything herein confer, upon any entity other than the Parties and their respective successors and assigns any rights, remedies, obligations or liabilities whatsoever.
- 21.12. **Notices.** Any notice required to be given under these Terms will be in writing and will be sent to the email addresses for contractual notices set out in an Engagement Letter. Notices will be deemed to have been received at the time of transmission as shown by the sender’s records (or if sent outside business hours, at 9am on the first Business Day following dispatch). A Party may change its details given on an Engagement Letter by giving written notice to the other Party.
- 21.13. **Counterparts.** The Agreement (or any part thereof requiring signed execution) may be signed in any number of counterparts and by the Parties on separate counterparts, each of which, when executed and delivered by a Party, shall be an original and such counterparts taken together shall constitute one and the same agreement. Electronic copies of signatures by the authorized representatives of the Parties (e.g., PDF scans) are enforceable just as though they were original wet-ink signatures.
- 21.14. **Order of Precedence.** In the event of a conflict or inconsistency between these Terms and an Engagement Letter, the terms of the Engagement Letter shall take precedence.

21.15. **Publicity.** The Customer hereby agrees that Elliptic may use the Customer's company name and any associated trade marks on Elliptic's website or in other marketing materials for the sole purpose of promoting the AML Platform, the Forensics Platform and any other services offered by Elliptic. If the Customer wishes to restrict the use of its company name and/or trade marks in this way, it should email [finance@elliptic.co](mailto:finance@elliptic.co).

21.16. **Dispute Resolution.**

(a) The Parties agree that any dispute or claim relating in any way to this Agreement will be resolved by binding arbitration, rather than in court, except that (i) the Parties may assert claims in small claims court if such claims qualify, and (ii) the Parties may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents).

(b) The Federal Arbitration Act governs the interpretation and enforcement of this Section 21.16. To begin an arbitration proceeding, the Customer must send a letter requesting arbitration and describing its claim to Elliptic at 1732 1st Ave #23346, New York, NY. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, will be subject to JAMS's most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims will be subject to JAMS's most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS's rules are also available at [www.jamsadr.com](http://www.jamsadr.com) or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the Parties will select an alternative arbitral forum. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(c) The arbitrator will have exclusive authority to (i) determine the scope and enforceability of this Section 21.16 and (ii) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Section 21.16 including, but not limited to, any claim that all or any part of this Section 21.16 is void or voidable. The arbitration will decide the rights and liabilities, if any, of the Parties. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator will have the authority to grant motions dispositive of all or part of any claim. The arbitrator will have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and this Agreement (including this Section 21.16). The arbitrator will issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon the Parties.

(d) THE PARTIES HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF

A JUDGE OR A JURY. The Parties are instead electing that all claims and disputes will be resolved by arbitration under this Section 21.16, except as specified in Section 21.16(a) above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow these Terms as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

(e) ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS SECTION 21.16 MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER. If a decision is issued stating that applicable law precludes enforcement of any of this subsection's limitations as to a given claim for relief, then the claim must be severed from the arbitration and brought into the State or Federal Courts located in the State of New York. All other claims will be arbitrated.

(f) Except as provided in subsection 21.16(e), if any part or parts of this Section 21.16 are found under the law to be invalid or unenforceable, then such specific part or parts will be of no force and effect and will be severed and the remainder of this Section 21.16 will continue in full force and effect.

(g) This Section 21.16 will survive the termination of the Agreement.

## Schedule – Data Processing Addendum

### Definitions

- 1 The following definitions apply to this Schedule (Data Processing Addendum).
  - (a) The terms “**data processor**”, “**data controller**”, “**processing**”, “**personal data**”, “**personal data breach**” and “**Supervisory Authority**” shall each have the meaning ascribed to it in the GDPR from time to time.
  - (b) “**Customer Personal Data**”: means any personal data that is comprised in Customer Data.
  - (c) “**Data Protection Legislation**”: means: (i) the EU General Data Protection Regulation 2016/679 (the “**GDPR**”), together with any applicable implementing legislation (including, where relevant, the UK Data Protection Act 2018), and references to “**Articles**” or “**Chapters**” of the GDPR in this Schedule (Data Processing Addendum) shall be construed accordingly; and (ii) to the extent applicable, the data protection or privacy laws of any other country or territory.
  - (d) “**Elliptic Personal Data**”: means any personal data that is comprised in the Elliptic Data that is held or controlled by Customer.
  - (e) “**Model Clauses**”: means the standard contractual clauses for the transfer of personal data from the EEA to Restricted Countries (controller to controller transfers) (Commission Decision C(2004)5721).
  - (f) “**Restricted Country**” means a country or territory outside the European Economic Area that has not been deemed to provide an adequate level of protection for Personal Data by the European Commission.
  - (g) “**Restricted Transfer**” means: (i) a transfer of Customer Personal Data from Customer to Elliptic in a Restricted Country; or (ii) an onward transfer of Customer Personal Data from Elliptic to a Subprocessor in a Restricted Country, (in each case) where such transfer would be prohibited by GDPR without an appropriate safeguard in place.
  - (h) “**Subject Request**” means a written request made in accordance with applicable Data Protection Legislation from a data subject for any of the following:
    - (i) requesting information concerning the processing of, or copies of, his or her personal data;
    - (ii) requiring the rectification of any inaccurate or incomplete personal data;
    - (iii) requiring the erasure of personal data;
    - (iv) restricting the processing of personal data;
    - (v) exercising his or her right to obtain and reuse their personal data for their own purposes across different services;
    - (vi) objecting to the processing of his or her personal data; or
    - (vii) objecting to being subject to a decision based solely on automated processing, including profiles (including, for the avoidance of doubt, by way of the operation of AML Platform).
  - (i) “**Subprocessor**” means any third party appointed by or on behalf of Elliptic to Process Customer Personal Data.

### **General Data Protection Obligations**

- 2 In these General Data Protection Obligations, “**Customer Personal Information**” means any personally identifiable information contained within the Customer Data; and “**Data Breach**” means (i) loss or theft of Customer Personal Information; or (ii) unauthorized use, disclosure, acquisition of, access to or other unauthorized processing of Customer Personal Information that materially compromises the privacy or confidentiality of the Customer Personal Information.
- 3 Customer warrants and represents (on an ongoing basis) that it has complied, and undertakes that it shall comply, with all applicable Data Protection Legislation in respect of its processing of personal data in connection with this Agreement, including the provision of all relevant personal data to Elliptic for processing hereunder.
- 4 Elliptic shall comply with applicable U.S. federal and state privacy and information security laws.
- 5 Elliptic will not retain, use, or disclose Customer Personal Information other than: (i) to provide the Services to Customer, (ii) to improve the Services generally, (iii) as permitted under the license granted to Elliptic in Section 11.2(b) of the Terms, or (iv) as otherwise directed by Customer (provided always that such directions are consistent with the Agreement).
- 6 Beginning on the date that the Services commence under the Terms, Elliptic agrees that it shall employ and maintain commercially reasonable technological, physical, and administrative safeguards reasonably designed to protect (i) the confidentiality, security and integrity of Customer Personal Information; (ii) protect against any anticipated threats or hazards to the security and integrity of Customer Personal Information; and (iii) protect against a Data Breach.
- 7 Elliptic and its employees shall hold confidential any and all Customer Personal Information. Elliptic shall limit access to Customer Personal Information to its employees that have a need to know the Customer Personal Information as a condition to Elliptic’s performance of Services for or on behalf of Customer.
- 8 Except with respect to disclosures anticipated or required by these Terms or by law, prior to providing access to Customer Personal Information to any third-party subcontractor or vendor, Elliptic shall take reasonable steps to verify that the such third party is capable of maintaining the privacy, confidentiality and security of Customer Personal Information; and contractually require the third party to maintain reasonable safeguards for Customer Personal Information.
- 9 If Elliptic becomes aware of a Data Breach involving Customer Personal Information in Elliptic’s possession or control, Elliptic will (a) notify Customer of the Data Breach without unreasonable delay; and (b) take reasonable steps to identify the cause of such Data Breach, minimize harm, and prevent a recurrence. Customer shall be responsible for providing any required notices under data breach notification laws. Elliptic’s notification of or response to a Data Breach shall not be construed as an acknowledgement by Elliptic of any fault or liability with respect to the Data Breach.
- 10 In the event of a conflict between these General Data Protection Provisions and the remaining provisions of this Schedule (Data Processing Addendum), the terms of those remaining provisions shall control in accordance with their terms.

### **GDPR Applicability**

- 11 Where it is noted that the GDPR is ‘Applicable’ on an Engagement Letter, Customer hereby warrants and represents (on an ongoing basis throughout the Term) that it is subject to the GDPR (as determined in accordance with Article 3 thereof) for the purpose of the processing activities covered by this Agreement.
- 12 Where it is noted that the GDPR is ‘**Not** Applicable’ on an Engagement Letter:
  - (a) Customer hereby warrants and represents (on an ongoing basis throughout the Term) that it is **not** subject to the GDPR (as determined in accordance with Article 3 thereof) for the purpose of the processing activities covered by this Agreement;
  - (b) Customer further undertakes that it shall notify Elliptic without undue delay in the event that it determines that, in the context of the processing activities covered by this Agreement, it is reasonably likely to become subject to the GDPR (as determined in accordance with Article 3 thereof);
  - (c) it is acknowledged and agreed that Paragraphs 15 to 16 of this Schedule (Data Processing Addendum) relating to Elliptic’s processing of Personnel Personal Data on Customer’s behalf shall **not** apply;
  - (d) it is acknowledged and agreed that those provisions of this Schedule (Data Processing Addendum) relating to Customer’s discharge of its own obligations under the GDPR shall **not** apply – for the avoidance of doubt: all other terms and conditions this Schedule (Data Processing Addendum), which are not specifically related to Customer’s discharge of its own obligations under the GDPR, shall continue to apply notwithstanding this Paragraph 12(d); and

- (e) Customer undertakes that it shall provide all reasonably necessary information and assistance to Elliptic to assist Elliptic's discharge of Elliptic's obligations under the GDPR (as reasonably understood by Elliptic), including, in particular:
- (i) as described in Paragraph 22 in respect of Elliptic's transparency obligations to Relevant Data Subjects; and
  - (ii) in respect of any Relevant Data Subject's exercise of their rights to make Subject Requests to and of Elliptic, including in respect of Customer's processing hereunder.

**GDPR – Customer Personal Data**

13 The Parties acknowledge and agree that Elliptic is expressly authorized to process the Customer Personal Data, as described below, in connection with the performance of the Agreement, which is composed of the following categories of personal data, the specified categories of data subject and the description of processing activities.

Categories of Data	Categories of Data Subject	Description of processing activities
<p><b>Cryptocurrency Personal Data</b></p> <p>Cryptocurrency addresses; Cryptocurrency transaction information; data available on publicly accessible Cryptocurrency transaction ledgers and blockchains; usernames; account IDs; names; email addresses; addresses; gender; age; data relating to association with known or suspected criminal individuals, entities or events; data relating to the perceived risk of an individual being involved with crime; and other personal data necessary for purposes of the prevention of fraud, misuse of services, or money laundering, or the prevention or detection of crime.</p> <p>Personal data consisting of information as to the commission or alleged commission by a data subject of any offence, or any proceedings for any offence committed or alleged to have been committed by a data subject, the disposal of such proceedings or the sentence of any court in such proceedings.</p>	<p>Cryptocurrency users, including users of Cryptocurrency exchange services, Cryptocurrency payment processing services, Cryptocurrency wallet services and other Cryptocurrency services.</p>	<p>To process such personal data to provide the AML Platform and/or the Forensics Platform and to perform the obligations outlined in the Agreement.</p>
<p><b>Personnel Personal Data</b></p> <p>First and last name; title; position; employer; contact information (company, email, phone, physical business address).</p>	<p>Authorized Users and other employees, agents and independent contractors of the Customer</p>	<p>To process such personal data to provide Customer with access to the AML Platform and/or the Forensics Platform.</p> <p>To manage the relationship between the Parties.</p>

14 With respect to the Parties' rights and obligations under the Agreement relating to the processing, collection or storage of Customer Personal Data, the Parties acknowledge and agree that in respect of the:

- (a) Cryptocurrency Personal Data category, the Customer is a data controller and Elliptic is a data controller in its own right; and
- (b) Personnel Personal Data category, the Customer is a data controller and Elliptic is a data processor.

Personnel Personal Data

15 In respect of the Personnel Personal Data, Elliptic shall:

- (a) act only on instructions from Customer in relation to the processing of Personnel Personal Data (including those outlined in the Terms);
- (b) comply with its obligations as a data processor of the Personnel Personal Data under the GDPR;

- (c) take reasonable steps to ensure the reliability of any Elliptic Personnel who process Personnel Personal Data, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality;
- (d) implement and maintain, at its cost and expense, appropriate technical and organizational measures in relation to the processing and security of Personnel Personal Data in accordance with the GDPR. Elliptic shall ensure that such technical and organizational measures are appropriate to the particular risks that are presented by its Processing activities, in particular to protect Personnel Personal Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access;
- (e) prior to engaging any Subprocessor to carry out any processing activities in respect of the Personnel Personal Data, appoint the Subprocessor under a written contract including terms which offer at least an equivalent level of protection for Personnel Personal Data as those set out in this Paragraph 15. For the avoidance of doubt, Elliptic confirms that any Subprocessors already engaged by Elliptic as at the date of the Agreement, shall already have a written contract affording at least an equivalent level of protection for Personnel Personal Data as those set out in this Paragraph 15;
- (f) taking into account the nature of the processing and the information available to it, provide Customer with such assistance as may be reasonably necessary and technically possible in the circumstances, to assist Customer in fulfilling its obligation to respond to Subject Requests. Elliptic shall promptly notify the Customer if it receives a Subject Request relating to the Personnel Personal Data;
- (g) provide reasonable assistance to the Customer, at the Customer's cost, with any data protection impact assessments, and prior consultations with Supervisory Authorities taking into account the nature of the processing by, and information available to, Elliptic;
- (h) notify Customer without undue delay upon Elliptic becoming aware of a personal data breach affecting any Personnel Personal Data, providing Customer with sufficient information (insofar as such information is, at such time, within Elliptic's possession) to allow Customer to meet any obligations under the GDPR;
- (i) subject to any requirement for Elliptic to retain Personnel Personal Data by applicable law, at the Customer's written request, either delete or return all the Personnel Personal Data to the Customer within a reasonable time after the expiry or termination of the Agreement. Elliptic shall ensure that its Subprocessors shall also either delete or return such Personnel Personal Data in its possession; and
- (j) make available to Customer no more than once per calendar year (except where instigated by a Supervisory Authority) on request such information as Elliptic (acting reasonably) considers appropriate in the circumstances to demonstrate its compliance with this Paragraph 15. In the event that Customer (acting reasonably) is able to provide documentary evidence that the information made available by Elliptic pursuant to this Paragraph 15(j) is not sufficient in the circumstances to demonstrate Elliptic's compliance with Paragraph 15, Elliptic shall, subject to (i) a minimum of thirty (30) days' notice, and (ii) reasonable confidentiality undertakings being given, permit the Customer to perform an audit of Elliptic's compliance with this Paragraph 15 and Elliptic shall provide all reasonable assistance to the Customer in exercising the audit. For the avoidance of doubt, the audit shall not include providing the Customer with access to any data (whether Personal Data or otherwise) outside the scope of the Personnel Personal Data and as a result, the Customer acknowledges and agrees that access to Elliptic's servers will be accordingly restricted.

16 In respect of the Personnel Personal Data, the Customer warrants and represents on an ongoing basis that:

- (a) it has complied, and undertakes that it shall comply, with its obligations as a data controller of the Personnel Personal Data under the GDPR (including ensuring Elliptic has a valid legal basis(es) for its processing of Personnel Personal Data as envisaged by the terms of these Terms); and
- (b) the Personnel Personal Data does not contain any special categories of personal data referred to in Article 9(1) of the GDPR.

#### Cryptocurrency Personal Data

17 In respect of Cryptocurrency Personal Data:

- (a) in relation to any processing of that data carried out in direct connection with Customer's use of the AML Platform and/or the Forensics Platform (as applicable):
  - (i) the Parties act as joint data controllers (within the meaning given to that term in Article 26 of the GDPR); and
  - (ii) Customer warrants and represents on an ongoing basis that it has established a valid legal basis in respect of that processing of Cryptocurrency Personal Data, including the transfer of such data to Elliptic for such processing as is required under Data Protection Legislation; and

- (b) in relation to any processing of that data other than in direct connection with Customer's use of the AML Platform and/or the Forensics Platform (as applicable), the Parties act as independent data controllers, and shall each comply with applicable Data Protection Legislation in respect of any such processing.

#### **GDPR – Elliptic Personal Data**

18 In respect of Elliptic Personal Data:

- (a) in relation to any processing of that data carried out in direct connection with Customer's use of the AML Platform and/or the Forensics Platform (as applicable):
  - (i) the Parties act as joint data controllers (within the meaning given to that term in Article 26 of the GDPR); and
  - (ii) Elliptic warrants and represents on an ongoing basis that it has established a valid legal basis in respect of that processing of Elliptic Personal Data, including the transfer of such data to Customer for the purposes permitted by Paragraph 18(b), as is required under applicable Data Protection Legislation; and
- (b) Customer agrees that it shall only process Elliptic Personal Data for the purposes of receiving the benefit of the AML Platform and/or the Forensics Platform (as applicable), and using the Deliverables (if any), in each case only for its internal business purposes and subject always to the applicable limitations and restrictions outlined in the Agreement; and
- (c) in relation to any processing of that data other than in direct connection with Customer's use of the AML Platform and/or the Forensics Platform (as applicable), the Parties act as independent data controllers (subject always to Paragraph 18(b)), and shall each comply with applicable Data Protection Legislation in respect of any such processing.

#### Elliptic Personal Data and Cryptocurrency Personal Data: general provisions

- 19 It is acknowledged that for the purposes of Paragraphs 20 to 22, "**Relevant Data Subjects**" refers to those data subjects whose Cryptocurrency Personal Data is submitted to the AML Platform and/or the Forensics Platform (as applicable) to be supplemented with certain related Elliptic Personal Data.
- 20 To the extent that it relates to the Cryptocurrency Personal Data and/or Elliptic Personal Data of a Relevant Data Subject, each Party:
- (a) shall notify the other Party without undue delay of any actual (and not simply suspected or potential) personal data breach; and
  - (b) agrees to give the other reasonable assistance in the other's handling of any such personal data breach (including reporting to Supervisory Authorities and/or Relevant Data Subjects where required by the GDPR).
- 21 As between Elliptic and Customer, Customer shall be responsible for complying with any Relevant Data Subject's exercise of their rights under Data Protection Legislation (including Chapter III of the GDPR) in connection with the processing covered by Paragraphs 17(a) and 18(a), provided that Elliptic shall provide Customer with reasonably necessary and available information and assistance to enable Customer to comply with its obligations under this Paragraph 21 and its obligations under Data Protection Legislation with respect to any such data subject request.
- 22 Customer undertakes that it shall comply with its own, and shall assist Elliptic in discharging Elliptic's, transparency obligations under Data Protection Legislation (including Articles 13/14 of the GDPR), including by:
- (a) informing Relevant Data Subjects of the transfer of Cryptocurrency Personal Data to Elliptic;
  - (b) informing Relevant Data Subjects of the nature and consequences of the Parties' processing activities covered by Paragraphs 17(a) and 18(a) (including the supplementing of Cryptocurrency Personal Data with certain related Elliptic Personal Data); and
  - (c) providing Relevant Data Subjects with a prominent link to Elliptic's privacy policy from time-to-time.

#### **Restricted Transfers of Personal Data**

- 23 Where relevant, e.g. where the Customer is based outside of the EEA, the Parties agree that they shall only perform Restricted Transfers of any Personal Data between them in reliance on an adequacy decision or with an appropriate safeguard in place to ensure the continued treatment of Personal Data in accordance with the GDPR or otherwise as permitted by Chapter V of the GDPR. In that regard and as applicable, the Parties shall be deemed to have entered into the Model Clauses under which: (i) Elliptic shall be the "data exporter" (acting on behalf of its UK parent company and, where

applicable, in its own right) and the Customer shall be the "data importer"; (ii) the Customer shall be deemed to have selected option II(h)(i); and (iii) the contact points for Elliptic and the Customer shall be as set out in the relevant Engagement Letter. Promptly on request, Customer shall execute and return a fully-populated copy of any Model Clauses deemed to be entered into pursuant to this Paragraph 23, as such populated Model Clauses may be provided by Elliptic to Customer from time-to-time.

#### **General Indemnity**

- 24 Customer will indemnify, defend and hold Elliptic and its officers, directors, employees and agents harmless from and against any and all Losses arising from or in connection with any failure by Customer, its employees, consultants or agents to comply with any of its obligations under this Schedule (Data Processing Addendum) or the Data Protection Legislation.