Association for Computing Machinery

Client # 3968765

December 6, 2021

2022-2024 ACM Digital Library
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e. Authorized copies of the Licensed Materials made by Authorized Users may be retained for Educational Purposes and used subject to the terms of this Agreement.

f. For avoidance of doubt termination and early termination and all its consequences will only affect the Licensee in question.

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VI.   FEES

The 2022-2024 Open Access Agreement Fee for the Licensees in Schedule A of this Agreement shall be no greater than $153,896 US the first year (2022), no greater than $179,105 US the second year (2023), and no greater than $184,478 US the third year (2024). Fees per license are listed in Schedule B. Payment will be delivered by the National Library of Finland within 60 days of receipt of an invoice from ACM. The invoice shall be sent to:

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    FinELib
    P.O.Box 15 (Unioninkatu 36)
    00014 University of Helsinki, Helsinki, Finland

In addition to reporting requirement in Section 3, Article 6 above, ACM commits to collaborative conversations during the period of the pilot regarding how fees from the pilot have been directed, and more broadly, how future fees can be set to extend this effort to make transparent how library-based payments are directed within ACM's organization.

If the ACM during the Agreement term withdraws more than 10% of the content in the Licensed Material then the ACM shall refund to the Licensee the due proportion of the License Fee paid by the Licensee. The ACM shall give written notice to the National Library acting on behalf of the Licensee of such withdrawal 90 days prior to the withdrawal. If the withdrawal results in the Licensed Materials being less useful to the Licensee, it may within thirty days of such notice treat such changes as a material breach of this Agreement.

VII.   Limitation of Liability

Both parties' liability to each other shall be limited to exclude altogether liability, howsoever arising for loss of profits, loss of business or of anticipated savings and for any other type of special, indirect, incidental or consequential loss or damage. The aforementioned limitation of liability shall not be applied to damages due to gross negligence or willful misconduct.

For the avoidance of doubt each Licensee will only be liable for its own actions and/or defaults.

VIII.   GENERAL TERMS

1.   Sanctions. ACM confirms that it is currently not the subject or target of any sanctions imposed by the sanctions authority of the European Union or the United Nations and neither is any person or entity that is an owner of ACM or otherwise has control over ACM. ACM will inform the National Library without delay if there is any change in the sanctions status of itself or the aforementioned person or entity.

2.   Governing Law. The terms and conditions of this Agreement are governed by the law of Finland excluding its choice of law rules. All disputes arising out of or in connection with this Agreement shall be exclusively submitted to arbitration in accordance with the Arbitration Rules of the Finnish Central Chamber of Commerce. The arbitration shall take place in Helsinki, Finland, in the English language.

3.   ACM Warranties and Indemnities.

    ACM warrants and represents that it is the owner of the copyright in the Licensed Materials or that it is duly licensed to use the copyrighted material contained in the Licensed Materials and that the Licensed Materials used as contemplated in this Agreement does not infringe any copyright or other proprietary or intellectual property rights of any natural or legal person.

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ACM warrants that software components in the Licensed Materials, if any, will substantially conform to given specifications and/or descriptions in user manuals if used for their intended purposes and that use by the Licensee will not infringe the Intellectual Property of any third party. ACM will indemnify the Licensee and hold it harmless against any damages or losses due to aforementioned infringements or alleged infringements of Intellectual Property.

ACM shall indemnify and hold the Licensee harmless from and against any loss, damage, cost, liability or expense (including reasonable legal and professional fees) arising out of any legal action taken against the Licensee claiming actual or alleged infringement of any Intellectual Property Rights. This indemnity shall survive the termination of this Agreement for any reason. This indemnity shall not apply if the Licensee has amended the Licensed Materials in any way not permitted by this Agreement, and such amendment has caused the loss, damage, cost, liability or expense.

4. Assignment. This Agreement may not be assigned by either party to any other person or organization, nor may either party sub-contract any of its obligations, without the prior written consent of the other party, for which consent shall not be unreasonably withheld. If rights in all or any part of the Licensed Materials are assigned to another publisher, ACM will ensure that the terms and conditions of this Agreement are maintained.

5. Amendments. All amendments and modifications to this Agreement shall be made in writing and be signed by duly authorized representatives of both parties.

6. Waivers. The failure of either party to require performance by the other party of any provision of this Agreement will not affect its full right to require such performance at any subsequent time; nor will the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

7. Force Majeure. If either party cannot temporarily perform its obligations under this Agreement as a result of conditions beyond its control, such as, but not being limited to, war, strike, fire, explosion, governmental restriction or power failure, this shall not be deemed a breach of the Agreement.

8. Schedules. This Agreement includes the following Schedules (which can be amended from time to time), which are incorporated as if fully set forth herein:

Schedule A: A List of Licensees
Schedule B: The Licensed Materials
Schedule C: The Fees
Schedule D: Standard Contractual Clauses for the transfer of personal data to third countries (see attached SCC document)
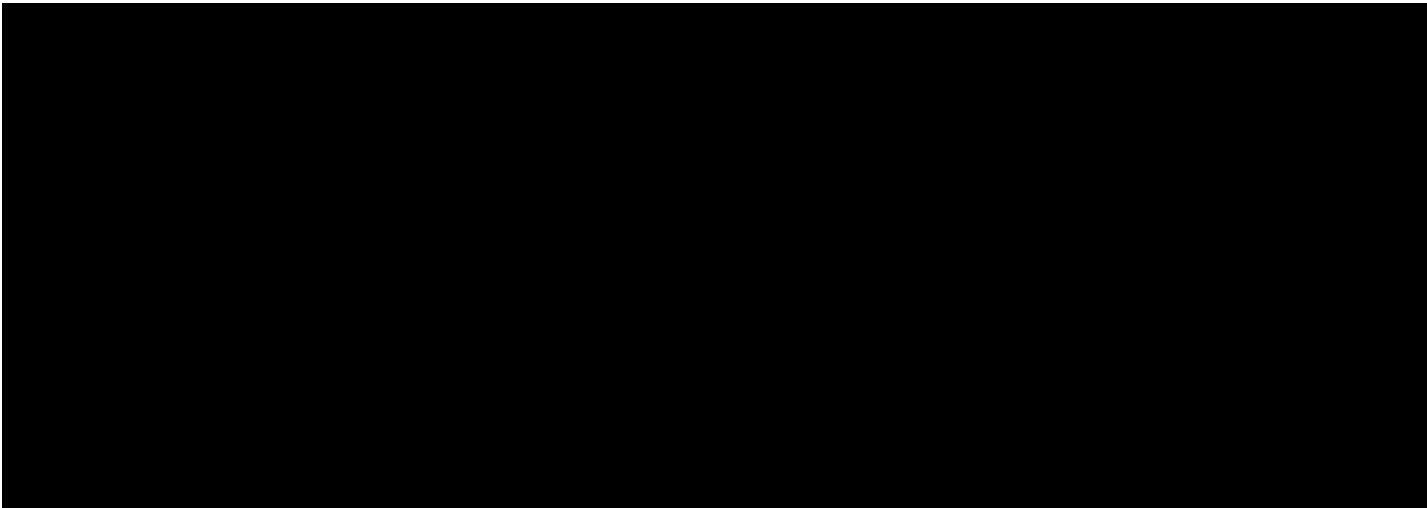
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**Association for
Computing Machinery**

The parties hereby agree to the above terms,
Signatures

On behalf of the

**The National Library on behalf of the Licensee
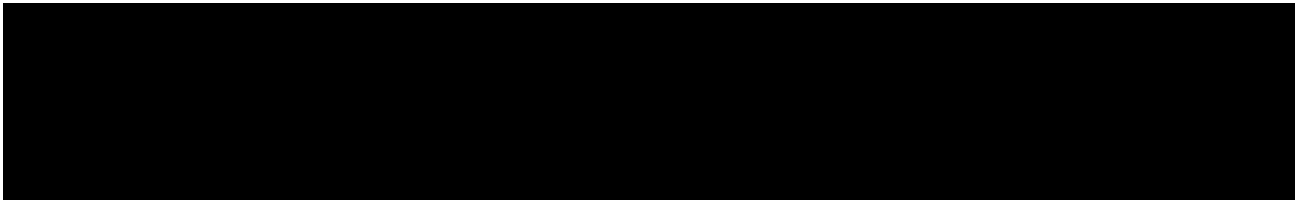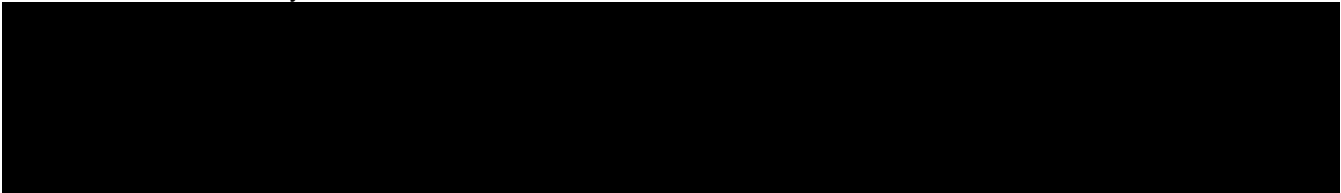via power of attorney**

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Schedule A

Universities

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Abo Akademi University

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Value added tax identification number: FI-02463121

Lappeenranta-Lahti University of Technology LUT
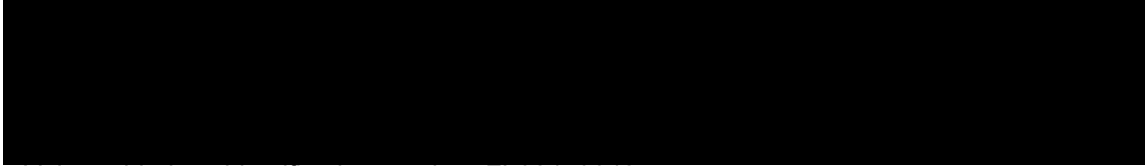
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Tampere University including Tampere University Hospital
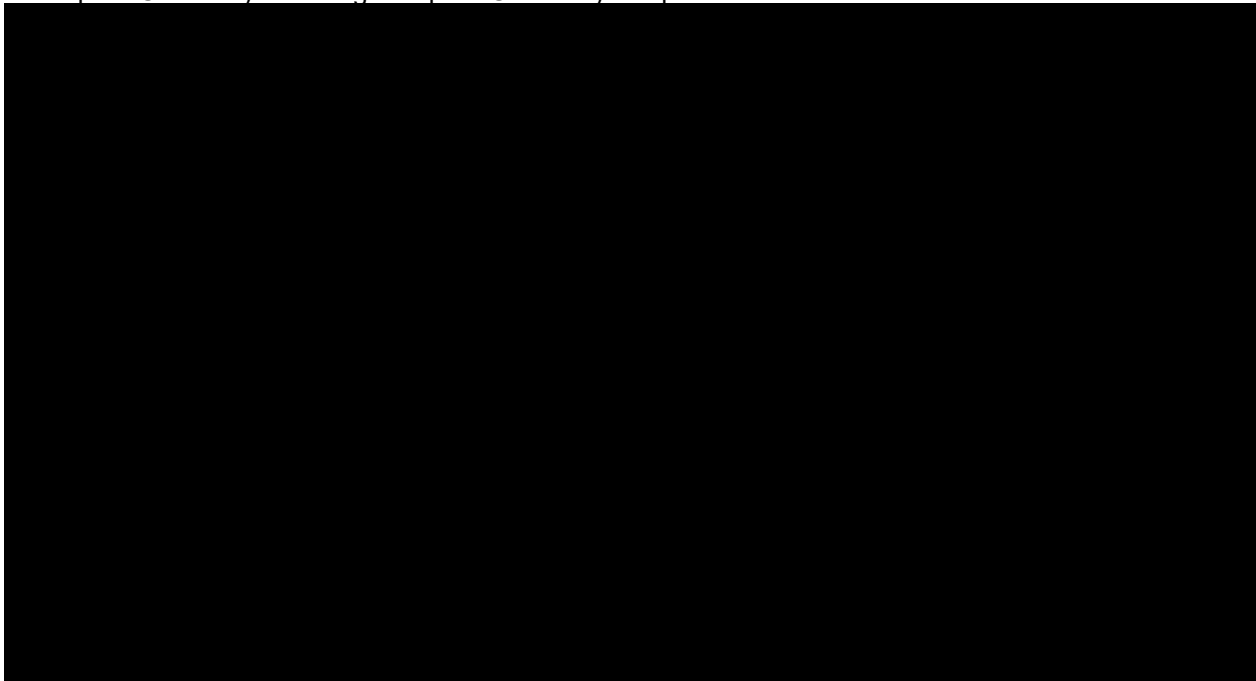
University of Eastern Finland including Kuopio University Hospital
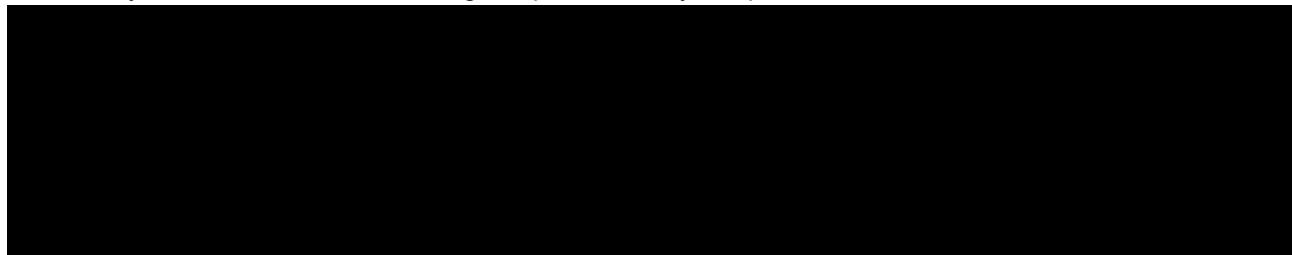
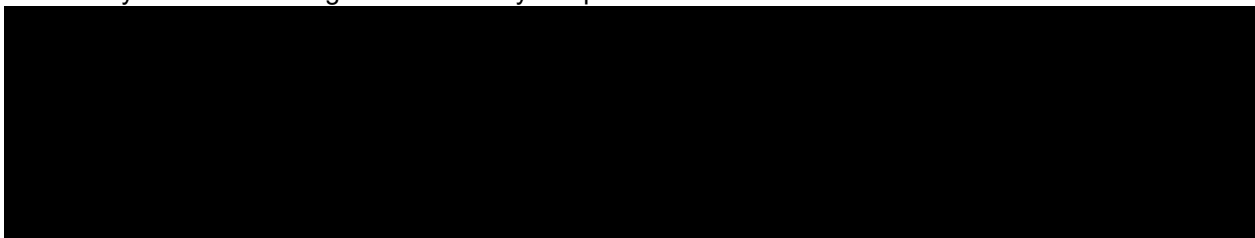University of Helsinki including Helsinki University Central Hospital

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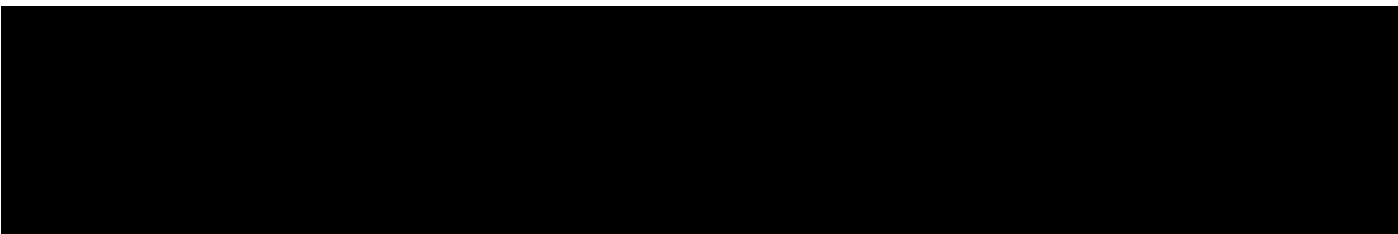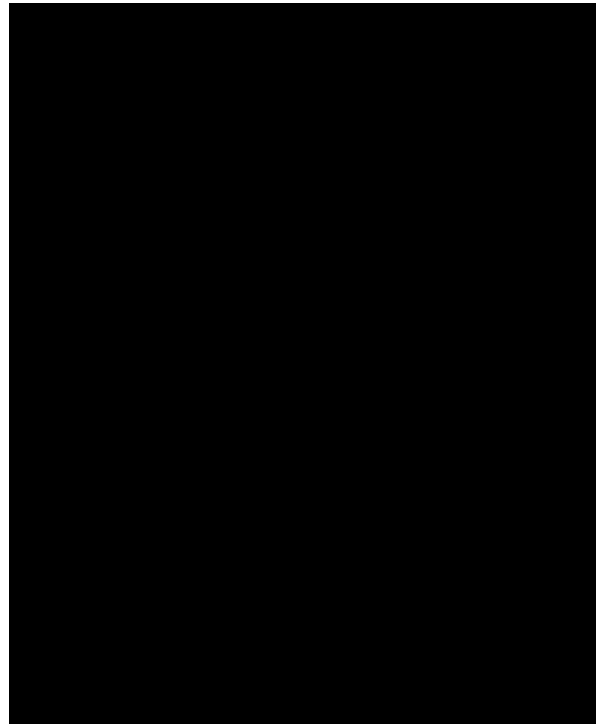
University of Jyväskylä

University of Lapland
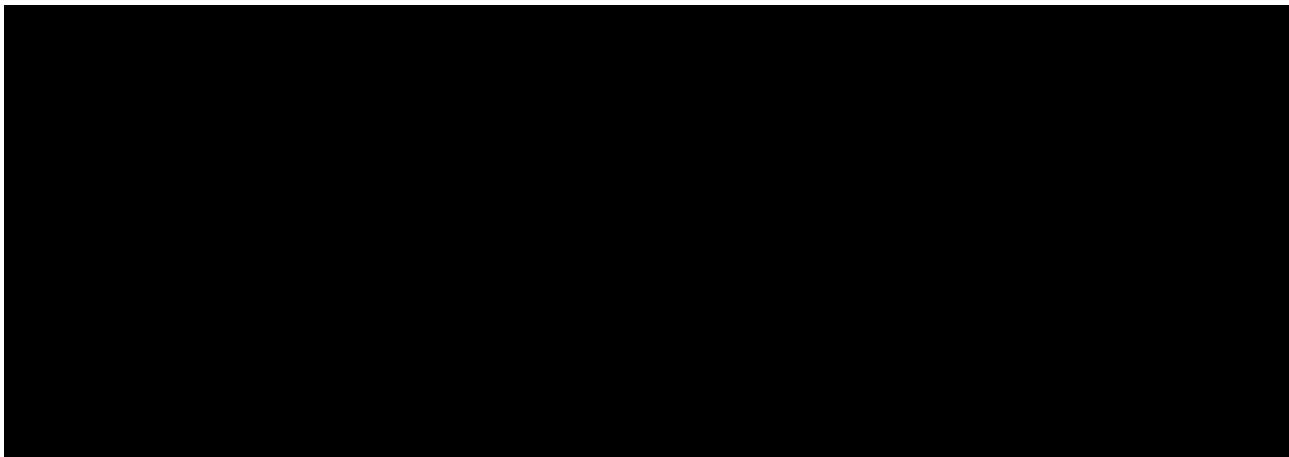
University of Oulu including Oulu University Hospital

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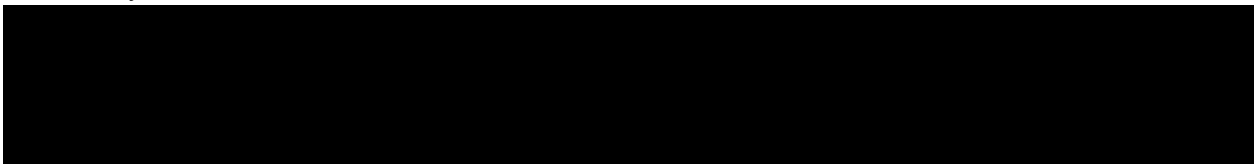Fax: +1-212-944-1318

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University of Turku including Turku university central hospital
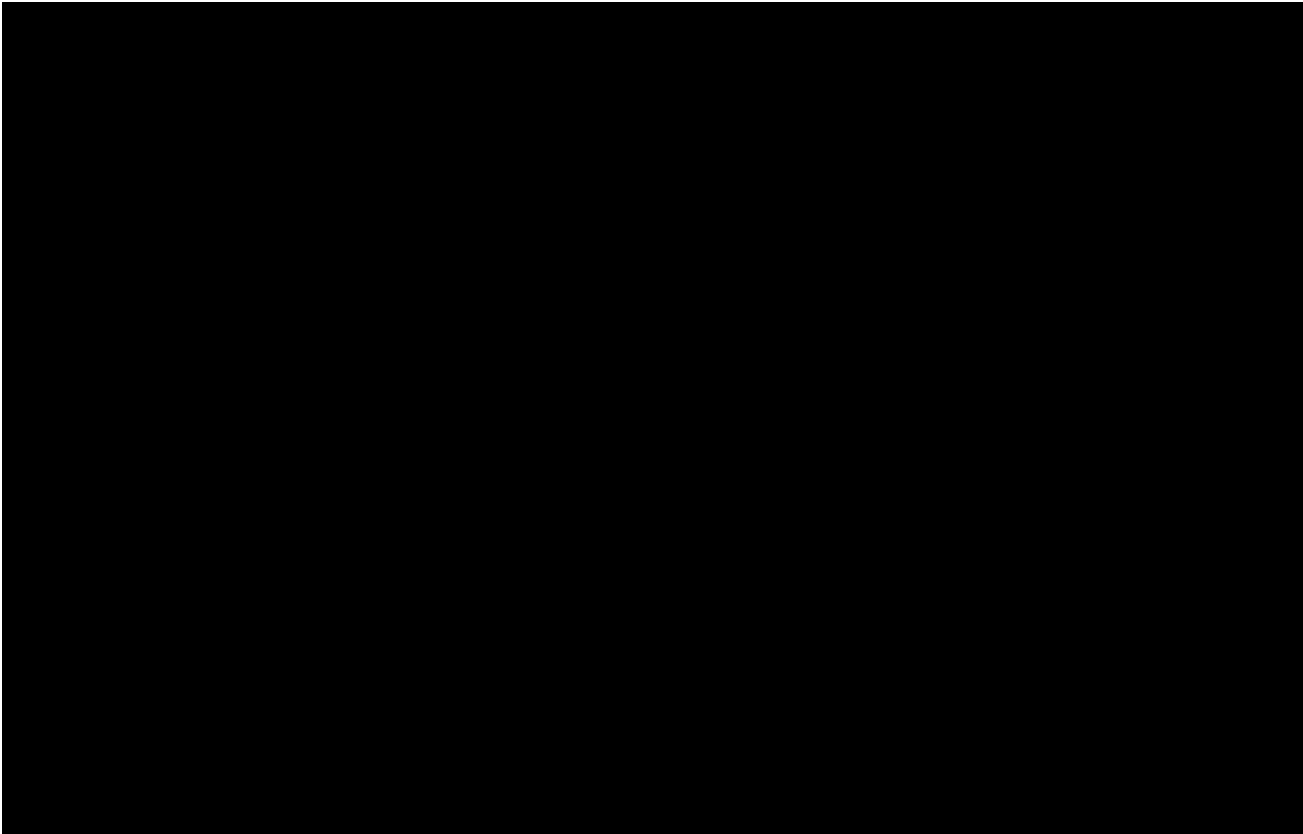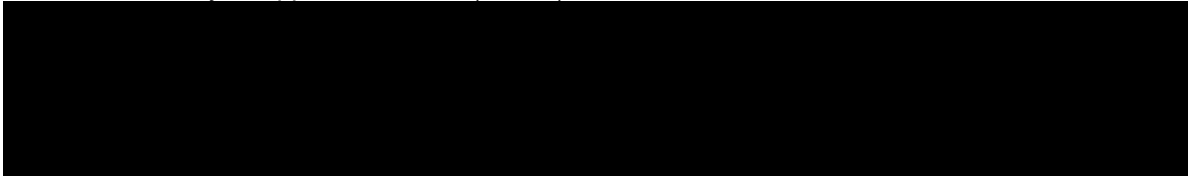
University of Vaasa

Universities of Applied Sciences

HAAGA-HELIA University of Applied Sciences

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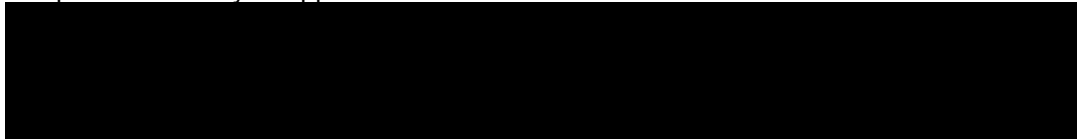
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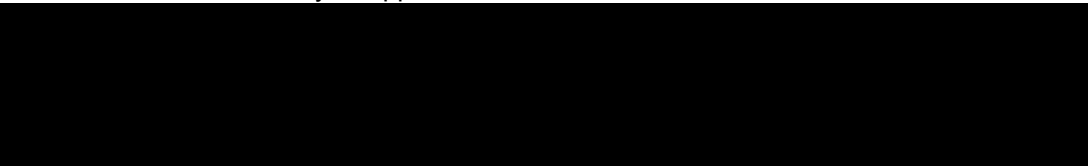
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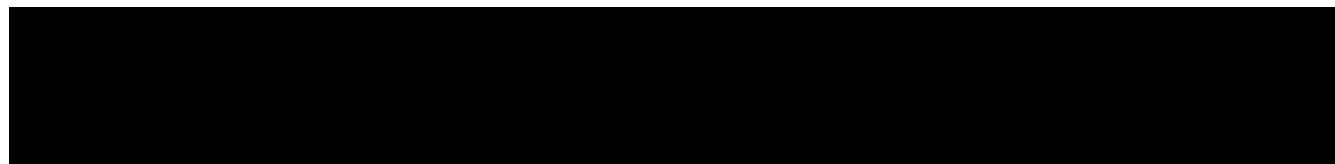
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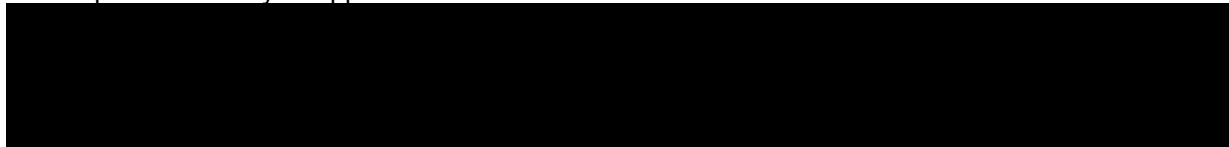
Lapland University of Applied Sciences

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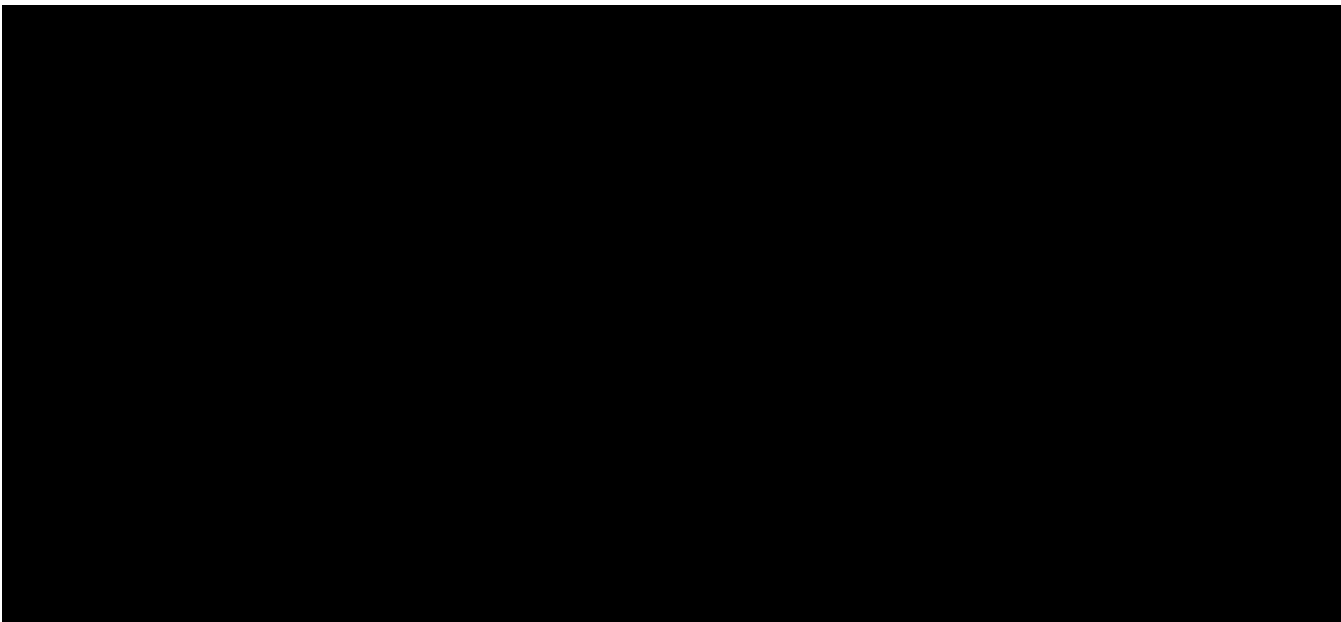
Laurea University of Applied Sciences

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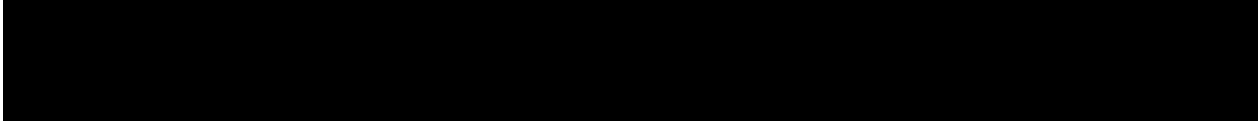Metropolia University of Applied Sciences

Value added tax identification number: FI-20945511

Seinäjoki University of Applied Sciences

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Tampere University of Applied Sciences

Research institutes
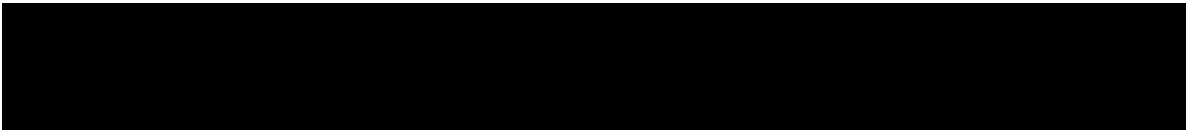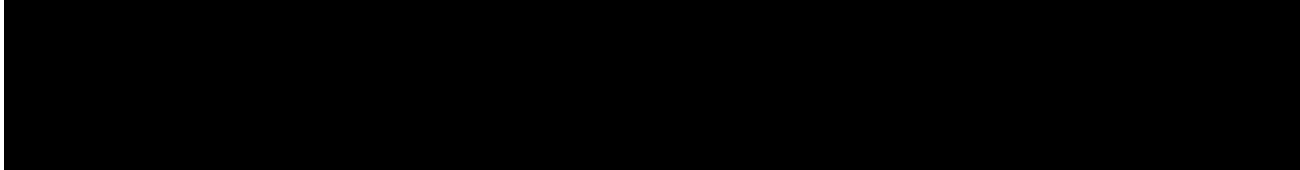
Finnish Defence Research Agency
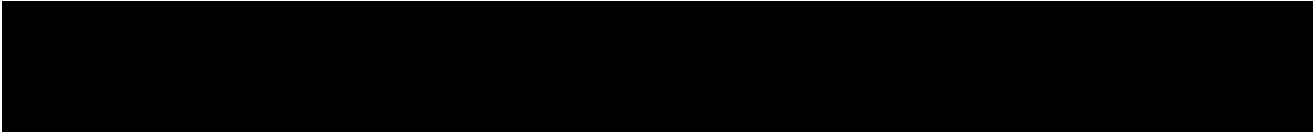
Value added tax identification number: FI-09520299

Finnish Patent and Registration Office

Value added tax identification number: FI-02446831

VTT Technical Research Centre of Finland

Value added tax identification number: FI-26473754

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Schedule B

Schedule B (a): ACM Digital Library License Content Description

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- ACM Guide to Computing Literature, ACM's bibliographic database and abstracting & indexing service and an up-to-date list of the contents of the ACM Digital Library is posted at https://dl.acm.org/about/content
- Access to the ACM Books Collections (https://dl.acm.org/acmbooks) is not included in this Agreement but is available for purchase via separate agreement.

Access to Historical Archive: access to the complete archive of all ACM Publications dating back to each publication's first issue or volume. This access is for the License Period only and does not include archival rights, which can be arranged with the Licensor by separate Agreement.

In the title list below, the last issue mentioned refers to the latest issue available at the time this title list was compiled. Access is also granted to all newer issues, where available.

SCHEDULE B (b): KBART LIST OF FULL-TEXT CONTENTS IN ACM DIGITAL LIBRARY

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Schedule C

Institution	Fee 2022	Fee 2023	Fee 2024
Aalto University	$25 355	$36 618	$37 717
Tampere University	$24 531	$26 276	$27 064
University of Helsinki	$18 834	$24 878	$25 624
University of Oulu	$17 530	$22 642	$23 321
University of Turku	$8 237	$10 855	$11 180
University of Lapland	$7 736	$9 837	$10 132
University of Eastern Finland	$8 074	$8 480	$8 735
University of Jyvaskyla	$8 200	$7 802	$8 036
Lappeenranta University of Technology	$2 950	$3 392	$3 494
VTT Technical Research Centre of Finland	$2 950	$2 575	$2 652
Abo Akademi University	$2 950	$2 575	$2 652
Tampere University of Applied Sciences (incl. in Tampere University)	$0	$0	$0
Häme University of Applied Sciences (HAMK)	$2 950	$2 575	$2 652
University of Vaasa	$2 950	$2 575	$2 652
Finnish Defence Research Agency	$2 950	$2 575	$2 652
Haaga-Helia University of Applied Sciences	$2 950	$2 575	$2 652
Helsinki Metropolia University of Applied Sciences	$2 950	$2 575	$2 652
Lapland University of Applied Sciences	$2 950	$2 575	$2 652
Laurea University of Applied Sciences	$2 950	$2 575	$2 652
National Board of Patents and Registration of Finland	$2 950	$2 575	$2 652
Seinajoki University of Applied Sciences	$2 950	$2 575	$2 652
Total	$153 896	$179 105	$184 478

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Schedule D

(See attached SCC Document)

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EUROPEAN
COMMISSION

Brussels, 4.6.2021
C(2021) 3972 final

ANNEX

ANNEX

to the

COMMISSION IMPLEMENTING DECISION

**on standard contractual clauses for the transfer of personal data to third countries
pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council**

STANDARD CONTRACTUAL CLAUSES

SECTION I

Clause 1

Purpose and scope

(a)   The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)[1] for the transfer of personal data to a third country.

(b)   The Parties:

   (i)   the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter "entity/ies") transferring the personal data, as listed in Annex I.A. (hereinafter each "data exporter"), and

   (ii)   the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each "data importer")

   have agreed to these standard contractual clauses (hereinafter: "Clauses").

(c)   These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.

(d)   The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2

Effect and invariability of the Clauses

(a)   These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to

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[1]   Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision […].

EN   **EN**

select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.

(b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

(a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:

(i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;

(ii) Clause 8 - Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);

(iii) Clause 9 - Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);

(iv) Clause 12 - Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);

(v) Clause 13;

(vi) Clause 15.1(c), (d) and (e);

(vii) Clause 16(e);

(viii) Clause 18 - Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.

(b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

(a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

(b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.

(c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 - Optional

Docking clause

(a)   An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.

(b)   Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.

(c)   The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

MODULE ONE: Transfer controller to controller

8.1   Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B. It may only process the personal data for another purpose:

(i)   where it has obtained the data subject's prior consent;

(ii)   where necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

(iii)   where necessary in order to protect the vital interests of the data subject or of another natural person.

8.2   Transparency

(a)   In order to enable data subjects to effectively exercise their rights pursuant to Clause 10, the data importer shall inform them, either directly or through the data exporter:

(i)   of its identity and contact details;

(ii)   of the categories of personal data processed;

(iii)   of the right to obtain a copy of these Clauses;

(iv)   where it intends to onward transfer the personal data to any third party/ies, of the recipient or categories of recipients (as appropriate with a view to providing meaningful information), the purpose of such onward transfer and the ground therefore pursuant to Clause 8.7.

(b)   Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing the information proves impossible or would involve a disproportionate effort for the data importer. In the latter case, the data importer shall, to the extent possible, make the information publicly available.

(c)   On request, the Parties shall make a copy of these Clauses, including the Appendix as completed by them, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the Parties may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

(d)   Paragraphs (a) to (c) are without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.3   Accuracy and data minimisation

(a)   Each Party shall ensure that the personal data is accurate and, where necessary, kept up to date. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.

(b)   If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.

(c)   The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

8.4   Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation[2] of the data and all back-ups at the end of the retention period.

8.5   Security of processing

(a)   The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

(b)   The Parties have agreed on the technical and organisational measures set out in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

(c)   The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

(d)   In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the personal data breach, including measures to mitigate its possible adverse effects.

(e)   In case of a personal data breach that is likely to result in a risk to the rights and freedoms of natural persons, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority pursuant to Clause 13. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the breach, and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide all the information at the same time, it may do so in phases without undue further delay.

(f)   In case of a personal data breach that is likely to result in a high risk to the rights and freedoms of natural persons, the data importer shall also notify without undue delay the data subjects concerned of the personal data breach and its nature, if necessary in cooperation with the data exporter, together with the information referred to in paragraph (e), points ii) to iv), unless the data importer has implemented measures to significantly reduce the risk to the rights or freedoms of natural persons, or

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[2]   This requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, in line with recital 26 of Regulation (EU) 2016/679, and that this process is irreversible.

notification would involve disproportionate efforts. In the latter case, the data importer shall instead issue a public communication or take a similar measure to inform the public of the personal data breach.

(g)   The data importer shall document all relevant facts relating to the personal data breach, including its effects and any remedial action taken, and keep a record thereof.

8.6   Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "sensitive data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may include restricting the personnel permitted to access the personal data, additional security measures (such as pseudonymisation) and/or additional restrictions with respect to further disclosure.

8.7   Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union[3] (in the same country as the data importer or in another third country, hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses, under the appropriate Module. Otherwise, an onward transfer by the data importer may only take place if:

(i)   it is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;

(ii)   the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679 with respect to the processing in question;

(iii)   the third party enters into a binding instrument with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter;

(iv)   it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;

(v)   it is necessary in order to protect the vital interests of the data subject or of another natural person; or

(vi)   where none of the other conditions apply, the data importer has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards. In this case, the data importer shall

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[3]   The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

inform the data exporter and, at the request of the latter, shall transmit to it a copy of the information provided to the data subject.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.8   Processing under the authority of the data importer

The data importer shall ensure that any person acting under its authority, including a processor, processes the data only on its instructions.

8.9   Documentation and compliance

(a)   Each Party shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities carried out under its responsibility.

(b)   The data importer shall make such documentation available to the competent supervisory authority on request.

Clause 10

Data subject rights

MODULE ONE: Transfer controller to controller

(a)   The data importer, where relevant with the assistance of the data exporter, shall deal with any enquiries and requests it receives from a data subject relating to the processing of his/her personal data and the exercise of his/her rights under these Clauses without undue delay and at the latest within one month of the receipt of the enquiry or request.[4] The data importer shall take appropriate measures to facilitate such enquiries, requests and the exercise of data subject rights. Any information provided to the data subject shall be in an intelligible and easily accessible form, using clear and plain language.

(b)   In particular, upon request by the data subject the data importer shall, free of charge :

(i)   provide confirmation to the data subject as to whether personal data concerning him/her is being processed and, where this is the case, a copy of the data relating to him/her and the information in Annex I; if personal data has been or will be onward transferred, provide information on recipients or categories of recipients (as appropriate with a view to providing meaningful information) to which the personal data has been or will be onward transferred, the purpose of such onward transfers and their ground pursuant to Clause 8.7; and provide information on the right to lodge a complaint with a supervisory authority in accordance with Clause 12(c)(i);

(ii)   rectify inaccurate or incomplete data concerning the data subject;

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[4]   That period may be extended by a maximum of two more months, to the extent necessary taking into account the complexity and number of requests. The data importer shall duly and promptly inform the data subject of any such extension.

(iii) erase personal data concerning the data subject if such data is being or has been processed in violation of any of these Clauses ensuring third-party beneficiary rights, or if the data subject withdraws the consent on which the processing is based.

(c) Where the data importer processes the personal data for direct marketing purposes, it shall cease processing for such purposes if the data subject objects to it.

(d) The data importer shall not make a decision based solely on the automated processing of the personal data transferred (hereinafter "automated decision"), which would produce legal effects concerning the data subject or similarly significantly affect him / her, unless with the explicit consent of the data subject or if authorised to do so under the laws of the country of destination, provided that such laws lays down suitable measures to safeguard the data subject's rights and legitimate interests. In this case, the data importer shall, where necessary in cooperation with the data exporter:

(i) inform the data subject about the envisaged automated decision, the envisaged consequences and the logic involved; and

(ii) implement suitable safeguards, at least by enabling the data subject to contest the decision, express his/her point of view and obtain review by a human being.

(e) Where requests from a data subject are excessive, in particular because of their repetitive character, the data importer may either charge a reasonable fee taking into account the administrative costs of granting the request or refuse to act on the request.

(f) The data importer may refuse a data subject's request if such refusal is allowed under the laws of the country of destination and is necessary and proportionate in a democratic society to protect one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679.

(g) If the data importer intends to refuse a data subject's request, it shall inform the data subject of the reasons for the refusal and the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress.

Clause 11

Redress

(a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

[OPTION: The data importer agrees that data subjects may also lodge a complaint with an independent dispute resolution body[5] at no cost to the data subject. It shall inform the data subjects, in the manner set out in paragraph (a), of such redress

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[5] The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

mechanism and that they are not required to use it, or follow a particular sequence in seeking redress.]

MODULE ONE: Transfer controller to controller

(b)   In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

(c)   Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:

   (i)   lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;

   (ii)   refer the dispute to the competent courts within the meaning of Clause 18.

(d)   The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.

(e)   The data importer shall abide by a decision that is binding under the applicable EU or Member State law.

(f)   The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12

Liability

MODULE ONE: Transfer controller to controller

(a)   Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

(b)   Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.

(c)   Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

(d)   The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.

(e)   The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

Clause 13

Supervision

MODULE ONE: Transfer controller to controller

(a)   [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

(b)   The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

MODULE ONE: Transfer controller to controller

(a)   The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.

(b)   The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:

   (i)   the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of

processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;

(ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards[6];

(iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.

(c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.

(d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

(e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).

(f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed

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[6] As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15

Obligations of the data importer in case of access by public authorities

MODULE ONE: Transfer controller to controller

15.1   Notification

(a)   The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:

   (i)   receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or

   (ii)   becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

(b)   If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

(c)   Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).

(d)   The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.

(e)   Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2   Review of legality and data minimisation

(a)   The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and

principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

(b)   The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.

(c)   The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

(a)   The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.

(b)   In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).

(c)   The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

(i)   the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;

(ii)   the data importer is in substantial or persistent breach of these Clauses; or

(iii)   the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

(d)   [For Modules One, Two and Three: Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data.] The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data

importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

(e)   Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17

Governing law

MODULE ONE: Transfer controller to controller

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Finland (*specify Member State*).]

Clause 18

Choice of forum and jurisdiction

MODULE ONE: Transfer controller to controller

(a)   Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

(b)   The Parties agree that those shall be the courts of Finland (*specify Member State*).

(c)   A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.

(d)   The Parties agree to submit themselves to the jurisdiction of such courts.

<u>**APPENDIX**</u>

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.
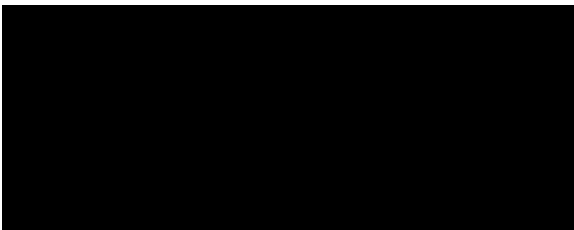
<u>**ANNEX I**</u>

A. LIST OF PARTIES

MODULE ONE: Transfer controller to controller

Data exporter(s): [*Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union*]

1. Name: Each Licensee listed in Schedue A of the main agreement

Address: listed in Schedule A

Contact person's name, position and contact details:

Activities relevant to the data transferred under these Clauses: enabling the importer to provide services in accordance with the main agreement

Signature and date:

Role (controller/processor): controller

Data importer(s): [*Identity and contact details of the data importer(s), including any contact person with responsibility for data protection*]

1. Name: Association for Computing Machinery

Activities relevant to the data transferred under these Clauses: provision of services in accordance with the main agreement

Signature and date:

Role (controller/processor): controller

B. DESCRIPTION OF TRANSFER

MODULE ONE: Transfer controller to controller

Categories of data subjects whose personal data is transferred

Authorised users as defined in the agreement.

Categories of personal data transferred

IP-addresses used by authorized users, names and contact information of library person(s) at licensee institutions.

Sensitive data transferred

No sensitive data is transferred.

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

Contact information is a one time transfer at the start of the agreement term. IP- addresses are transferred at the start of the agreememt term and updated (added, deleted) as needed throughout the agreement term.

Nature of the processing

Contact information: storage and use for administration of the agreement.

IP-addresses: Storege and use for the provision of the services defined in the main agreement.

Purpose(s) of the data transfer and further processing

Contact information of library personnel: for importer to have a direct line of contact to their contractual partners.

IP-addresses: to enable access to licensed electronic resourcs to authorised users.

Period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

The duration of the agreement term unless the agreement is renewed (as may be applicable to one or more licensee institutions). For avoidance of doubt, during the agreement term data that is out of date or no longer valid, must be deleted if so instructed by the exporter.

*For transfers to processors, also specify subject matter, nature and duration of the processing*Oracle Cloud Infrastructure (OCI): storage of the personal data

Atypon: Atypon is the hosting platform for the ACM Digital Library; their services allow ACM to provide the proper user authentication into the ACM Digital Library.

C. COMPETENT SUPERVISORY AUTHORITY

MODULE ONE: Transfer controller to controller

Identify the competent supervisory authority/ies in accordance with Clause 13

Office of the Data Protection Ombudsman
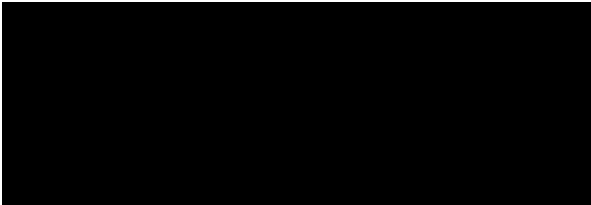
ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

MODULE ONE: Transfer controller to controller

EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services

ACM has high availability and redundancy built into our environment.

Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

ACM backups are tested to ensure recovery. ACM also maintains a DR environment to ensure the availability of data for recovery.

Measures for user identification and authorization

ACM requires authentication by any user that requires access to data.

Measures for the protection of data during transmission

ACM data is protected behind firewall during transmission. All data is transmitted on private network connections between our server hosting facilities.

Measures for the protection of data during storage
ACM data is secured behind firewall and only authorized users are allowed access to data.

Measures for ensuring physical security of locations at which personal data are processed

The locations of the hosting environments that ACM users are all certified for meeting strict physical security standards.

Measures for ensuring events logging

Events are logged and monitored 24x7x365. Any alert that requires immediate response is escalated appropriately.

Measures for internal IT and IT security governance and management

Annual IT audit is performed by an independent third party, to ensure standards are met.

Measures for allowing data portability and ensuring erasure
We will remove all data upon client request.

Measures for certification/assurance of processes and products

Measures for ensuring data minimisation

Measures for ensuring data quality

Measures for ensuring limited data retention

Measures for ensuring accountability

Measures for allowing data portability and ensuring erasure

Business continuity and disaster recovery plans are in place and are tested periodically to confirm effectiveness.

Backups are taken daily and stored securely to enable restoration.

24x7x365 monitoring for our environment.

Physical security controls

Technical controls which are reviewed annually by an independent third-party auditor during an annual IT audit.

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

Oracle: ACM data is stored within the Oracle Cloud Infrastructure (OCI). OCI adheres to strict industry standard certifications such as SOC, ISO, PCI DSS, as an example. To maintain these certifications the required auditing and monitoring are employed

ATYPON

Cybersecurity and Privacy Strategy

Atypon protects its infrastructure and the personal data within it according to the information security principles of confidentiality, integrity, and availability. Our security program is based on the NIST Cybersecurity Framework (CSF), including but not limited to our policies, standard operating procedures, and technical controls. Our privacy program is based on the NIST Privacy Framework to complement and expand our security controls while meeting contractual and legal privacy requirements. Atypon's approach to security and personal data protection incorporates both technical controls and organizational processes.

Confidentiality

A mandatory security education and awareness program is in place to educate internal users on the importance of their obligation to protect the confidentiality of personal data. Employee background checks are performed before granting personnel any data access, and employees are required to acknowledge the commitment to confidentiality of any data they may access in the performance of their duties. Single sign-on (SSO), multi-factor authentication (MFA), and complex password requirements are in place to enforce secure authentication. Atypon follows the principle of least privilege by restricting data access to only individuals with a valid job-based reason to access production information.

Vendor contractual obligations are required for third-party sub-processors prior to any personal data access or transfer to require that the same level of protection be maintained throughout the duration of any vendor engagements, with stipulations covering security and confidentiality of personal data. All such access and transfers are done in compliance with the European Data Protection Regulation.

Endpoint protection is implemented to prevent and detect malware and other security threats. Firewalls and network anomaly detection systems are continuously monitored. The Atypon SOC monitors all system security alerts and investigates incidents which may impact the confidentiality, integrity, or availability of the environment or data within it.

Integrity

Atypon uses only hosted data center vendors with appropriate physical security and environmental controls which adhere to SOC 2 Type II as well as ISO 27001 certification standards. Production data is separated from development environments, and a formal change management process is in place to prevent unauthorized changes. To manage vulnerabilities, monthly scans are performed to confirm that the appropriate level of security patching and configuration is maintained. Secure audit logs are in place for nonrepudiation and traceability.

Availability and Resilience

Atypon uses industry-recognized hosted data center vendors with ISO 27001 and/or SOC 2 certifications to achieve high availability and resilience. Business continuity and disaster recovery plans are in place and tested periodically to confirm process effectiveness. Backups are taken and stored per data classification and retention requirements to enable restoration. Anti-DDoS protection is in place, and application security reviews are conducted on Atypon sites.

Risk Management

Atypon has implemented a data risk management strategy that considers the risks of accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to personal data transmitted, stored, or otherwise processed. Atypon considers the likelihood and severity of the risks to individuals whose personal data Atypon may process in the performance of service contracts. Data protection is considered throughout the lifecycle of products and services, and technical personnel are trained in privacy by design and default.

Incident Response and Breach Notification

Atypon maintains a 24x7x365 Security Operations Center (SOC) that responds to and investigates system or security alerts as well as reported incidents. Atypon has implemented an Incident Response Plan (IRP) which prioritizes regulator and/or client breach notification requirements when they are applicable to a security or privacy incident. Where Atypon is engaged as a sub-processor on behalf of a client, Atypon will not notify individual data subjects affected by a breach directly and will instead notify the client of a data breach no later than the timeline specified in the agreement.