

# LUXPROVIDE TERMS OF USE

## 1. SCOPE

- 1.1 APPLICATION. These LUXPROVIDE TERMS OF USE (the **ToU**) apply to the use by the **PROJECT MANAGER** and **USERS** determined by, acting on behalf and under the responsibility of, the **PROJECT OWNER** (as identified in ANNEX B) of the MELUXINA supercomputer environment (the **PLATFORM**), a collective undertaking of EUROHPC and LUXPROVIDE that includes computing and data storage resources available under an Infrastructure-as-a-Service (IaaS), operating environment and software tooling provided under the Platform-as-a-Service (PaaS) or Software-as-a-Service (SaaS) model, as well as related helpdesk, support, training, consulting and connectivity services provided by or through LUXPROVIDE (the **SERVICES**), in view of a particular project conducted under the authority and supervision of the **PROJECT MANAGER** (the **PROJECT**).
- 1.2 PRECEDENCE. In case of discrepancy, the following order of precedence will apply:
  - a. The service commitment (**SERVICE COMMITMENT**) regulated as follows:
    - (1) in case of a project or an undertaking supported by a EU regulation, a decision or any other legal act taken by the Governing Board of the EUROPEAN HIGH PERFORMANCE COMPUTING JOINT UNDERTAKING (**EUROHPC**), the EUROHPC access policy (the **EUROHPC POLICY**),
    - (2) in any other cases, the contract, master service agreement or any other type of agreement entered into by the **PROJECT OWNER** and LUXPROVIDE and governing the **SERVICES** (the **SERVICE CONTRACT**), and
  - b. the ToU and its ANNEXES.

## 2. LUXPROVIDE OBLIGATIONS

- 2.1 LUXPROVIDE hereby commits to:
  - a. delivering the **SERVICES** during agreed computing time allocations and quotas of **PLATFORM** resources (the **ALLOCATIONS**), in accordance with the **SERVICE COMMITMENT** or the **SERVICE CONTRACT** and the ToU; it is understood however that although LUXPROVIDE endeavours to respect the **ALLOCATIONS** and ensure the best quality of **SERVICE** possible, other planned tasks can take longer than expected and the **ALLOCATIONS**' start time cannot be guaranteed,
  - b. following IT industry's best practices in terms of service management and security,
  - c. creating and managing **USERS** accounts and credentials as per the notified instructions of the **PROJECT MANAGER** (as identified in ANNEX B), as necessary for **USERS** to access the **PLATFORM** and use the **SERVICES** through dedicated interfaces (allowing inter alia, application execution, remote visualization, data management and analytics, collaboration and development, the **INTERFACES**), and
  - d. provide basic tools and software necessary to operate the **PLATFORM** (including without limitation workflow orchestration tools, the **LUXPROVIDE SOFTWARE**, along with a limited, royalty-free license to use the **LUXPROVIDE SOFTWARE** as necessary for the **PROJECT** subject to potential additional license terms as may be notified from time to time by LUXPROVIDE to the **PROJECT MANAGER** or **USERS**), except where the **PLATFORM** is provided in IaaS mode.

## 3. PROJECT

- 3.1 **PROJECT TERM.** Once a **PROJECT** is admitted as per the **SERVICE COMMITMENT** or the **SERVICE CONTRACT** (and save if the parties thereto agree otherwise in writing), such **PROJECT** is valid for one (1) year starting from the date of its admission, during which the **SERVICES** will be delivered in line with the **SERVICE COMMITMENT** or with the **SERVICE CONTRACT**. **LUXPROVIDE** will notify the **PROJECT MANAGER** one (1) month before the expiry of this one-year period, so the **PROJECT MANAGER** can close the **PROJECT** if it is no longer active or needed, without prejudice to **LUXPROVIDE**'s or **EUROHPC**'s (as appropriate) right to require the continuation of the **SERVICE COMMITMENT** or the **SERVICE CONTRACT** and claims any amounts due thereunder.
- 3.2 **PROJECT DEFINITION AND DELIVERY CONDITIONS.** The **PROJECT MANAGER**:
- a. declares representing the **PROJECT OWNER** with full authority for the purposes of the **ToU** (and all matters set out herein), the **PROJECT** and the use of the **SERVICES** and the **PLATFORM**,
  - b. defines the **SERVICES** necessary for the **PROJECT**, may request them of **LUXPROVIDE**, and supervises their use,
  - c. directs the **PROJECT** and is solely responsible for defining:
    - i. the **PROJECT**, its objectives, purposes, means and conditions,
    - ii. the applications, algorithms and program instructions and generally any piece of software to be installed and operated by **USERS** (or by **LUXPROVIDE** on **USERS**' instructions when agreed with the **PROJECT MANAGER**) on the **PLATFORM** to reach the **PROJECT**'s objectives (the **PROJECT SOFTWARE**); the **PROJECT MANAGER** notes that **LUXPROVIDE** offers assistance **SERVICES**, and
    - iii. the data, including personal data (within the meaning of the EU General Data Protection Regulation 2016/679 and other applicable texts, including the Luxembourg law of 1 August 2018 on the organisation of CNPD and the general data protection framework, as well as their implementing or successor texts, together **GDPR**) to be installed, stored and processed on the **PLATFORM** to reach the **PROJECT**'s objectives (the **DATA**),
  - d. defines in mutual agreement with **LUXPROVIDE** or **EUROHPC** (as appropriate) the **ALLOCATIONS** and related **PLATFORM** resources quotas (notably in terms of computing time/power and **DATA** storage) necessary for the **PROJECT** for each month of the **PROJECT** timespan; save in cases set forth in the **ToU**, any change affecting **ALLOCATIONS** or resources quotas require the agreement of both the **PROJECT MANAGER** (which should not be unreasonably withheld) and **LUXPROVIDE** or **EUROHPC** (as appropriate), subject to **PLATFORM**'s and **SERVICES**' availability,
  - e. acknowledges that the **PROJECT SOFTWARE** and **DATA** may need to be ported, migrated or otherwise adapted to operate on the **PLATFORM** or with **LUXPROVIDE SOFTWARE**, and solely assumes responsibility therefor, and
  - f. agrees, upon notification of a request to this end by **LUXPROVIDE**, to (i) regularly report on the **PROJECT**'s progress and the use of the **SERVICES**, and (ii) at the end of the **PROJECT**, to provide feedback on the **PROJECT**, its outcome and the **SERVICES** (and accepts that such feedback be the object of disclosures or publications by **LUXPROVIDE**, subject to **LUXPROVIDE**'s refraining from disclosing the **PROJECT**'s outcome or **DATA**),
  - g. acknowledges that the **PROJECT** and its **USERS** comply with applicable law, rules and regulations and with data protection, as well as national, European and international sanction policies or regulations.
- 3.3 **REPRESENTATIONS.** The **PROJECT MANAGER** represents and warrants that:
- a. the **PROJECT** will not use **FPGA** computing resources part of the **PLATFORM** to

- pursue nuclear activities, rocket applications (including missiles and unmanned aerial vehicles), chemical or biological warfare applications,
- b. DATA and PROJECT SOFTWARE do not contain any illegal, dangerous or other inappropriate contents (including malicious code) that may create risks or cause damages to the PLATFORM, LUXPROVIDE's or third parties' assets,
  - c. the PLATFORM or SERVICES will not be (i) used in any circumstances to send or transmit harassing, abusive, libellous, obscene, or unsolicited (spam) communications, or (ii) tampered with or deliberately disrupted,
  - d. to the extent DATA includes personal data (within the meaning of the GDPR), the PROJECT and DATA processing associated therewith comply with the GDPR, and
  - e. it holds, or is entitled to use (and to grant the license below to LUXPROVIDE), the intellectual property rights on the PROJECT SOFTWARE, the DATA and generally any item uploaded or used by USERS on the PLATFORM, as necessary for the performance of the SERVICES, and hereby grants a limited, royalty-free license to LUXPROVIDE to store, process and handle such PROJECT SOFTWARE, DATA and items as necessary for the latter to deliver the SERVICES.

In case of breach of the above representations:

- A. LUXPROVIDE reserves the right in its discretion to suspend or block immediately the SERVICES (including USERS' accesses to the PLATFORM) and/or terminate the PROJECT as per clause 7.2, and/or
- B. the PROJECT OWNER will indemnify LUXPROVIDE for potential damages caused, notwithstanding LUXPROVIDE's right to claim for further damages.

### 3.4 SERVICES DELIVERY

- a. In the context of computing, if an ALLOCATION is not used, LUXPROVIDE will (i) notify the PROJECT MANAGER accordingly, and (ii) reserves the right, in the absence of a valid justification notified by the PROJECT MANAGER, or if this situation is repeated, to cancel other ALLOCATIONS and consider the PROJECT as terminated, and apply clause 7.2.
- b. Where the PROJECT MANAGER can demonstrate that a particular computing SERVICE suffered from PLATFORM-related (that is, hardware, software or system issues under control of LUXPROVIDE, excluding specifically errors or incidents due to DATA, PROJECT SOFTWARE and generally any USER-defined parameters or items under the control of the PROJECT OWNER, PROJECT MANAGER or USERS), the PROJECT MANAGER can notify a request to LUXPROVIDE for the related SERVICE:
  - i. to be repeated in satisfactory conditions, to the extent feasible or, if not feasible
  - ii. not to be charged.
- c. The PROJECT MANAGER shall notify (or cause USERS to notify) LUXPROVIDE immediately in case (i) of incident or technical issue identified whilst using the SERVICES, the PLATFORM or generally in relation to the PROJECT, (ii) they identify technical incidents or security gaps (in which case they should refrain from exploiting such security gaps), and (iii) they identify a breach to the ToU, the SERVICE COMMITMENT, or the SERVICE CONTRACT.

## 4. INFRASTRUCTURE

- 4.1 PLANNED MAINTENANCE. Without prejudice to agreed ALLOCATIONS and clause 7.1c, LUXPROVIDE endeavours to notify USERS of planned maintenance sufficiently in advance for them and the PROJECT MANAGER to take the measures necessary to limit the impact on the PROJECT.
- 4.2 LUXPROVIDE SOFTWARE. LUXPROVIDE may from time to time update, upgrade or

replace LUXPROVIDE SOFTWARE as LUXPROVIDE deems necessary in its discretion. Where such changes are likely to impact on the PROJECT, the DATA or PROJECT SOFTWARE, LUXPROVIDE will notify USERS reasonably in advance, for the PROJECT MANAGER and USERS to take (at their cost) necessary measures to accommodate such change.

## **5. DATA**

5.1 STORAGE. Under the PROJECT OWNER's liability, the PROJECT MANAGER is accountable for:

- a. determining, collecting or obtaining the DATA necessary for the PROJECT,
- b. uploading DATA on the PLATFORM and handling (including changing, altering, updating and deleting) DATA, and DATA access controls, whilst stored on the PLATFORM,
- c. keeping a backup of any DATA uploaded on the PLATFORM, and
- d. downloading DATA and PROJECT results at the end of the PROJECT, being noted that LUXPROVIDE will destroy any DATA left on the PLATFORM upon termination of the PROJECT as per clause 7.2.

5.2 ACCESS TO DATA. The PROJECT OWNER understands and accepts that:

- a. due to the technical design of the specialized PLATFORM, the DATA may be centralized together with that of other LUXPROVIDE's clients or users, and logically segregated whilst stored on the PLATFORM, and
- b. LUXPROVIDE may perform corrections to DATA permissions whilst operating the PLATFORM, performing its maintenance, investigating incidents, or delivering SERVICES, in order to ensure a proper and secure operation of the PLATFORM, and
- c. LUXPPROVIDE, and certain third-party providers, suppliers and partners of LUXPROVIDE (disclosed on request) may have access to the DATA whilst operating the PLATFORM, performing its maintenance, investigating incidents, or delivering SERVICES; where required by law and competent authorities, LUXPROVIDE may provide access to any PROJECT-related contents stored on the PLATFORM.

5.3 PERSONAL DATA. In the event that DATA include personal data (within the meaning of GDPR), ANNEX A applies.

## **6. USERS**

6.1 USERS APPOINTMENT. In order to use the SERVICES and the PLATFORM, the PROJECT MANAGER shall appoint USERS and notify their details to LUXPROVIDE as per ANNEX B, for the latter to manage accesses. The PROJECT MANAGER confirms:

- a. that USERS represent the PROJECT OWNER and PROJECT MANAGER, and act on the latter's behalf whilst accessing the PLATFORM, using the SERVICES and LUXPROVIDE SOFTWARE, and managing PROJECT SOFTWARE and DATA,
- b. that USERS have been informed of the ToU clauses and conditions, are vetted and have full authority to issue instructions (including INSTRUCTIONS, as defined in ANNEX A) to LUXPROVIDE,
- c. that USERS have sufficient skills and knowledge, including on the SERVICES' and PLATFORM's characteristics, use and limitation (being noted that LUXPROVIDE offers documentation, helpdesk, training and assistance SERVICES to USERS), and
- d. taking full responsibility for USERS' actions or omissions or breach of the ToU, and the PROJECT OWNER agrees to indemnify LUXPROVIDE in case of a claim by LUXPROVIDE or a third party linked to such actions or omissions.

6.2 SECURITY. LUXPROVIDE provides personal credentials to each USER to access the

PLATFORM. USERS shall, under the PROJECT MANAGER's responsibility:

- a. never share their accounts, keeping credentials strictly personal and confidential, not share them or leave them for others to see, and generally apply password and security good practices,
- b. notify immediately LUXPROVIDE in case credentials are or risk to be compromised,
- c. never hide their identity or impersonate someone else's identity,
- d. never install, develop, use or simply copy (without installing) programs:
  - i. able to bypass the security systems in place, or
  - ii. that can impact the availability or the integrity of systems or network
- e. never transmit harassing, abusive, libellous or obscene communications from or while using the PLATFORM,
- f. be responsible for ensuring the security of their data, and permissions on this data, and
- g. be accountable for their actions on the PLATFORM

6.3 GUIDELINES. When using the PLATFORM and SERVICES, USERS shall, under the PROJECT MANAGER's responsibility, follow the guidelines given by LUXPROVIDE through documentation, user portals, ticketing systems, email, by phone or other communication channels.

## 7. SUSPENSION AND TERMINATION OF SERVICES

7.1 RIGHT OF SUSPENSION. LUXPROVIDE reserves the right to suspend at any time (subject to notifying the PROJECT MANAGER and/or USERS beforehand or as soon as possible, as appropriate) the SERVICES and/or USERS' access to the PLATFORM, in case:

- a. the PROJECT MANAGER or USERS act in breach of the ToU, the SERVICE COMMITMENT, the SERVICE CONTRACT, or the law (such as, without limitation, by abusing or misusing the PLATFORM to launch denial of service or other types of attacks, sending spam or negatively impacting the delivery of PLATFORM or SERVICES to other users), or
- b. a USER notifies the compromising of credentials, or LUXPROVIDE considers that a USER's credentials are compromised (based, e.g., on abnormal activity on the PLATFORM or the USER's account); in such case the USER's account only will be suspended, unless LUXPROVIDE determines that this incident creates a risk for the PLATFORM justifying suspending all PROJECT-related accounts, or
- c. in the event of any event, condition or situation (whether caused or not by the PROJECT MANAGER, USERS, DATA or PROJECT SOFTWARE) (i) requiring urgent maintenance or (ii) which poses or could potentially pose a security threat or vulnerability affecting the SERVICES or the PLATFORM requiring immediate action.

In case of such suspension, LUXPROVIDE and the PROJECT MANAGER will mutually agree on the rescheduling of ALLOCATIONS impacted by the suspension as soon as reasonably possible, subject to the PLATFORM's availability.

7.2 PROJECT TERMINATION. This clause 7.2 is without prejudice to the SERVICE COMMITMENT's or to the SERVICE CONTRACT's provisions governing termination. In case of termination of the PROJECT for any reason or cause whatsoever:

- a. LUXPROVIDE will notify to the PROJECT MANAGER the conditions in which USERS can recover the DATA, PROJECT results, PROJECT SOFTWARE and any other PROJECT- or USER-related item stored on the PLATFORM,

- b. unless the notification mentioned under a. provides for a particular delay, the items listed above will remain available for thirty (30) calendar days after the date of said notification, and will then be entirely destroyed (no backups), and
  - c. it is the PROJECT MANAGER's responsibility that all items listed under a. are timely recovered; LUXPROVIDE will not accept any liability arising out of the destruction of said items in the conditions detailed in this clause 7.2.
- 7.3 Unless there is a provision to the contrary in the SERVICE COMMITMENT or the SERVICE CONTRACT, either party may terminate the relationship at any time without stating a reason.
- 7.4 When LUXPROVIDE or EUROHPC provide SERVICES to the PROJECT MANAGER, the notice period for such termination is 1 (one) month.
- 7.5 In any case, if LUXPROVIDE or EUROHPC consider that the solvency of the PROJECT OWNER is compromised or that the guarantees obtained are insufficient or that the guarantees requested have not been obtained or that it may incur liability as a result of the continuation of its links with the PROJECT OWNER or that it appears that the DATA processed may be contrary to public order or morality, LUXPROVIDE may terminate its relationship with the PROJECT OWNER (including the PROJECT) with immediate effect and without prior notice. In that event, LUXPROVIDE is released of any obligation under the ToU and the provisions of clause 7.2 will apply.

## **8. WARRANTIES, LIABILITY**

### **8.1 LIMITED WARRANTIES.**

- a. The PLATFORM (including LUXPROVIDE SOFTWARE) and SERVICES are provided as-is and LUXPROVIDE may change or upgrade them from time to time in its discretion. LUXPROVIDE expressly disclaims all warranty not expressly provided herein or in the SERVICE COMMITMENT or else in the SERVICE CONTRACT and any implied warranty, whether by law or otherwise, guarantee or representation as to performance, integration feasibility, quality, availability, including implied warranties of merchantability and fitness for a particular purpose.
- b. LUXPROVIDE does not warrant that:
  - i. the PLATFORM (including LUXPROVIDE SOFTWARE) and SERVICES will meet the PROJECT's or PROJECT MANAGER's requirements, even where support, training or consulting SERVICES have been provided by LUXPROVIDE,
  - ii. the PLATFORM operation will be uninterrupted or error-free,
  - iii. DATA integrity is maintained or that DATA can be restored from any backup copies stored or transferred to the PLATFORM, or
  - iv. the PROJECT SOFTWARE will be operable on, or be compatible with, the PLATFORM, nor that it will deliver expected results or performance.
- c. The PROJECT MANAGER:
  - i. acknowledges having exercised due diligence in ascertaining that the PLATFORM and SERVICES (including their performance and security features) are adapted to the PROJECT's purposes and specificities,
  - ii. assumes all responsibility for selecting the PLATFORM and SERVICES to achieve the PROJECT's intended results, and for the use and results obtained therefrom,
  - iii. is responsible for storing copies of critical or irreproducible DATA outside of the PLATFORM,
  - iv. is responsible for checking the validity and accuracy of results generated whilst

using the PLATFORM and SERVICES, and

- v. is liable for timely ordering additional SERVICES (such as, training/coaching services and assistance to USERS) from LUXPROVIDE as necessary for the successful management of the PROJECT and to avoid technical issues or incidents.

8.2 **LIABILITY EXCLUSION.** LUXPROVIDE will not incur any liability for direct or indirect consequences arising out of:

- a. the exercise of the right of suspension set out in clause 7.1,
- b. the consequences of the PROJECT's termination in accordance with the ToU and clause 7.2,
- c. the unexpected alteration, loss or destruction of DATA or PROJECT SOFTWARE: in case of technical incident resulting in such alteration, loss or destruction, the PROJECT MANAGER's exclusive remedy shall be to ask LUXPROVIDE to reiterate the SERVICES free-of-charge in a commonly agreed timeframe, or
- d. third-party actions and, in particular, in case of attempted or successful third-party attack against the PLATFORM.

## **9. AMENDMENTS**

9.1 LUXPROVIDE may amend the ToU at any time, particularly in order to take account of amendments to the laws or regulations or changes in LUXPROVIDE's or EUROHPC's policies, the customs or the market situation.

9.2 Any such changes will be notified to the PROJECT MANAGER's at least one (1) month before their entry into force. Modifications will be deemed to have been approved if no written objection is notified by the PROJECT MANAGER before the date on which the modifications come into effect. If the PROJECT MANAGER gives notice of his/her objection in accordance with this paragraph, either of the parties will be entitled to terminate their business relationship and the PROJECT.

## **10. NOTIFICATIONS**

10.1 **PROJECT MANAGER AND USERS.** Any notification hereunder by the PROJECT MANAGER or USERS to LUXPROVIDE shall be made by email to this address: servicedesk@lpx.lu.

10.2 **LUXPROVIDE.** Any notification hereunder by LUXPROVIDE to the PROJECT MANAGER and USERS to can be made, at LUXPROVIDE's discretion, either:

- a. by email at the PROJECT MANAGER's and/or concerned USERS' email address communicated by the latter, or
- b. by means of a notice provided through the support mechanisms offered by LUXPROVIDE.

## **11. DISPUTE RESOLUTION, APPLICABLE LAW AND JURISDICTION**

11.1 The ToU are governed by and interpreted according to the laws of Luxembourg.

11.2 Any dispute arising hereunder (with respect to the validity, the interpretation or the execution of the ToU or otherwise) will be exclusively and definitively settled by the courts of the Grand-Duchy of Luxembourg located in Luxembourg-City.

11.3 Projects falling under the scope of article 1.2 a. (1) of the ToU are subject to article 25 Council Regulation (EU) 2021/1173 of 13 July 2021 on establishing the European High

Performance Computing Joint Undertaking, which reads as follows: “1. *The Court of Justice of the European Union shall have jurisdiction: (a) pursuant to any arbitration clause contained in agreements or contracts concluded by the Joint Undertaking, or in its decisions; (b) in disputes relating to compensation for damage caused by the staff of the Joint Undertaking in the performance of their duties; (c) in any dispute between the Joint Undertaking and its staff within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.* 2. *With regard to any matter not covered by this Regulation or by other Union legal acts, the law of the Member State where the seat of the Joint Undertaking is located shall apply*”.

- 11.4 In case the PROJECT OWNER is an intergovernmental organisation established by a treaty or by any other international agreement concluded between States, articles 11.2 and 11.3 are not applicable. The parties shall attempt to settle any dispute between them in an amicable manner. If the dispute cannot be so settled, the parties pledge to settle the dispute by final and binding ad hoc arbitration under the Rules of Arbitration of the Luxembourg Chamber of Commerce. The proceedings shall be conducted in the English Language.

**I acknowledge that I have read, understand, and agree with the LuxProvide Terms of Use**

<p>_____ <i>Sign above this line</i> _____</p> <p><b>Name :</b> <b>Organisation :</b> <b>Date :</b></p>
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## ANNEX A | PERSONAL DATA PROCESSING TERMS

- (1) **SCOPE.** This ANNEX A applies to any act of processing (including storing, computing or otherwise handling, the **PROCESSING**) of personal data included in the DATA (the **PERSONAL DATA**) carried out by LUXPROVIDE (acting in capacity as processor to the PROJECT MANAGER) on behalf of the PROJECT MANAGER (acting in capacity as controller, the **CONTROLLER**) whilst delivering the SERVICES.
- (2) **DEFINITIONS.** The terms ‘personal data’, ‘processing’, ‘controller’, ‘processor’ and ‘personal data breach’ have the meaning assigned to them in the GDPR.
- (3) **PROCESSING.** The CONTROLLER hereby requests LUXPROVIDE, who accepts, to carry out the acts of PROCESSING necessary for the delivery of the SERVICES, as well as PROCESSING detailed in written documented instructions (the **INSTRUCTIONS**) issued by the CONTROLLER from time to time. The CONTROLLER will solely determine the categories of PERSONAL DATA, the data subjects to which they relate (**DATA SUBJECTS**) as well as PROCESSING operations; it is noted in this respect that LUXPROVIDE might not always receive detailed information on the PROCESSING, the PERSONAL DATA processed of DATA SUBJECTS concerned. LUXPROVIDE undertakes not to perform any act of PROCESSING nor to process the DATA for purposes other than (A) delivering the SERVICES or performing its obligations under the service contract entered into by the CONTROLLER in view of the SERVICES, or (B) complying with INSTRUCTIONS.
- (4) **PROCESSOR ASSISTANCE.** LUXPROVIDE undertakes to assist the CONTROLLER at the latter’s costs and to the best of its ability (A) insofar as this is possible, for the fulfilment of the CONTROLLER’s obligation to respond to requests for exercising DATA SUBJECTS’ rights under the GDPR, (B) personal data protection statutory or regulatory requirements applicable to the CONTROLLER (such as, data protection impact assessments), (C) CONTROLLER’s requests for information on the PROCESSING or PROCESSING conditions, (D) CONTROLLER’s auditors requests, audits or inspections, and (E) CONTROLLER’s competent data protection authorities’ queries or audits. In such case, LUXPROVIDE may charge additional fees (on a time and material basis based on then currently applicable tariffs) and expenses. LUXPROVIDE will immediately inform the CONTROLLER if, in its opinion, an INSTRUCTION infringes the GDPR.
- (5) **SECURITY.** Given the nature of the SERVICES, and considering that the PLATFORM’s design and characteristics (including security features and limitations) are known to the CONTROLLER, the latter is solely liable for determining, taking into account the PROCESSING’s nature, scope, context and purposes as well as the risks for DATA SUBJECTS’ rights and freedoms, whether (A) additional security measures (such as, PERSONAL DATA anonymization, pseudonymisation or encryption) should be implemented, and (B) the PLATFORM’s ability to ensure the ongoing confidentiality, integrity, availability and resilience of PROCESSING systems and SERVICES, as well as restoring PERSONAL DATA availability and access in a timely manner in the event of a physical or technical incident, are appropriate.
- (6) **CONFIDENTIALITY.** LUXPROVIDE’s staff (including that of PARTNERS who act as subprocessors, **SUBPROCESSORS**) assigned to the PROCESSING either (A) have committed themselves to confidentiality or (B) are under a statutory obligation of confidentiality.
- (7) **SUBPROCESSING.** LUXPROVIDE will not commission the PROCESSING, in whole or in part, nor will it disclose PERSONAL DATA, to any SUBPROCESSOR, except (A) to the LUXPROVIDE PARTNERS (disclosed on request), or (B) to any other SUBPROCESSOR subject to LUXPROVIDE’s (B1) informing CONTROLLER in writing beforehand, (B2) appointing said SUBPROCESSOR only if the CONTROLLER has not objected against such appointment (on reasonable grounds) within 2 (two) weeks of such information, and (B3) ensuring that PROCESSING operations commissioned to such

SUBPROCESSOR are governed at all times by a writing agreement conform to applicable GDPR requirements.

- (8) **PROCESSING IN THE EU.** Neither LUXPROVIDE nor SUBPROCESSOR will transfer PERSONAL DATA outside the EU, save with the CONTROLLER's express prior written approval.
- (9) **PERSONAL DATA BREACH.** LUXPROVIDE commits to inform the CONTROLLER without undue delay in case of a personal data breach.
- (10) **PERSONAL DATA DESTRUCTION.** At the end of the PROJECT, the PERSONAL DATA will be handled in accordance with clause 7.2 of the ToU.

## ANNEX B | PROJECT OWNER, PROJECT MANAGER AND USERS IDENTIFICATION

- (1) PROJECT OWNER. The PROJECT OWNER is identified below:

	PROJECT OWNER
Name:	
Organisation:	
Position:	
Email:	
Phone:	

- (2) PROJECT MANAGER/PROJECT MANAGER DELEGATE. The PROJECT MANAGER may decide to appoint a delegate in order to replace him/her (e.g., in case of absence), by providing the details below for such delegate. If a delegate is appointed, (A) any communications or instructions (including INSTRUCTIONS, as defined in ANNEX A) notified by the delegate to LUXPROVIDE hereunder will be deemed to have been made by the PROJECT MANAGER him/herself, and (B) any communications notified to the delegate by LUXPROVIDE hereunder will be deemed to have been made to the PROJECT MANAGER him/herself.

	PROJECT MANAGER	PROJECT MANAGER DELEGATE
Name:		
Organisation:		
Position:		
Email:		
Phone:		

The PROJECT OWNER is liable for ensuring that there is always at least one (1) active PROJECT MANAGER to act as technical contact for LUXPROVIDE concerning the PROJECT and SERVICES delivery. If the person identified as the PROJECT MANAGER above ceases to act as PROJECT MANAGER and no replacement PROJECT MANAGER was notified to LUXPROVIDE:

- I. LUXPROVIDE will contact the PROJECT OWNER to identify a new PROJECT MANAGER, and
  - II. if the PROJECT OWNER does not appoint a replacement PROJECT MANAGER within two (2) weeks of such contact, the PROJECT will be considered as terminated (and DATA will be treated accordingly as per clause 7.2 of the ToU), notwithstanding LUXPROVIDE's or EUROHPC's (as appropriate) right to require the continuation of the SERVICE COMMITMENT, or the SERVICE CONTRACT and claims any amounts due thereunder.
- (3) USERS

Name	Organisation	Email	Phone

To the extent the PROJECT MANAGER requires technical access to the PLATFORM, his/her details should be added to a USERS list so LUXPROVIDE can create a USER account accordingly. In such case, the ToU provisions relating to USERS will also apply to the PROJECT MANAGER, in his/her capacity as USER. The PROJECT OWNER, PROJECT MANAGER or their delegates may request in writing for a modification of the USERS list. LUXPROVIDE has full discretion to approve additional USERS and to remove existing USERS. The USERS list can be created and managed in a fully digital form.