

## MARKET DATA PLATFORM TERMS AND CONDITIONS

Version 2025-1

### Article 1. Definitions

The definitions used in these Market Data Platform Terms and Conditions shall have the following meaning:

<b>Affiliate</b>	means an entity in which a Party has the decisive power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights or contract.
<b>Agreement</b>	means the agreement for one or more Subscriptions and Professional Services, as specified in one or more MDP Order Form(s).
<b>API Account</b>	means the account created to enable (a part of) the Customer System to interact with the MDP API to exchange Customer Data and/or Output Data.
<b>Annex</b>	means an annex to the Agreement, referenced in and annexed to an MDP Order Form (e.g. an Implementation Plan or Customer Appendix).
<b>Bank Holidays</b>	means bank holidays as determined by the European Central Bank.
<b>BIQH</b>	means SC Financial Data Services B.V.
<b>BIQH System</b>	means any (component or combination of) software and/or hardware internet, and telecom facilities, operated and/or managed and/or controlled by BIQH or its suppliers, used to provide the MDP.
<b>Business Day</b>	means any day of the week, excluding Saturdays, Sundays, and Bank Holidays.
<b>Change</b>	means a change to the customer specific configuration or part(s) of the MDP, that meets the description in the list in section 12.1 of the SLA.
<b>Change Management</b>	means the management of Change Requests and the implementation of Changes.

<b>Change Request</b>	means a request for a Change, submitted by Customer to BIQH.
<b>Confidential Information</b>	means information of a confidential nature of a Party, including but not limited to Customer Data, methods, knowhow, commercial or financial information, business relations, software, databases, technical information, and designs.
<b>Critical Services</b>	means the MDP Services that qualify as 'ICT services supporting critical or important functions' as defined in Article 3 of DORA, further specified in the Customer Appendix.
<b>Customer</b>	means the legal entity entering into the Agreement with BIQH, stated in the MDP Order Form.
<b>Customer Account</b>	means the account, assigned to Customer, under which User Accounts and/or API Accounts can be created.
<b>Customer Appendix</b>	means the document "Customer Appendix", in which Customer specific deviations from or additions to the terms of these MDP Terms and Conditions and/or the MDP Privacy and Security Terms and/or the SLA (if any) are set forth, available in Customer's designated environment within the MDP.
<b>Customer Data</b>	means the input data entered by Customer in the MDP or sent from the Customer System to the MDP to generate Output Data.
<b>Customer System</b>	means any (element or combination of) software, hardware, internet and telecom facilities, operated and/or managed and/or controlled by Customer or a third party contracted by Customer, used to access and/or use the Market Data Platform Services.
<b>Data Consumer</b>	means the person or application, designated and registered in the Entitlement System by Customer, to which a defined set/defined sets of Output Data is/are sent.
<b>Data Sources</b>	means third parties, generating and providing Market Data.
<b>Deliverable</b>	means a result of Professional Services.
<b>Documentation</b>	means the online knowledge base, containing information on the architecture, functionalities and features of the MDP and on processes and policies regarding the security

of the MDP, as updated from time to time, for which access is available via the MDP Support Desk.

- DORA** means Regulation (EU) 2022/2554.
- Endpoint** means the point in a device, server, application, network interface, or other computing resource where data is received or sent from.
- End-User** means a third party to which Customer provides Output Data.
- Entitlement System** means the part of the MDP that manages and regulates access and permissions of Data Consumers to a set or sets of Output Data, per Data Source that provides the Market Data that are used to generate that set or those sets.
- ESG Data** means the environmental, social and governance data, used by BIQH to generate Output Data, generated, and sent to the MDP by Data Sources.
- Expert User** means (an) employee(s) or (a) contractor(s) of, assigned and authorized, in accordance with the Permissioning Matrix, to make requests for Second Line Support and, if applicable, First Line Support.
- First Line Support** means providing basic diagnosis and guidelines to Expert Users for common problems or requests regarding the use of the MDP or Managed Services and escalating more complex issues to higher support levels if needed.
- Force Majeure Event** means an event that is, or series of related events that are beyond the reasonable control of BIQH (including but not limited to failures of the internet or any public telecommunications network, an act of (cyber)crime or terror, power failures, industrial disputes changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars), whether occurring at BIQH’s or its suppliers’ premises that prevents or prevent BIQH from performing its obligations under the Agreement.
- GDPR** means Regulation (EU) 2016/679.
- Implementation Plan** means the document that outlines the steps, timelines, customizations, and responsibilities required to deliver the MDP and integrate the MDP with the Customer System in accordance with Customer’s requirements.

<b>Incident</b>	means a single event or a series of linked events, unplanned by BIQH, that compromises the security and/or functionality of the MDP and that have an adverse impact on the availability, authenticity, integrity or confidentiality of Customer Data or Output Data.
<b>Incident Management</b>	means the handling and resolution of Incidents, as described in the SLA.
<b>Intellectual Property</b>	means any intellectual property rights, wherever in the world, whether registrable or unregistrable, registered, or unregistered, including but not limited to copyrights, data base rights and trade secrets.
<b>Managed Services</b>	means specific work regarding selected components of the Market Data Platform, performed optionally, on a subscription basis, in addition to the MDP Services, as further described in the Customer Appendix and specified in the relevant MDP Order Form.
<b>Market Data</b>	means the market data and/or ESG Data, retrieved by BIQH from Data Sources, used by BIQH to generate Output Data.
<b>Market Data License</b>	means the right, granted by Data Sources to Customers, to process and use Market Data, redistributed through the MDP.
<b>Market Data Redistribution Fees</b>	means all fees and costs related to the redistribution of the Market Data through the MDP, charged by the Data Source to BIQH.
<b>Market Data Redistribution License</b>	means the right to redistribute Market Data for Customer, granted by Data Sources to BIQH.
<b>Market Data Platform or MDP</b>	means the platform used for generating and managing Output Data, including MDP API's, as set forth in the Documentation and specified in the Implementation Plan and/or an MDP Order Form.
<b>MDP API</b>	means a standard application programming interface (API), enabling the exchange of data between the MDP and the Customer System.
<b>MDP Order Form</b>	means the document stating the details of the MDP Services and/or Professional Services to be provided by BIQH to Customer (e.g. details of Customer, Data Sources, Subscription Term, Fees, Deliverables).

<b>MDP Privacy and Security Terms</b>	means the document 'MDP Privacy and Security Terms and Conditions', available at <a href="#">[stable hyperlink to central, permanent location]</a> , or any updated version thereof.
<b>MDP Privacy Statement</b>	means the statement providing information as listed in Articles 13 and 14 of the GDPR, available at <a href="#">[stable hyperlink to central, permanent location]</a> , or any updated version thereof.
<b>MDP Services</b>	means the provision of the Market Data Platform and the services directly related to the Market Data Platform, as further described under section III. of the SLA.
<b>MDP Support Desk</b>	means BIQH's support desk providing Second Line Support, Incident Management, Change Management and, if explicitly agreed, First Line Support and handling requests for Managed Services and Professional Services.
<b>MDP Terms and Conditions</b>	means these Market Data Platform Terms and Conditions or, any updated version thereof.
<b>MDP Terms of Use</b>	means the terms that apply to the use of the MDP by any User, available at <a href="#">[stable hyperlink to central, permanent location]</a> , or any updated version thereof.
<b>Monthly Recurring Charges or MRC</b>	means the monthly recurring fee, exclusive of VAT, stated in the MDP Order Form, charged to Customer in relation to the Subscription(s).
<b>Non-Recurring Charges or NRC</b>	means the one-off fees, exclusive of VAT, stated in the MDP Order Form.
<b>Output Data</b>	means the consolidated data resulting from the use of the Market Data Platform Services, distributed to the Data Consumers.
<b>Party, Parties</b>	means BIQH and/or Customer, as applicable.
<b>Permissioning Matrix</b>	means the matrix, created by BIQH and Customer, determining the role-based access rights to and authorizations for the use of the MDP and MDP Services, available in Customer's designated environment within the MDP.
<b>Permissioning System</b>	means the part of the MDP that controls and manages, in accordance with the Permissioning Matrix, access of Users to the MDP System.

<b>Personal Data</b>	means personal data as defined in Article 4 of the GDPR.
<b>Pricing Annex</b>	means the Annex, explaining the components leading to the determination of the MRC and NRC.
<b>Process, Processing</b>	means to process or the processing of Personal Data as defined in Article 4 of the GDPR.
<b>Professional Services</b>	means specific work regarding (components of) the Market Data Platform, performed by BIQH on a project basis at the request of Customer.
<b>Professional Services Fee</b>	means the non-recurring fee, stated in the MDP Order Form, charged to Customer in relation to the Professional Services.
<b>Renewal Term</b>	means the term by which the Subscription is renewed from expiry of the Subscription Term, as stated in the MDP Order Form.
<b>Second Line Support</b>	means in-depth technical assistance for issues that First Line Support cannot resolve and that require more specialized knowledge and skills to handle complex problems, such as advanced software configuration, network issues, and hardware failures.
<b>Service Level Agreement or SLA</b>	means the document ‘MDP Service Level Agreement’, available at: [stable <a href="#">hyperlink to central, permanent location</a> ], or any updated version thereof.
<b>Subcontractor</b>	means a subcontractor that qualifies as a subcontractor within the meaning of the Subcontracting Regulatory Technical Standards as mandated by Article 30(5) of DORA, further specified in the Customer Appendix.
<b>Subscription</b>	means a subscription to use the Market Data Platform, MDP Services and (optionally) Managed Services.
<b>Subscription Start Date</b>	means the date on which the Subscription takes effect, stated in the MDP Order Form.
<b>Subscription Term</b>	means the term of the Subscription.
<b>Termination Date</b>	means the date of the last day of the last Subscription under the Agreement.
<b>Third-Party System</b>	means any (element or combination of) software, hardware, internet, and telecom facilities, operated and/or managed and/or controlled by a third party.

<b>User</b>	means Customer's, Customer's Affiliate's or their business relations' employee, representative, consultant, contractor, or agent who is authorized by Customer to use the Market Data Platform.
<b>User Account</b>	means the account created by or for Customer to provide access to the MDP to a User.
<b>Written, Writing</b>	means sent or confirmed in writing or electronically.

## **Article 2. Agreement**

### **2.1 Conclusion**

The Agreement is deemed concluded on acceptance by Customer of an MDP Order Form. If Customer's acceptance is conditional, no Agreement is concluded until BIQH has explicitly agreed to the condition in Writing.

### **2.2 Content**

The Agreement consists of - except where the Parties have explicitly agreed otherwise in Writing in an MDP Order Form: the relevant MDP Order Form(s), these MDP Terms and Conditions, the MDP Privacy and Security Terms, the SLA and (optionally) an Annex or Annexes (e.g. the Customer Appendix). Any deviations from the terms and conditions contained in these documents are valid only if explicitly set forth or referenced in Writing in an MDP Order Form or Customer Appendix.

### **2.3 Legal prevalence**

In case of a conflict between the provisions in the documents referred to under section 2.2 the order of legal prevalence shall be, except where the MDP Order Form explicitly states otherwise: (1) the MDP Order Form; (2) the Customer Appendix; (3) the MDP Privacy and Security Terms; (4) these MDP Terms and Conditions; (5) other Annex(es).

### **2.4 Exclusion other general terms and conditions**

The applicability of any general (purchase) terms and conditions of Customer is explicitly excluded.

### **2.5 Amendments**

Subject to any provision to the contrary in the Agreement, the Agreement can be amended only by a Written agreement between BIQH and Customer that is signed (electronically) by their duly authorized representatives.

### **2.6 Amendments MDP Terms and Conditions**

BIQH reserves the right to make changes to the Agreement unilaterally at any time, if such change is (at the sole discretion of BIQH) necessary to comply with changes in the laws and

regulations, applicable to BIQH and/or to any products or services provided by BIQH under the Agreement. In such case, BIQH shall notify Customer in Writing, with consideration of the longest possible term, stating (i) a summary of the amended terms, and (ii) the effective date of the amendment(s). From the effective date notified, the amended Agreement shall apply. If Customer does not accept the amendment(s), Customer has the right to terminate the Agreement by Written notification as its sole remedy. In the event of such termination, the Agreement will terminate on the effective date of the amendment(s), as notified by BIQH. Article 18 will apply in case of termination on the basis of this section 2.6, except where such applicability would contravene with the changes in the laws and regulations. Amendments to the SLA are made in accordance with the terms of the SLA.

### **Article 3. Subscriptions**

#### **3.1 Subject**

The Subscriptions, ordered by Customer are set forth in the MDP Order Form. BIQH grants Customer the right to, during the Subscription Term, use the Market Data Platform in accordance with the Agreement, subject to (advance) payment of all fees and costs invoiced in accordance with the Agreement.

#### **3.2 Changes to use**

The use of the MDP Services as stated in the MDP Order Form may be upscaled and downscaled automatically during the Subscription Term at any time. Any changes to the MRC resulting from upscaling or downscaling will be made and invoiced in accordance with section 15.1 and 15.5.

### **Article 4. Delivery of MDP**

#### **4.1 Set-up and implementation**

BIQH shall provide the set-up and implementation of the MDP for Customer as Professional Services, in accordance with the Implementation Plan. On acceptance of the MDP Order Form referencing such Professional Services, BIQH shall issue the invoice in accordance with the MDP Order Form. On payment of the fees invoiced, BIQH shall commence the set-up and implementation. The Customer warrants that its instructions, requirements and information on the set-up and implementation of the MDP on the Permissioning System and Entitlement System, comply with the limitations of the Market Data License. BIQH may rely on the instructions, requirements and information of Customer in this regard.

### **Article 5. Confidentiality**

#### **5.1 Obligations**

Subject to section 5.2, either Party is obliged to, on receiving Confidential Information from the other Party:



- (a) keep that Confidential Information strictly confidential;
- (b) apply adequate security measures (of at least industry standard level) to protect that Confidential Information against unauthorized access;
- (c) not disclose that Confidential Information to any third party without the other Party's prior written consent;
- (d) return or permanently destroy any copies of that Confidential Information to the other Party at its first request, subject to section 5.5.

#### 5.2 Permitted use

Either Party may share the other Party's Confidential Information with its officers, employees, professional advisors, freelancers, agents, and subcontractors only where reasonably necessary to perform the Agreement, and provided that such parties and/or persons are bound by confidentiality obligations no less strict than the obligations stated under section 5.1.

#### 5.3 Excepted categories

The following categories of information do not qualify as Confidential Information and the obligations stated under section 5.1 do not apply to such categories of information:

- (a) information that was in the possession of the receiving Party prior to the date of disclosure; or
- (b) information that has become publicly known through no act or default of the receiving Party; or
- (c) information that the receiving Party has obtained from a third party without breaching an obligation of confidentiality; or
- (d) information that the receiving Party is ordered by a competent judicial or governmental authority to disclose.

#### 5.4 Compelled disclosure

In case of an order as stated under section 5.3 (d) the receiving Party will inform the disclosing Party of the order as soon as possible, provided that the receiving Party is authorized to do so under the relevant order.

#### 5.5 Retention

BIQH will, at all times, be entitled to retain Confidential Information or other information, received from Customer, in case of a statutory retention obligation or to the extent necessary to demonstrate its compliance with the Agreement, provided such information will not be retained any longer than necessary for its purpose and that BIQH complies with the obligations set forth in the other sections of this Article 5.

### Article 6. Personal data protection and security

#### 6.1 Compliance

Either Party will, when Processing Personal Data received from the other Party, comply with the GDPR and any other laws for the protection of Personal Data it is subject to.

## 6.2 **Personal Data processing**

Customer acknowledges and accepts that, for the performance of the Agreement, BIQH Processes Personal Data of Users and of other individuals employed or contracted by Customer or End-User. The MDP Privacy Statement and MDP Privacy and Security Terms apply to such Processing.

## 6.3 **Security measures**

BIQH has, in accordance with its ISO27001 certification and the applicable laws on information security implemented organizational and technical security measures to protect the MDP against unauthorized access, as further set forth in the MDP Privacy and Security Terms. BIQH continues to assess the security measures but does not warrant that they will always, and under all circumstances, prevent any security breach from occurring. Customer is responsible for assessing whether the security measures implemented meet its requirements. BIQH may, as Professional Services, implement additional security measures, as requested by Customer.

## 6.4 **Monitoring**

Notwithstanding any provision in the Agreement, BIQH reserves the right to monitor, access, and review any data, content, or activity within the MDP to ensure compliance with these MDP Terms and Conditions and the MDP Terms of Use, maintain the security and integrity of the MDP and MDP Services, prevent unauthorized access or use, and improve the quality and functionality of the MDP Services. This monitoring may include, but is not limited to user activity monitoring, content monitoring, and MDP API usage monitoring. Customer agrees to such monitoring activities and acknowledges that BIQH may use automated tools or manual processes to carry out monitoring, in accordance with the MDP Privacy Statement and applicable laws and regulations.

## 6.5 **Cooperation with authorities**

BIQH will fully cooperate with the competent authorities and the competent resolution authorities (as defined under Dutch law in the ‘Wet herstel en afwikkeling van banken en beleggingsondernemingen’, which implements the Bank Recovery and Resolution Directive (Directive 2014/59/EU) or any update or replacement thereof), including persons appointed by them. BIQH is entitled to charge reasonable costs of such cooperation to Customer as Professional Services Fees.

## **Article 7. MDP Services**

### 7.1 **Service standard**

BIQH shall provide the MDP Services in accordance with the Service Level Agreement, in a professional manner, on a commercially reasonable efforts basis.

### 7.2 **Limited liability**

Notwithstanding section 7.1, BIQH does not warrant any results of the MDP Services or that all

questions and/or requests will always be answered, or that all malfunctions will always be remedied, and reserves the right to deny a request, for example because it is excessive or unreasonable, if it relates to a product, software or hardware that is not supported, if the person submitting the request is not expressly authorized or if the request compromises the security of the BIQH System, violates compliance standards or poses a risk to other customers.

## **Article 8. Managed Services**

### **8.1 Service standard**

BIQH shall provide the Managed Services only if agreed by the Parties, as confirmed in the MDP Order Form. BIQH shall provide the Managed Services in accordance with the SLA, in a professional manner, on a commercially reasonable efforts basis.

### **8.2 Limited liability**

Notwithstanding section 8.1, BIQH does not warrant any result of the Managed Services. BIQH accepts no liability for damages, resulting from the performance of Managed Services, except where Customer provides conclusive evidence that BIQH has acted contrary to Customer's explicit instructions or where the damages were caused by gross negligence on the part of BIQH. Customer acknowledges that BIQH is entitled to rely on the correctness of the instructions of Customer, and to require the instructions to be given in Writing.

## **Article 9. Professional Services**

### **9.1 MDP Order Form**

BIQH may agree, at the request of Customer, to perform Professional Services from time to time. BIQH will, for that purpose submit an MDP Order Form to Customer, setting forth (i) a description of the Professional Services to be performed, (ii) the project schedule (if applicable), (iii) the Deliverables, and (iv) the Professional Service Fee and any expenses to be paid by Customer. BIQH is only obligated to perform the Professional Services that are specifically and expressly set forth in the relevant MDP Order Form that is explicitly accepted by Customer, and subject to the fulfilment of any prepayment (if applicable).

### **9.2 Service standard**

BIQH will perform Professional Services in a professional manner, in accordance with the specifications described in the (Annex to the) MDP Order Form.

### **9.3 Acceptance testing**

Subject to any specific agreement between the Parties, Customer may perform user acceptance testing on any Deliverable within 10 (ten) Working Days from delivery by BIQH. Customer can only refuse acceptance if and to the extent the Deliverable contains a non-conformity to the acceptance criteria set forth in the (Annex to the) MDP Order Form. The Deliverable will be deemed accepted if (i) BIQH has not received Customer's Written notice of non-acceptance within 10 (ten) Business Days from delivery of the Deliverable or if (ii) the

Deliverable is taken in use. If Customer does not accept the Deliverable, it will provide a detailed description of the non-conformity in the notice of non-acceptance. BIQH will resolve the non-conformity in question expeditiously and redeliver the Deliverable for acceptance testing in accordance with the procedure described in this section 9.3.

**9.4 Delivery dates and timelines**

Any delivery dates or timelines for the delivery of Professional Services communicated by BIQH, in a (Annex to an) MDP Order Form or otherwise, are estimates only and not guarantees, provided that BIQH will use commercially reasonable efforts to meet such dates or timelines. Customer must furnish a sufficient number of trained and experienced employees and deliver all necessary information and materials in a timely manner. BIQH will not be responsible for any delays, cost overruns or liability resulting from a breach by Customer of the obligation in the preceding sentence.

**9.5 Changes to MDP**

Customer acknowledges that only BIQH has the right to maintain, enhance or otherwise modify the generic version of the MDP. BIQH may, but is not obliged to, at Customer’s request and as part of Professional Services, develop or create specific features or additions or modifications to the MDP. Subject to a Written agreement to the contrary, BIQH is, if it has created such changes, entitled to include such changes in the generic version of the MDP, without Customer being entitled to any compensation whatsoever.

**9.6 Third party**

BIQH may, instead of performing or subcontracting Professional Services, refer Customer to third parties, selected by BIQH, to perform the Professional Services. In that case, such third party will not be a subcontractor of BIQH but Customer will, for the performance of the Professional Services, enter into a separate services agreement with the third party directly. BIQH excludes all liability for any actions or omissions of such third party.

**Article 10. Subcontracting**

**Rights and requirements**

BIQH shall be entitled to subcontract (parts of the) MDP Services, Professional Services or Managed Services to subcontractors, provided that the subcontractor is stated in the MDP Order Form or SLA or notified to the Customer in Writing. The provision of the services by the subcontractors shall be without prejudice to the obligations of BIQH under the Agreement. Where the services subcontracted qualify as Critical Services, the Subcontractor and relevant storage locations (if applicable) shall be specified in the Customer Appendix and the requirements set forth in section 5.3 up to and including 5.6 of the MDP Privacy and Security Terms shall apply.

**Article 11. Market Data**

### 11.1 Market Data

BIQH receives Market Data, selected by Customer and retrieved by BIQH from Data Sources that are also selected by Customer.

### 11.2 Market Data License

The Data Sources or their licensors own the Intellectual Property and other rights in the Market Data. The processing of Market Data by BIQH on behalf of Customer, and the use of the Market Data by Customer to generate Output Data, is based on a Market Data License, obtained from Data Sources by Customer, except where the Parties have explicitly agreed otherwise in Writing. Where a Market Data Redistribution License is required for BIQH in order to be entitled to distribute the Market Data through the MDP, either Customer or BIQH (depending on the relevant Data Source's requirements) will obtain such license. The relevant initial Data Source(s) and its/their requirements shall be stated in the Implementation Plan. If Data Sources are added, such Data Sources shall be stated in the relevant MDP Order Form. BIQH shall be entitled to pass on all Market Data Redistribution Fees to Customer in accordance with section 15.3.

### 11.3 Warranty Market Data License

Customer warrants to BIQH that (i) the Market Data License is, at all times during the term of the Agreement, sufficient to allow any processing or use of the Market Data by BIQH as set forth in or resulting from the Agreement, and that (ii) all of Customer's instructions or authorizations given to BIQH with regard to the Market Data are compliant with the Market Data License. Customer indemnifies and holds harmless BIQH for any damages resulting from a breach of the warranty stated in the preceding sentence.

### 11.4 Market Data Redistribution License

Customer acknowledges that BIQH's ability to redistribute the Market Data may depend on the grant, to BIQH, by a Data Source, of a Market Data Redistribution License. Customer acknowledges that BIQH is not liable for: (i) not being granted a Market Data Redistribution License, or (ii) the consequences of discontinuation, during the Agreement, of the Market Data Redistribution License, or (iii) any changes made to the Market Data Redistribution License by the Data Source and the consequences thereof. Customer shall be responsible for providing explicit instructions to BIQH on the implementation of any obligations or restrictions under the Market Data Redistribution License. Customer shall indemnify and hold harmless BIQH against any third party damages claimed from BIQH as a result of a breach, by BIQH of the Market Data Redistribution License, except where the Customer proves conclusively that the damages are (i) the result of non-compliance, by BIQH, with Customer's explicit instructions, or (ii) caused by gross negligence or willful intent of BIQH's personnel.

### 11.5 Approval

Customer acknowledges that BIQH may, without prejudice to section 11.3, request a copy of the Market Data License and/or prior Written approval from the relevant Data Source as a precondition to granting Customer access to the relevant Market Data through the MDP, or at

any time during the term of the Agreement and will furnish such copy or Written approval as soon as possible after receipt of BIQH's request.

#### 11.6 Data Sources' requirements

Without prejudice to section 11.4, Customer acknowledges that BIQH may be subjected to restrictions from a Data Source, at any point during the term of the Agreement. BIQH does not accept any liability for the execution of any changes to the MDP, the MDP Services or Managed Services that are - in the sole opinion of BIQH - necessary to meet such requirements. Where BIQH is required to pass on any terms and conditions of a Data Source to Customer, BIQH may require the acceptance of such terms and conditions by Customer, in the way prescribed by the Data Source, as a precondition to the (continuation of the) distribution of Market Data from that Data Source.

#### 11.7 Market Data quality and availability

Customer acknowledges that BIQH has no control over the quality and availability of the Market Data as offered by Data Sources. BIQH processes the Market Data on an "as is" basis and excludes all liability for (i) damages arising from incorrect, incomplete, or otherwise non-conforming Market Data and for (ii) interruptions to or delays in the transmission of the Market Data up until the Endpoint in the BIQH System where the Market Data are received and for (iii) changes made to the Market Data at the request of Customer. Customer indemnifies and holds harmless BIQH for any such damages.

#### 11.8 Market Data offered by BIQH

If the license to use Market Data is, contrary to section 11.2, acquired from the Data Source and offered to Customer by BIQH, sections 11.2, 11.3 and 11.4 do not apply. The Data Source may require BIQH to offer the Market Data on the condition that Customer accepts an end user license agreement of the Data Source. Such end user license agreement applies when referenced by BIQH in an MDP Order Form. The Market Data are provided to Customer on the condition of (i) acceptance of such end user license agreement(s) and any future updates thereof and (ii) payment of the license fee in accordance with section 15.4. In the event of a conflict between the terms of the Agreement and the terms of the end user license agreement of the Data Source, the terms of the end user license agreement prevail.

### Article 12. Integrations, third party systems, third party contractors

#### 12.1 Data transmission

If Customer transmits data from the MDP to the Customer System, BIQH's sole obligation is to make the relevant MDP API('s) available in accordance with the Documentation. BIQH does not accept any liability for the quality and/or security of any integration(s) other than MDP API's. The security and validity of any transmission of data between MDP Endpoints and the Customer System or MDP Endpoints and Data Sources' systems is Customer's responsibility.

#### 12.2 Third-party Systems

Where Customer allows third-party services and/or products to interoperate with the MDP or otherwise uses third-party services or products for or in relation to its use of the MDP Services, BIQH is not responsible or liable for any interruptions to the MDP Services, or for other consequences resulting from the operation or use of such third-party services or products. Customer is exclusively responsible for the selection and quality of any such third-party services and products. Customer acknowledges that such third-party services and/or products may have access to Customer Data and/or Output Data. BIQH excludes any responsibility and liability for any disclosure, modification or deletion of Customer Data and/or Output Data resulting from the use of or access to Customer Data and/or Output Data of third-party products or services.

### 12.3 **Third-party implementors, integrators, and services providers**

In connection with Customer's use of the MDP Services, Customer may engage third party implementors, integrators or consultants. Customer acknowledges and agrees, with regard to such third party implementors, integrators or consultants, that BIQH is not responsible or liable in any way for the actions, omissions or services of such third parties.

### 12.4 **Access BIQH to Third-Party Systems**

Where BIQH accesses the Customer System or a Third-Party System in order to perform MDP Services, Managed Services or Professional Services, BIQH excludes liability for any damages caused as a result of such access and Customer shall indemnify BIQH and hold BIQH harmless for any damages, claimed by a third party with regard to such damages. The foregoing does not apply if Customer proves conclusively that the damages were caused as a result of wilful intent or gross negligence on the part of BIQH.

## **Article 13. Customer's responsibilities, MDP Terms of Use and obligations**

### 13.1 **Customer responsibilities**

Customer is, except where the Parties have explicitly agreed otherwise in Writing and notwithstanding any provision in the Agreement, responsible for:

- (a) Users' compliance with the MDP Terms of Use;
- (b) the accuracy, correctness, timely availability, completeness, security, quality, integrity and legality of Customer Data and the means by which the Customer Data are acquired, including the timely possession of all licenses, permissions, and rights to use Customer Data in relation to the Agreement;
- (c) the operation, availability and security of the Customer System;
- (d) the implementation of and settings in the MDP;
- (e) any products or services provided to End-Users;
- (f) appointing at least one (1) sufficiently qualified and experienced Expert User;
- (g) the provision of First Line Support, save where the Parties have agreed in Writing that BIQH shall provide First Line Support;

- (h) keeping the Permissioning System and Entitlement System up-to-date and compliance of the settings in the Permissioning System and Entitlement System with the Market Data License;
- (i) the uninterrupted availability of Market Data at the Data Source.

### 13.2 MDP Terms of Use

Any User is provided access to the MDP only after acceptance of the MDP Terms of Use and any updated version thereof. Customer shall require any User to explicitly accept the MDP Terms of Use before being granted access to the MDP. Customer shall provide evidence of such acceptance at BIQH's first request.

### 13.3 Requirements and prohibitions MDP Service

Customer's right to use the MDP Services is granted on the condition that Customer complies with the following requirements and prohibitions:

- (a) the MDP shall only be used in accordance with the Documentation and instructions given by the MDP Support Desk;
- (b) the MDP Services shall not be used in excess of the limitations set forth in the Market Data License, the Agreement or Documentation;
- (c) no access to the MDP Services shall be provided to third parties, except where the Parties have explicitly agreed otherwise in Writing;
- (d) unauthorized access to the MDP Services shall be prevented by taking adequate organizational and technical security measures, including but not limited to keeping login credentials to User Accounts and API Accounts, including MDP API keys, strictly confidential;
- (e) organizational and technical security measures taken by BIQH, Data Sources or suppliers of BIQH to protect the MDP Services and/or Market Data shall not be circumvented;
- (f) the MDP Support Desk shall be notified immediately in case of (i) any unauthorized access to or use of the MDP Services, or (ii) theft, loss or abuse of login credentials or MDP API keys, or (iii) an Incident or other unavailability or irregularity in the MDP Services;
- (g) if any of the events referred to under (f) occur, the password to the Customer Account shall immediately be changed by Customer;
- (h) no malware (including but not limited to viruses, worms, time bombs, Trojan horses and other intentionally harmful or malicious code, files, scripts, agents or programs) shall be transmitted to the MDP;
- (i) no data shall be entered in or sent to the MDP that Customer is not fully authorized to enter or send;
- (j) the MDP shall not be modified, translated or adapted and no derivative works of the MDP shall be created;
- (k) the MDP shall not be merged with or connected to any software, except where explicitly permitted under the Agreement;
- (l) the MDP shall not be reverse engineered, decompiled, disassembled or interfered with, nor shall the integrity or performance of the MDP be disrupted and no attempt shall be made to derive the source code of the MDP;



- (m) no copyright, proprietary notice, trademark or trade name shall be removed from any component of the MDP and no (additional) trademarks, service marks or trade names shall be attached to any component of the MDP;
- (n) the MDP, nor any features, functions, graphics thereof shall be copied or mirrored;
- (o) the MDP shall not be accessed or used for any benchmarking or competitive purposes;
- (p) the MDP Services shall not be exploited or distributed (whether based on rent, loan, lease, sale, sublicense or otherwise), save where explicitly permitted in Writing under the Agreement.

#### 13.4 **Presumption of evidence**

Any action undertaken with regard to the MDP after a login through a User Account or API Account shall be deemed to be undertaken by Customer, except and until Customer has (at BIQH's sole discretion) sufficiently demonstrated that the action was undertaken by an unauthorized party or person, without any breach of the Agreement or omission on the part of Customer or breach of the MDP Terms of Use by the relevant User.

#### 13.5 **Measures in case of breach**

In the event of a (suspected) (i) breach of the requirements or prohibitions listed in section 13.3 or (ii) abuse of the MDP Services, or (ii) threat to the stability, continuity, or security of the MDP Services, BIQH is, without incurring any liability, entitled to (at its sole discretion and without any prior notice being required) take any measure it deems appropriate to end such breach, abuse or threat, including but not limited to blocking Customer's or an individual User's access to the MDP.

#### 13.6 **Indemnification**

Customer shall indemnify BIQH and hold BIQH harmless for any damages, losses or expenses, caused by a breach by Customer of section 13.2 and for any damages, losses or expenses, arising from a breach by Users of the MDP Terms of Use.

### **Article 14. Warranty**

#### 14.1 **General**

Each Party represents and warrants that: (i) it has obtained all necessary approvals, consents and authorizations to enter into the Agreement and to perform and carry out its obligations under the Agreement and that (ii) the person executing the Agreement on the Party's behalf has express authority to do so and to bind the Party. Each Party also represents and warrants that it shall comply with the applicable laws in respect of the performance of its obligations under the Agreement, which shall be, with regard to BIQH, Dutch law only.

#### 14.2 **Performance warranty**

BIQH warrants that the MDP shall perform materially in accordance with the specifications in the Documentation. In the event of a breach of the foregoing warranty, Customer shall serve a Written default notice to BIQH and BIQH will use commercially reasonable efforts to correct the non-conforming or defective parts of the MDP, in accordance with the SLA. In the event that BIQH

is unable to correct the non-conforming or defective part of the MDP within thirty (30) days from receipt of the default notice, Customer may elect to terminate the Subscription(s) in question and receive a pro-rated refund of the prepaid MRC related to the Subscription. The obligations and rights stated in this section 14.2 are BIQH's sole and exclusive liability respectively Customer's sole and exclusive remedy in the event of a breach of the aforementioned warranty and any non-conformity or defect in the MDP.

#### 14.3 IP Infringement warranty

BIQH warrants that the use of the MDP shall not infringe the Intellectual Property rights of a third party.

#### 14.4 Customer obligations

If Customer receives a claim from a third party, based on the assertion that the use of the MDP infringes the third party's Intellectual Property Rights, Customer is obliged to:

- (a) immediately notify BIQH in Writing of the claim and its content; and
- (b) give BIQH sole control of the defence and settlement of the claim, whether in or outside court; and
- (c) provide BIQH with all requested cooperation, powers, and information to conduct such defence and/or make such settlements.

#### 14.5 Rights BIQH

If the use of the MDP infringes or may, in BIQH's sole discretion, infringe a third party's Intellectual Property Rights, BIQH is at all times entitled to either:

- (a) modify the MDP in such a way that the use of the MDP is no longer infringing; or
- (b) procure for Customer rights to continue the use of the MDP or rights to use equivalent software.

#### 14.6 Sole remedy

If the options stated under section 14.5 are, in BIQH's reasonable discretion, not available, or not available against reasonable commercial terms, BIQH is entitled to terminate the Agreement, refunding to Customer a pro-rated refund of any fees prepaid under the Agreement as Customer's sole remedy for breach of the warranty stated under section 14.3.

#### 14.7 Exceptions

Section 14.3 does not apply, and BIQH incurs no liability towards Customer, in case of any infringement claim that is based upon or arises out of (i) the use or combination of the MDP with any hardware, software, products, data or other materials not developed by BIQH, and/or (ii) the modification or alteration of the MDP by any party other than BIQH.

#### 14.8 No other warranties

Except as expressly provided for in this Article 14, BIQH does not make and expressly disclaims to the fullest extent permitted by applicable law any warranties of any kind, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular use or purpose, title, noninfringement, the absence or correction of defects or uninterrupted use of the MDP.

## **Article 15. Fees and payment**

### **15.1 Monthly Recurring Charge**

The MDP Services shall be charged at the MRC, stated in the MDP Order Form or, if no such fee is stated, the fee, listed in BIQH's standard price list. BIQH is entitled to increase the MRC yearly on January 1<sup>st</sup>, based on the change in the CBS-index "CAO lonen per uur exclusief bijzondere beloningen particuliere bedrijven" in the twelve (12) preceding months (2010 = 100), as published by Statistics Netherlands. Further, and subject to any Written agreement to the contrary, to be stated in the MDP Order Form, BIQH assesses, each quarter, whether Customer has upscaled or downscaled its use of the MDP Services, or if other factors that affect the MRC (as set forth in the Pricing Annex) have changed, and will adjust the MRC accordingly. Further, BIQH is entitled to increase the MRC on renewal of a Subscription as set forth in section 18.2.

### **15.2 Non-Recurring Charge**

Professional Services shall be charged at the NRC, stated in the relevant MDP Order Form, plus (if applicable) reasonable expenses (such as costs of transportation, lodging and parking).

### **15.3 Market Data Redistribution Fees**

Customer shall reimburse to BIQH all Market Data Redistribution Fees invoiced to BIQH by the Data Source in relation to the Agreement. Market Data Redistribution Fees may be changed at the discretion of the Data Source and BIQH is entitled to change and charge the Market Data Redistribution Fees accordingly. Customer accepts liability for payment of any increases in the Market Data Redistribution Fees in advance. BIQH shall notify any changes to the Market Data Redistribution Fee to Customer in Writing, provided that such notification is not a precondition to Customer's payment obligation. If BIQH incurs a fee that includes not only the Market Data Redistribution Fee but also a compensation for the provision of Market Data to other customers, the Market Data Redistribution Fee shall amount to the corresponding share of that fee only.

### **15.4 License fee**

Where Market Data are offered by BIQH as set forth in section 11.8, BIQH will charge a monthly license fee as stated in the relevant MDP Order Form to Customer for the use of the Market Data. Such license fees may be changed at any time if the Data Source increases its price for the provision of the Market Data to BIQH. Customer accepts liability for payment of any increases in the license fees in advance. BIQH shall notify any changes to the license fee to Customer in Writing, provided that such notification is not a precondition to Customer's payment obligation.

### **15.5 Invoicing and payment term**

Except if the MDP Order Form explicitly states otherwise, BIQH is entitled to invoice the MRC and license fee in advance. If the MRC is adjusted in accordance with section 15.1, such adjustment shall not affect the Customer's liability for payment of the MRC as determined prior to the adjustment. The Market Data Redistribution Fees will be invoiced in accordance with the invoicing intervals of the Data Source. The NRC will be invoiced in accordance with the relevant MDP Order Form. Expenses will be invoiced in the month following incurrence of the expenses. The payment term of any invoice issued by BIQH to Customer is 30 (thirty) days from the invoice date.

#### 15.6 Consequences of payment failure

If Customer fails to pay any amount due by the due date, it will be in default without any further notice being required. In that case BIQH shall be entitled to charge interest at the higher of 3% and the statutory commercial interest rate (as referred to in Article 6:119a BW (Dutch Civil Code)). Moreover, BIQH will be entitled to compensation in respect of all costs connected with the recovery of its claim, including all (extrajudicial) legal fees, at a minimum of 15% of the total sum due.

#### 15.7 Audit of Market Data Redistribution Fees

Customer has the right to audit BIQH's records related to the payment and allocation of Market Data Redistribution Fees at any time during the term of the Agreement. BIQH shall cooperate with Customer in any audit and shall provide Customer with all necessary records and documentation, with the exception of information that BIQH cannot share due to confidentiality obligations to third parties. The records and documentation and the audit findings will be treated as BIQH Confidential Information.

### Article 16. Audit rights

#### 16.1 Pre-agreement

Before entering into the Agreement, the Customer shall be entitled to select and assess the operational and financial abilities of BIQH to provide the MDP Service or material parts thereof. Where Customer is a financial entity within the meaning of DORA, BIQH's participation to the assessment will include participating in digital operational resilience testing as referred to in Chapter IV of DORA, if and as required by Customer.

#### 16.2 Information and collaboration authorities

BIQH will use best efforts to provide information and collaboration if so requested by Customer, based on a valid order by a governmental authority that has competence under mandatory legal obligations Customer is subject to.

#### 16.3 Monitoring performance

Subject to section 16.4, Customer will have the right to monitor, on an ongoing basis, BIQH's provision of MDP Services that qualify as Critical Services, which entails the following obligations of BIQH:

- (i) to provide yearly findings following ISO27001 recertification audits, conducted by a certified IT auditor;
- (ii) to grant unrestricted and effective rights of access to, inspection of and audit regarding the BIQH System, BIQH's premises and data, to the extent related to Critical Services, to Customer, its auditors and competent authorities, and the right to take copies of relevant documentation on-site if they are critical to the operations of BIQH, the effective exercise of which will not be impeded or limited by other contractual arrangements or implementation policies;
- (iii) to grant Customer the right to conduct penetration tests, in accordance with the MDP Privacy and Security Terms and Conditions;
- (iv) to agree with the Customer on alternative assurance levels if other clients' rights are affected;
- (v) to fully cooperate during the inspections and audits performed by the competent authorities, the Lead Overseer, Customer, or its auditor; and
- (vi) to provide details on the scope, procedures to be followed and frequency of such inspections and audits.

#### 16.4 Conditions

The following conditions apply with regard to BIQH's obligations under section 16.3:

- (i) the audits and inspections shall be conducted by an independent, certified IT auditor only;
- (ii) Customer shall notify its intention to conduct an audit or inspection to BIQH in Writing, observing a notice period of at least ninety (90) days;
- (iii) in conducting the audits and inspection, disturbances to BIQH's business operations shall be kept to a minimum and BIQH's confidentiality obligations towards other customers shall be respected;
- (iv) the findings and results of the audits and inspections will be regarded as BIQH Confidential Information;
- (v) Customer shall bear the costs of the audits and inspections, except if the audit or inspection leads to the determination of material failures to perform the Agreement by BIQH, in which case BIQH shall bear the reasonable costs of the audit or inspection.

### Article 17. Intellectual Property

#### 17.1 IP BIQH and BIQH licensors

BIQH and/or its licensors own all Intellectual Property and other rights in (any versions of or modifications to) (i) the MDP and the Documentation, including in all related works and materials thereto such as designs, specifications, interfaces and documentation; and (ii) any other works and materials made available to Customer in which BIQH and/or its licensors own Intellectual Property on the effective date of the Agreement. Except where the Parties have explicitly agreed otherwise in Writing, BIQH owns all Intellectual Property and other rights in (any versions of or modifications to) any Deliverables.

#### 17.2 License

Any right, granted by BIQH to Customer to use the works and materials referred to in section 17.1 is, save where the Parties have explicitly agreed otherwise in Writing, non-exclusive, temporary, non-transferable, non-assignable and non-sublicensable.

#### 17.3 Ownership Customer Data

Customer and/or its licensors exclusively own all rights, title and interest in and to the Customer Data. Customer grants BIQH a non-exclusive, temporary, royalty-free license to process the Customer Data for and in the performance of the Agreement, including the hosting of Customer Data as part of the MDP Services. Customer warrants that it disposes of all necessary rights and authorizations to grant such license to BIQH.

#### 17.4 Feedback

If Customer provides BIQH with reports, feedback, proposals or suggestions regarding the MDP Services ("**Feedback**"), BIQH shall, subject to any obligation under Article 5 and without infringing Customer's IP, have the right to use such Feedback and incorporate such Feedback into its products and/or services, including, without limitation the MDP.

### Article 18. Term and termination

#### 18.1 Agreement

The Agreement shall take effect on the date of acceptance by Customer of an MDP Order Form and will continue to be in effect until the date on which the last Subscription obtained under the Agreement terminates in accordance with section 18.2.

#### 18.2 Subscription

A Subscription commences on the Subscription Start Date and continues to be in effect for the Subscription Term. On expiry of the Subscription Term or any extended term, the Subscription shall be automatically renewed for the Renewal Term or, if no such term is agreed, one (1) year terms, until terminated by either Party by Written termination notice, observing a notice period of three (3) months (Customer) or six (6) months (BIQH) before the end of the then-current term.

#### 18.3 Termination for cause

Either Party is entitled to terminate the Agreement immediately by notifying the other Party in Writing if:

- (a) the other Party materially breaches the Agreement and, provided such breach is remediable, does not remedy the breach within a reasonable term from the date of a notice of default, served to the other Party in Writing, describing the (alleged) breach in as much detail as reasonably needed to remedy the breach; or if
- (b) a petition for bankruptcy or suspension of payment is filed against the other Party or the other Party enters into a creditor's agreement; or if

- (c) the company of the other Party is being dissolved, or its business is being discontinued or liquidated.

#### 18.4 **Customer additional right to terminate for cause**

In addition to the right, stated in section 18.3, Customer is entitled to terminate the Agreement immediately by notifying BIQH in Writing if Customer is, as a financial entity, subject to DORA and:

- (a) BIQH significantly breaches applicable laws or regulations; or if
- (b) circumstances have arisen, identified by Customer throughout its risk monitoring obligations under DORA, that are deemed capable of altering the performance of the functions provided through the Agreement, including material changes that affect the Agreement or the situation of BIQH; or if
- (c) Customer evidences weaknesses pertaining to BIQH’s overall ICT risk management and in particular to the way BIQH ensures the availability, authenticity, integrity and confidentiality, of data, whether personal or otherwise sensitive data, or non-personal data;
- (d) a competent authority can no longer effectively supervise Customer as a result of the conditions of, or circumstances related to, the Agreement.

### **Article 19. Consequences of termination**

#### 19.1 **Consequence of termination**

On the Termination Date, any obligation, incurred by a Party before the Termination Date, becomes immediately due and payable.

#### 19.2 **Consequences of termination for cause**

If the Agreement is terminated by either Party for cause, any Subscriptions under the Agreement will terminate simultaneously with the Agreement. Upon the legally valid termination for cause by Customer, BIQH shall refund Customer, within thirty (30) days from the Termination Date, any prepaid fees covering the remainder of the then-current term of the Subscription. Upon the legally valid termination for cause by BIQH, Customer shall pay any outstanding fees plus the MRC, pertaining to the remainder of the then-current term of the Subscription, within thirty (30) days from the Termination Date. The remedies referred to in this section 19.2 are without prejudice to any other remedies available to the terminating Party under the Agreement or at law.

#### 19.3 **Transition Services**

On termination of the Agreement, for any reason, BIQH shall, where the MDP Services qualify as Critical Services, at the request of Customer and subject to the continuation of any relevant Market Data License(s), provide transition services (“**Transition Services**”) including the continuation of the MDP Services and (optionally) Managed Services and Professional Services, with a view to reducing the risk of disruption at Customer or to ensure its effective resolution and restructuring, and

assistance with the migration, by Customer, to another ICT third-party service provider or change to in-house solutions consistent with the complexity of the service provided. The Parties shall develop, in good consultation, an exit plan, in which the Transition Services and the time and resources, necessary to provide them, are further specified ("**Exit Plan**").

Subject to a Written agreement by the Parties to the contrary, the term of the Transition Services shall be a maximum of two (2) years from the Termination Date ("**Post Termination Term**"). BIQH's obligation to provide Transition Services is subject to (i) Customer meeting its payment obligation stated in section 19.5 and (ii) Customer submitting its request for Transition Services within thirty (30) days from the Termination Date.

#### 19.4 **Exit Plan in case of Critical Services**

Where the MDP Services qualify as Critical Services the Exit Plan shall include arrangements to enable Customer to terminate the Agreement without:

- (a) disruption to Customer's business activities,
- (b) limiting compliance with regulatory requirements,
- (c) detriment to the continuity and quality of services provided by Customer to End-Users.

#### 19.5 **Prepayment**

In relation to the Transition Services, set forth in section 19.3, Customer shall prepay to BIQH an amount that equals the average MRC, as it was due by the Customer in the twelve (12) months preceding the Termination Date. Further, Customer shall prepay (i) the NRC plus expenses for the Transition Services, at BIQH standard rates that are valid on the Termination Date, and (ii) the Market Data Redistribution Fees that BIQH expects to owe to the relevant Data Sources in relation to the Transition Services. If Customer pays, instead of a Market Data Redistribution Fees, a License Fee to BIQH, it will prepay such license fee to BIQH, at the amount BIQH expects to owe to the relevant Data Source(s) in relation to the Transition Services. After termination of the Post Termination Term, BIQH will determine the MRC for the actual use of the MDP Services during this term and the actual Market Data Redistribution Fees and either refund or additionally invoice the difference between the prepaid MRC and Market Data Redistribution Fees and the MRC and Market Data Redistribution Fees as determined based on the actual use. Prepayment of the fees as set forth in this section 19.5 shall not release Customer of payment of any fees related to the actual work performed by BIQH, or costs incurred by BIQH in relation to any Transition Services. The payment term of any invoice issued by BIQH to Customer in relation to the fees set forth in this section 19.5 is 30 (thirty) days from the invoice date. Section 15.5 and 15.6 apply to the (payment of the) fees, set forth in this section 19.5.

#### 19.6 **Transmission of data**

Subject to the Market Data License(s) obtained by the Customer, Customer can retrieve Output Data from the MDP during the Post Termination Term, either by transmitting the data, using the MDP API, or by downloading a file of the Output Data and/or Customer Data in a commonly used machine-readable format as notified by BIQH to Customer. The Output Data thus transmitted or



downloaded will date back as agreed between the Data Source and Customer. After expiry of the Post Termination Term, BIQH shall have no obligation to retain or provide any (part of the) Output Data and/or Customer Data and shall be entitled to permanently remove all of the Output Data and Customer Data stored in the MDP.

#### 19.7 Termination of post termination services

From the last day of the Post Termination Term, BIQH will have no more obligations to provide any services to Customer.

#### 19.8 Surviving provisions

From the Termination Date, or, if Transition Services are provided, from expiry of the Post Termination Term, all provisions of the Agreement that, by their nature, are deemed to survive termination, will continue to be in effect, including but not limited to Articles 5 ('Confidentiality', Article 17 ('Intellectual Property'), this Article 19 ('Consequences of Termination', Article 20 ('Limitation of liability'), Article 23 ('Applicable law and dispute resolution'), Article 24 ('General').

#### 19.9 Escrow

BIQH has established an escrow arrangement, under which an independent third party (escrow agent) is irrevocably authorized to decide on, and shall, at the request of a customer of BIQH, order the continuation of the MDP Service to that customer in case a petition for bankruptcy or suspension of payment is filed against BIQH, or if BIQH enters into a creditor's agreement. BIQH shall provide information on the escrow arrangement at the request of Customer. Customer shall be entitled to subscribe to the escrow arrangement, provided that BIQH shall be entitled to charge an additional fee for such subscription.

### Article 20. Limitation of liability

#### 20.1 Notice of default

BIQH is not liable for damages arising from a remediable breach of the Agreement until (i) Customer has served a Written notice of default to BIQH, requiring the breach to be remedied, and, subsequently (ii) BIQH has not remedied the breach within a reasonable term from the date of such notice.

#### 20.2 Exclusion indirect damages

BIQH shall, in no event, irrespective of the legal basis of the claim, be liable for any indirect, special, punitive, or exemplary damages, including but not limited to loss of business, loss of profits, missed savings, loss due to business stagnation, loss of data or business information, regardless of whether such damages were foreseeable and regardless of whether such damages are caused by BIQH or a subcontractor of BIQH.

#### 20.3 Limitation

BIQH's liability for any damages, losses or expenses caused in relation to the Agreement shall, regardless of the legal basis of the claim, be limited, per event or series of related events and per

calendar year, to the total amount of the MRC paid by Customer to BIQH in the twelve (12) months preceding the event or first of the series of events that caused the damages.

#### 20.4 **Expiration**

Customer's right to claim damages lapses if the claim is not submitted within one (1) year from the date on which Customer could have been aware of the event causing the damages.

#### 20.5 **Third-party claims**

If Customer permits the use of the MDP to a third party, including an Affiliate, Customer will indemnify BIQH and hold BIQH harmless for and from any damages, losses or expenses claimed from BIQH by such third parties, to the extent such claims exceed the liability limitations set forth in this section 20. Further, Customer will indemnify BIQH and hold BIQH harmless for and from any damages, losses or expenses claimed from BIQH by End-Users.

### **Article 21. Force Majeure**

#### 21.1 **Release of liability**

In the event that a Force Majeure Event occurs, BIQH shall not be liable to Customer and shall be released from performance of any obligations affected by the Force Majeure Event for the duration of the Force Majeure Event.

#### 21.2 **Measures**

Upon becoming aware of a Force Majeure Event, BIQH will:

- (a) notify Customer of the Force Majeure Event in Writing, giving as many details of the circumstances as available to BIQH and as reasonably necessary for Customer to assess the impact of the Majeure Event; and
- (b) use any commercially reasonable measures available to BIQH to mitigate the effects of the Force Majeure Event for Customer.

#### 21.3 **Termination**

If BIQH is prevented from performing its obligations under the Agreement due to a Force Majeure Event for more than one (1) calendar month either Party will be entitled to terminate the Agreement or, if the performance of the Agreement is only partly affected by the Force Majeure Event, the part of the Agreement that is affected.

### **Article 22. Notices**

#### 22.1 **Delivery**

Any notice that a Party serves to the other Party regarding the Agreement shall be served by email. The receiving Party shall confirm receipt as soon as possible. The notice will be deemed received on the date of delivery at the receiving Party's email server, to be demonstrated by the

sending Party. If the time of delivery is not before 5 PM CE(S)T on Business Days, then the notice shall be deemed received at 9 AM CE(S)T the next Business Day.

## 22.2 Addresses

Notices, addressed to BIQH shall be sent to the following email address: [contracts@biqh.com](mailto:contracts@biqh.com).

Notices, addressed to Customer shall be sent to the email address stated in the MDP Order Form.

## 22.3 Other notices

Contrary to the provision in section 22.1, notices regarding the SLA shall be served as set forth in the SLA.

## Article 23. Applicable law and dispute resolution

### 23.1 Applicable law

The Agreement is construed in accordance with and governed by Dutch law, without regard to its conflict of law rules. The Vienna Convention on Contracts for the International Sale of Goods does not apply to the Agreement.

### 23.2 Dispute resolution: good faith negotiations

A dispute under the Agreement will have deemed arisen if either Party notifies the other Party in Writing of the dispute, stating as many details as reasonably necessary for the other Party to assess the matter. Subsequently, the Parties shall attempt to promptly resolve the dispute promptly through good faith negotiations including (i) timely escalation of the dispute to executives who have authority to settle the dispute and (ii) direct communication between such executives.

### 23.3 Dispute resolution: mediation

If the dispute has not been resolved within thirty (30) days from the notice referred to under section 23.2, the Parties shall proceed to mediation. Mediation shall be conducted in accordance with the rules mutually agreed upon by the Parties in Writing. The Parties shall choose an independent mediator within thirty (30) days of a notice to mediate from either Party. Neither Party may unreasonably withhold consent to the selection of the mediator. Each Party shall bear its own costs of mediation, but the Parties shall share the costs of the mediator equally. Each Party shall participate in the mediation in good faith and shall be represented at the mediation by a business executive with authority to settle the dispute.

### 23.4 Dispute resolution: litigation

If a dispute remains unresolved sixty (60) days after the notice to mediate referred to under section 23.3, either Party may submit the dispute to the competent court in Utrecht, the Netherlands, that will have sole and exclusive jurisdiction with regard to any dispute arising under the Agreement.

### 23.5 Confidentiality

All communications made and notices served by a Party during negotiation or mediation under this Article 23 shall be treated as Confidential Information of that Party.

#### 23.6 Injunction

Nothing in this Article 23 shall prevent a Party from immediately seeking an injunction.

### Article 24. General

#### 24.1 Severability

If any provision of the Agreement is determined by a court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Agreement will continue to be in full force and effect. The Parties will negotiate to replace the unlawful and/or unenforceable provision by a provision that is lawful and enforceable while meeting the purpose of the provision replaced as much as possible.

#### 24.2 Relationship of the Parties

No Agreement or any right or obligation thereunder will establish any agency, partnership, joint venture, or other form of joint enterprise between the Parties. Customer will not in any way bind or attempt to bind BIQH contractually or otherwise to any third party.

#### 24.3 Assignment

Neither Party may, without the prior Written consent of the other Party, assign, transfer, or (sub) license any right under an Agreement to a third party, provided that either Party may assign the Agreement in its entirety, without consent of the other Party, to an Affiliate or to an entity in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

#### 24.4 No third-party beneficiaries

The Agreement is made for the benefit of the Parties and is not intended to benefit any third party or be enforceable by any third party, including Affiliates.

#### 24.5 Entire agreement

The Agreement shall constitute the entire agreement between the Parties in relation to its subject matter, and shall supersede all previous agreements, arrangements and understandings between the Parties in respect of its subject matter, whether made in writing or oral.

#### 24.6 Non-solicit

During the term of the Agreement and continuing through the second anniversary of the termination of the Agreement, neither Customer nor any of its Affiliates may solicit any employee of BIQH or an Affiliate of BIQH with whom Customer or its Affiliate has had contact in the performance of the Agreement, without BIQH's Written consent. If Customer or its Affiliate violates the prohibition in the preceding sentence, Customer shall forfeit an immediately payable contractual fine of EUR 100,000.00 (one hundred thousand euro) to BIQH, without prejudice to

BIQH's right to performance or compensation for the actual damages suffered as a result of the violation.

**24.7 Headings**

The headings of sections and paragraphs in these MDP Service Terms and Conditions are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of the Agreement.