MASTER SERVICES AGREEMENT

BY AND BETWEEN

Hereinafter referred to as **"SD Worx"**	with registered office at , with company number
	Hereinafter referred to as **"Customer"**

SD Worx and the Customer are collectively referred to as the "**Parties**" and each a **"Party"**.

WHEREAS

a) The SD Worx group is coma group of companies providing services in the field of payroll and human resources.

b) The Customer engages the SD Worx group for payroll and human resources services and the implementation thereof.

c) The scope of the Agreement may involve several Affiliates of the Customer and several Affiliates and/or Partners of the SD Worx group who may perform services in one or more countries.

d) This Master Services Agreement provides all terms and conditions for the provision and use of the aforementioned services.

THE PARTIES AGREE AS FOLLOWS:

After a phase of negotiations, the Parties have agreed that SD Worx will provide the Services to the Customer, as defined in Article 3 of the Master Services Agreement, and the Customer will use the Services in accordance with the terms and conditions described in the Agreement.

This Master Services Agreement enters into force on Click here to enter a date. (**"Effective Date"**).

By signing below, a Party agrees (1) that it has received, read and understood this Master Services Agreement, including its Annexes and websites or documents incorporated by reference and (2) to be bound by the terms and conditions of all such documents.

Executed in two (2) originals or counterparts, each Party acknowledging receipt of one.

For and on behalf of:	For and on behalf of Customer:
Signature:..	**Signature:** ....
Name:	**Name:**
Role:	**Role:**
Date:	**Date:**

1. DEFINITIONS AND INTERPRETATION

1.1. In addition to any other definition in the Agreement, any capitalised term used herein, in the singular or the plural, shall have the meaning given to it in this Article.

"Affiliate"	Any corporation, company or entity identified as such in a Statement of Work or any person that directly or indirectly controls, is controlled by, or is under common control with, a Party, where "control" means the possession, directly or indirectly, or the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract or otherwise. All entities of the SD Worx group are each other's affiliates under this definition
"Agreement"	Means this Master Services Agreement, (including its Annexes), the Statements of Work (including their respective Annexes), any other documents incorporated or referenced in any of the aforementioned documents, as well as any other agreements between the Parties that incorporate by reference the terms and conditions of this Master Services Agreement.
"Calendar Year"	Means a civil year, counting from January 1st until December 31st
"Consequential Damage"	Means damages or losses that do not directly and immediately result from a wrongful act, in contract or in tort, but instead indirectly and/or after the lapse of time, loss of earnings, business interruption or stagnation, increase of personnel cost and/or the cost of personnel depletion, damages comprising or resulting from claims by third parties, failure to realise anticipated savings or benefits and loss of data, profits, time or revenue, loss of orders, loss of customers, increase of overhead costs, and consequences of a strike, however caused
"Contact Person"	means the individual(s) assigned by a Party and communicated to the other Party as point of contact and representing a Party for (a part of) the Services.
"Contract Year"	Means a twelve (12) month period during the Term of Statement of Work commencing on its Effective Date and each anniversary thereof.
"Controller"	means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the Processing of Personal Data.
"Customer"	(or Client), has the meaning given to it in Article 1.2.
"Customer Data"	Means any and all information, data, files, records and other materials regarding the Customer.
"Data Protection Legislation"	means, (A) EU Regulation 2016/679 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" or "GDPR"**), (B) together with any other Law resulting from such Regulation (A and B together "**EU Data Protection Laws**"), (C) the United Kingdom General Data Protection Regulation ("**UK GDPR**") and the Data Protection Act 2018, and/or (D) all other applicable Law of any other country with regard to the protection of Personal Data or privacy.
"Data Subject"	means an identified or identifiable natural person to whom the Personal Data relates. An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person. The relevant categories of Data Subjects whose Personal Data is provided to SD Worx by, or on behalf of, the Customer, are identified in Appendix: Details of the Personal Data processing.
"Defect"	Means any defect, failure, non-compliance with the rules of the art of all or part of the Software, temporarily or permanently preventing the normal use of the latter or preventing the production of the expected results, while the Software is used correctly by the Customer.
"Delivery Milestones"	Has the meaning given to it in Article 5.1.4.
"Disclosing Party"	has the meaning given to it in Article 14
"Extended Term"	has the meaning given to it in Article 7.1
"Force Majeure Event"	Means any event or circumstance outside the reasonable control of a Party which makes it impossible for the affected Party to (timely) perform its obligations under the Agreement. Provided the Force Majeure Event criteria are met, examples of Force Majeure Events may be war, terrorism, rebellion, riots, explosions, strike or social conflicts, defects in the other Party's equipment and defects in telecommunications and IT equipment of third parties, a third party provider terminating the agreement with SD Worx with immediate effect without such termination being caused by a material breach of SD Worx.
"Good Industry Practice"	Means that the tasks will be performed in a professional and safe manner and with the standard of skill, care, knowledge and foresight which would reasonably and ordinarily be expected from an experienced person engaged in providing services which are the same as, or similar to, the tasks performed under the Agreement.
"Hardship"	has the meaning given to it in Article 11.2

"HR Software"	Means the software used by the Customer to record, process, analyze and report on information pertaining to its employees and applicants. The HR Software is further defined in the relevant Statement of Work
"Implementation Services"	Means the preliminary services as described in the relevant Statement of Work or a Change Request provided in order to enable the start of the recurrent services or a new aspect or element thereof, including as the case may be the installation, testing and putting into use of Software.
"Infringement Claim"	has the meaning given to it in Article 10.1
"Initial Term"	has the meaning given to it in Article 7.1
"Intellectual Property Rights"	Means any and all intellectual property and all rights in and to such intellectual property, including but not limited to, any patent, utility model, design right, copyright (including any right in computer software), database right or topography right (whether or not any of these are registered and including applications for registrations of any such item), trade mark, service mark, trade name, business name, trade secret, know-how, ideas, methodology, method of operation, process, look and feel, subsystem, module, graphical user interface, and any other any right or form of protection of a similar nature or having equivalent or similar effect which may subsist anywhere in the world.
"Interface"	Means the software which creates an interface between the Customer's system and the Software. The Interface is further defined in the relevant Statement of Work.
"Last Effective Date"	Means the last day on which the Agreement or the applicable Statement of Work will be in effect.
"Law"	Means all laws or statutes of any jurisdiction and any other regulation, ordinance, order, decree or rule having the force of law, whether in existence as of the Effective Date or promulgated thereafter, as amended or superseded.
"Losses"	Means any losses, damages, liabilities, costs and expenses of any nature whatsoever, including reasonable attorney's fees and court costs.
"Maintenance Services"	Means any Services described in the relevant Statement of Work provided with the purpose of modifying and updating the Services. Maintenance Services may include corrective maintenance, evolutive maintenance and Legal Maintenance.
"Malicious Code"	(or Malware): means any computer virus, Trojan horse, worm, time or logic bomb, or other similar code or component designed to disable, damage or disrupt the operation of, permit unauthorized access to, erase, destroy or modify, the Software, or any other software, hardware, network or other technology
"Notice"	Means a notification in writing and is deemed duly given on the day sent by courier with a reliable system for tracking delivery or by registered or certified mail.
"Payroll Software"	Means the software used by the Customer to upload or access payroll data. The Payroll Software is further defined in the relevant Statement of Work.
"Personal Data"	means any information relating to a Data Subject. The relevant categories of Personal Data that are provided to SD Worx by, or on behalf of, the Customer are identified in ***Appendix: Details of the Personal Data processing***.
"Personal Data Breach"	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed in connection with the provisioning of the Services.
"Point of Connection"	Means the boundary between (i) the computer systems and networks directly controlled by SD Worx and (ii) the Internet or any other computer systems or networks that are not directly controlled by SD Worx.
"Processing"	(Or Process(es) of Processed) means any operation or set of operations which is performed upon Personal Data or on sets of Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
"Processor"	means a natural or legal person, public authority, agency or any other body which Processes Personal Data on behalf of the Controller.
"Receiving Party"	has the meaning given to it in Article 14
"Recurring Fees"	Means those fees set out in a Statement of Work under the heading "Recurring Fees" (or a similar heading), or as otherwise identified or understood to be fees which are payable on a periodic recurring basis.
"SD Worx"	has the meaning given to it in Article 1.2
"SD Worx Partner"	Means any person whom SD Worx contracts or otherwise engages to assist with the performance of (any part of) the Services.

"Software"	Means the Payroll Software, HR Software, Interface and/or all other software provided by SD Worx as defined in the relevant Statement of Work.
"Standard Contractual Clauses"	means the standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and the Council as approved by European Commission Implementing Decision (EU) 2021/914 of 4 June 2021.
"Statement of Work"	Means the agreement or purchase order in addition to this Master Services Agreement, in which the Parties agree on the Services to be provided by SD Worx, containing a description of those Services, their fees, the term and the respective responsibilities of the Parties.
"Sub-processor"	means any Processor engaged by SD Worx to perform a part of the Services.
"Support Services"	Means the services as described in the relevant Statement of Work provided in order to support the Customer when using the Services.
"Term"	Means the Initial Term and any and all Extended Terms.
"Termination Fee"	Means the amount equal to: 1. the average monthly Recurring Fees (based on the Recurring Fees (*) paid and/or payable during the twelve (12) month period preceding termination divided by 12), - multiplied by the number of months (including part of incomplete month) between the Last Effective Date and the expiration date of the initial Term (or Extended Term); - less a 20% discount; plus 2. all fees for the Implementation Services, whether delivered and/or invoiced or not (in total and without any applicable discount). (*) in case of termination of any Statement of Work (in whole or in part) under which no Recurring Fees have been invoiced yet, the Termination Fee shall be calculated based on the Recurring Fees and the anticipated transaction volumes set out in the relevant Statements of Work(s). In any event, a minimum Termination Fee amounting to the Recurring Fees due for a period of six (6) months will apply.
"Territory"	Means the country or countries in respect of which a Service is to be delivered, as identified in the relevant Statement of Work. Each country for which Services are delivered is a separate Territory under the Agreement
"Third Party Stakeholder"	means a natural or legal person, public authority, agency or body other than the Data Subject, Controller, Processor and persons who are authorised to process Customer's Personal Data and who are not a Sub-processor of SD Worx.
"Third Party Stakeholders"	means Persons who have a contractual relationship with the Customer and who are not a subcontractor of SD Worx.
"User"	Means an individual who is authorized by the Customer in accordance with the Agreement to use a Service and to whom the Customer (or SD Worx at Customer's request) has supplied a user identification and authentication credentials. Users may include, for example, employees, consultants, contractors and agents of the Customer.
"Workday"	Means any day of the year other than a Saturday, Sunday or a statutory or civic holiday in the applicable Territory and any additional collective holidays of SD Worx within the SD Worx group applicable for the employees involved in the performance of the Agreement.

1.2.   All references to SD Worx in this Master Services Agreement and its Annexes mean SD Worx and, upon signature of a Statement of Work by an Affiliate of SD Worx or an SD Worx Partner and for the purpose of such Statement of Work, such Affiliate and/or SD Worx Partner. All references to the Customer in this Master Services Agreement and its Annexes mean the Customer and, upon signature of a Statement of Work by an Affiliate of the Customer and for the purpose of such Statement of Work, such Affiliate.

2.   ORDER OF PRECEDENCE

2.1.   If there is any ambiguity, inconsistency or conflict between the terms and conditions contained in any of the documents forming part of the Agreement, then the Agreement will in respect of such ambiguity, inconsistency or conflict be construed in the following order of precedence, with the document higher in the list prevailing over the document lower in the list:

   a)   The main body of the Master Services Agreement

   b)   The Data Processing Agreement as attached in ***Annex 3: Data Processing Agreement***

   c)   Any other Annexes of the Master Services Agreement

   d)   The main body(ies) of the Statement(s) of Work

   e)   The Annexes of the Statement(s) of Work

   f)   Any other documents incorporated or referenced in the Agreement as well as any other agreements between the Parties that incorporate by reference the terms and conditions of this Master Services Agreement.

2.2.   Any set of terms and conditions or other documents issued by the Customer (for example, by attaching such terms and conditions or documents to a Statement of Work or Order Form) will be deemed null and void.

3.   SERVICES

3.1.   SD Worx shall provide to the Customer the services (including any Software where applicable) described in one or more Statements of Work (**"Services"**) on the Workdays in the Territory identified in each such Statement of Work. Unless explicitly agreed otherwise, the Services do not include any legal, accounting, regulatory or tax advice by SD Worx to the Customer. A Statement of Work can be signed by SD Worx, Affiliates of SD Worx or SD Worx Partners, on the one hand, and by the Customer or Affiliates of the Customer, on the other hand.

3.2.   Each Statement of Work will form a separate agreement which incorporates by reference the terms and conditions of this Master Services Agreement, unless expressly amended in such Statement of Work.

3.3.   To the extent that the Services are to be provided for the benefit of or to Affiliate(s) of a Party to a Statement of Work, such Party warrants (i) that it is duly authorised to commit any such Affiliate, (ii) that any such Affiliate shall act in accordance with the terms and conditions of such Statement of Work and (iii) that it takes full responsibility for acts and omissions of such Affiliate.

4.   GOVERNANCE

4.1.   Each Party understands that a successful performance of the Services requires close cooperation between the Parties. Accordingly, each Party agrees to (i) provide the resources reasonably necessary to enable the provision of the Services, as regards SD Worx, and the use of the Services, as regards the Customer, (ii) manage staffing, milestones and attendance at status meetings and (iii) active participation during all phases of the Services.

4.2.   SD Worx shall perform the Services in accordance with its own work processes and any plan agreed between the Parties in writing. SD Worx determines the scope of work, timelines and fees for the Implementation Services on the basis that the implementation services will be delivered as one continuous project, and has scheduled resources based on this assumption. Any delays may impact the fees and the delivery times, and could result in a complete work stoppage until resources can be reassigned.

5.   OBLIGATIONS OF THE PARTIES

5.1.   Obligations of SD Worx
        SD Worx undertakes:

5.1.1.   to perform the Services in a professional manner, with reasonable care and skill in accordance with all Laws applicable to SD Worx. The practice and procedures for certain Services may vary from Territory to Territory. Accordingly, any assessment of whether SD Worx has used reasonable care and skill shall be undertaken having regard to Good Industry Practice and custom in the relevant Territory.

5.1.2.   to provide the Services based on and within the limits set by the Customer Data provided by the Customer. In doing so, SD Worx is entitled to rely on the accuracy, completeness and legality of the Customer Data provided by the Customer.

5.1.3.   to the extent SD Worx provides Services on the Customer's systems or premises, to use reasonable efforts to perform the Services in accordance with the Customer's reasonable security related policies and procedures, including the applicable technical and organizational measures for data protection, as applicable on the relevant systems and premises and which do not conflict with the Agreement, if communicated to SD Worx and the relevant SD Worx staff beforehand. If such Customer policies and procedures result in additional costs to SD Worx, SD Worx will pass the proven additional costs on to the Customer upon notifying the Customer thereof.

5.1.4.   to determine in joint cooperation with the Customer any delivery times and/or times for performance of any obligations (**"Delivery Milestones"**) required under the Agreement on the basis of information communicated by the Customer to SD Worx. Such Delivery Milestones shall automatically and accordingly be adjusted in the event they cannot be met, e.g.:

a)   because of a change in scope or size of the assignment (e.g. additional requests, change of specifications, increase of the number of employees in a specific Territory);

b)   because of non-compliance by the Customer of any of its obligations or responsibilities under the Agreement (e.g. late supply of information, resources and/or material required for the provision of the Services, late acceptance testing, failure to use the pre-determined format);

c)   because Third Party Stakeholders involved with the preparation, development, implementation and performance of the obligations and responsibilities of the Customer, did not comply with all the pre-requisites, tasks and operational assumptions set out in the agreement(s) between such Third Party Stakeholders and the Customer.

d)   because external circumstances have revealed themselves after execution of the Agreement (e.g. outcome of functional analysis).

5.1.5.   to maintain and/or obtain the contractual, regulatory and/or administrative permits and similar approvals necessary for the delivery of the Services;

5.1.6.   to use reasonable efforts to timely inform the Customer if SD Worx reasonably believes that continued offering/use of the Services breaches or is reasonably likely to breach the rights of SD Worx or any other person, or applicable Law or regulations, and/or that continued use poses a risk to the security and/or integrity of the Services and, if needed to avoid any or further risk or damages, to restrict, in whole or in part (including with respect to an individual User or group of Users, access to the Services for a reasonable period of time.

5.2.   Obligations of the Customer
5.2.1.   The Customer undertakes:

a)   to perform the Agreement in accordance with applicable Laws;

b)   to provide all necessary support and to respond to and fulfil any reasonable request by SD Worx in relation to the Services;

c)   to grant SD Worx any authorizations or sign any documents required to perform the Services;

d)   to communicate to SD Worx promptly and in any event within the timings agreed by the Parties, all necessary or useful information and data via the applicable Software or template documents (as described in the relevant Statement of Work);

e) to provide SD Worx with all necessary facilities for the fulfilment of its obligations under the Agreement (such as access to the Customer's premises, office and computer facilities, etc.) and to enable SD Worx to access and use all information, data and networks, all the aforementioned limited to such facilities and such access/use reasonably necessary for the performance of the Services; The Customer shall be responsible for managing SD Worx's access rights to aforementioned facilities, including the granting, suspension and withdrawal of such access rights where appropriate. Furthermore, the Customer is responsible for the timely selection, acquisition, configuration, maintenance and good functioning at its own cost and risk all computer systems, software and networks on the Customer's side of the Point of Connection required to receive the Services;

f) to formulate its needs accurately and comprehensively and to inform SD Worx of the practices or constraints specific to the Customer's business;

g) to notify SD Worx of all the difficulties that may be encountered during the performance of the Services and which could have an impact on the contractual obligations of either Party;

h) to maintain and/or obtain the contractual, regulatory and/or administrative permits and similar approvals necessary for the receipt and use of the Services;

i) to observe any required consultations with the staff representative bodies in accordance with applicable Law;

j) to submit in a timely manner the decisions and approvals required for SD Worx to deliver the Services;

k) to acquire and maintain the skills allowing it to use the Services in accordance with the Agreement and to ensure the availability of competent and trained staff assigned to implement the tasks required of the Customer under the Agreement;

l) to use the Services in accordance with the Agreement, including the Acceptable Use Policy in _**Annex 1: Acceptable Use Policy**_ and the specific instructions communicated by SD Worx from time to time (operational, qualitative, legal, etc.). Use of the Services constitutes acceptance by the Customer of the applicable instructions;

m) to use the Services only for internal business purposes of the Customer and not as part of a service centre for the benefit of any third parties other than the Customer Affiliates identified in the relevant Statement of Work;

n) to promptly communicate to SD Worx any error, omission or non-compliance it has detected in the Services delivered;

o) to keep all documents, files and other results generated through or via the performance of the Services in accordance with the applicable Laws.

5.2.2. Notwithstanding any other provision of the Agreement, the Customer shall be solely responsible for (i) acts and omissions of its staff, administration and management of its human resources; and (ii) all Customer Data provided by the Customer, including but not limited to the accuracy, completeness, legality, quality, and the timely provision thereof.

5.2.3. SD Worx will not be responsible for storing copies of Customer Data when SD Worx in its sole discretion no longer requires such information in order to provide Services to the Customer, and without limitation, the Customer shall be solely responsible for retaining its own business records according to applicable Laws.

6. CONTRACT CHANGE PROCEDURE

6.1. During the term of the Agreement, either Party may request to change any provision thereof ("**Change Request**"). Any change will be binding only if it has been agreed by the Parties in writing, unless provided otherwise in this Agreement.

6.2. The Customer acknowledges and agrees that, notwithstanding any other provision of the Agreement, SD Worx may make changes to the Services or the manner in which they are delivered (including changes to improve such Services), at any time, as SD Worx considers reasonable and/or necessary, provided that such change does not materially adversely impact the Services or the Customer. SD Worx shall modify the Services further to changes in applicable Laws relevant to and impacting the payroll Services (**"Legal Maintenance"**) if and as described in the relevant Statement of Work. Unless provided otherwise in a Statement of Work, Legal Maintenance is limited to Laws on a country level. In the event of sudden changes to the applicable Laws or changes immediately or retroactively entering into force, SD Worx reserves a reasonable period of time to perform the Legal Maintenance.

7. TERM AND TERMINATION

7.1. Term

7.1.1. This Master Services Agreement enters into force on the Effective Date.

7.1.2. This Master Services Agreement is entered into for at least 3 Calendar Years counting from the Effective Date ("**Initial Term"**). This Master Services Agreement will thereafter extend automatically for periods of one (1) Calendar Year, (each "**Extended Term**"), unless and until terminated in accordance with Article 7.2.1.

7.1.3. The Parties can sign Statements of Work during the Term of this Master Services Agreement. Each Statement of Work will become effective when signed by the Customer or its Affiliate, as applicable, and SD Worx, its Affiliate or the SD Worx Partner, as applicable, or upon any other date agreed upon in such Statement of Work, and will continue for the initial and extended term as defined in each relevant Statement of Work, unless terminated in accordance with the Agreement.

7.2. Termination

7.2.1. If either Party does not want to extend the Initial Term or the Extended Term of the Master Services Agreement and/or any Statement of Work (in whole or in part), such Party will serve a Notice of termination to the other Party at least six (6) months prior to the end of (i) the Initial Term or (ii) the then current Extended Term, as applicable. This Master Services Agreement and/or the relevant Statement(s) of Work (in whole or in part) will consequently expire at the end of (a) the Initial Term, or (b) the then current Extended Term.

7.2.2. If the Notice of termination includes a partial termination of a Statement of Work, it must expressly state the Services that are terminated and those which are not terminated. In such case, the other Party can object within thirty (30) days to continuing any remaining Service if (i) such remaining Service is not viable by reason of technical dependencies on Services which are terminated or (ii) the cost of providing (in the case of SD Worx) or using (in the case of Customer) the remaining Service is materially increased upon discontinuance of the terminated Services. Such objection will have the effect of extending the scope of the termination to such remaining Services at the relevant time. Termination of the Master Services Agreement, will not entail termination of any Statement of Work.

7.2.3. If a Party is declared bankrupt, the Agreement or the relevant Statement of Work shall terminate with immediate effect with regard to such Party to the extent permitted by Law. If, under applicable Laws, either Party (i) can no longer comply with its obligations to pay, (ii) is the subject of any proceedings relating to its liquidation, winding-up, or insolvency or (iii) is subject to the appointment of a receiver, administrator or similar officer assigned for the benefit of all or substantially all of its creditors to perform a transfer or conclude an agreement for the composition, extension or adjustment of all or substantially all of its obligations, then the other Party, within the conditions of the applicable Laws, may terminate the Agreement or the relevant Statement of Work with regard to such Party with immediate effect by giving Notice to that effect.

7.2.4. If a Party commits a material breach the affected Party must serve a Notice of default 1) requiring the other Party to cure the breach, 2) providing details of the material breach and 3) the intention of the affected Party to terminate this Agreement (or, where applicable, terminate the relevant Service) at the end of the remedy period if the remedial action has not been completed to its reasonable satisfaction. If the other Party does not take reasonable steps to cure the breach within thirty (30) days after receipt of the Notice and/or, in any event, the breach is not cured within sixty (60) days after receipt of such Notice, then the affected Party may terminate upon Notice of termination (a) the Master Services Agreement in the event of a material breach of this Master Services Agreement or (b) the Statement of Work in the event of a material breach of such Statement of Work. Such termination will have immediate effect upon Notice of termination to the other Party, without prejudice to the terminating Party's other rights or remedies under the Agreement.

7.2.5. The Agreement or a Statement of Work may also be terminated upon Notice in whole or in part following a Force Majeure Event as provided in Article 11.1. The termination will be effective upon receipt of such Notice.

7.2.6. The Customer may terminate the Master Services Agreement and/or any Statement of Work (in whole or in part), as of right and without prior intervention of any court, for convenience and without cause, at any time by giving SD Worx at least six (6) months' written Notice designating the termination date. If the Customer terminates the Master Services Agreement and/or Statement of Work (in whole or in part), on the basis of this Article 7.2.6, the Customer shall be liable to pay SD Worx upon invoicing the Termination Fee. In any event, a minimum Termination Fee amounting to the Recurring Fees due for a period of six (6) months will apply. For the avoidance o doubt, in addition to the Termination Fee, Customer will be responsible to pay SD Worx all Services provided up to and including the Last Effective Date.

7.2.7. The terms and conditions of this Master Services Agreement will remain in full force and effect, even after the termination of the Master Services Agreement, for any Statement of Work which is entered into by the Parties prior to the termination date of this Master Services Agreement, until termination of such Statement of Work.

7.2.8. All provisions of the Agreement, which by their nature should apply beyond its term, will remain in force after any termination or expiration of the Agreement or any part thereof.

7.3. Termination Assistance

7.3.1. Upon termination of the Master Services Agreement or any Statement of Work, SD Worx shall provide termination assistance services to allow the Services that are being terminated to continue without interruption or adverse effect and to facilitate the orderly transfer of such Services to the Customer, its Affiliate or its designee ("**Termination Assistance Services**").

7.3.2. SD Worx shall provide to the Customer, or at the Customer's request to the Customer's designee, Termination Assistance Services reasonably requested by the Customer, to the extent that such Termination Assistance Services are technically and organizationally feasible for SD Worx. The Termination Assistance Services will be subject to the terms and conditions of the Master Services Agreement.

7.3.3. If the Termination Assistance Services consist of the continuation of all or part of the Services after the Last Effective Date, the Customer shall pay the applicable fees as described in the Agreement.

7.3.4. For Termination Assistance Services requested by the Customer that relate to the orderly transfer of the Services to the Customer, its Affiliate or its designee, the Customer shall pay SD Worx on a time and material basis at SD Worx's then-prevailing fees for such Termination Assistance Services (unless provided otherwise in Statement of Work).

8. FEES AND INVOICING

8.1. Fees

8.1.1. The Services will be provided at the fees stated in the relevant Annexes to this Master Services Agreement and/or the relevant Statements of Work. Unless provided otherwise in such Annex or Statement of Work, all fees are expressed in EUR and are VAT excluded. If invoices are paid in another currency and/or from outside the Territory, sufficient funds must be remitted such that the net sum received by SD Worx in the requisite currency after foreign exchange and other bank charges is that stated on the relevant invoice. SD Worx is entitled to invoice the Customer for any shortfall.

8.1.2. All payments pursuant to this Agreement shall be made without any withholding or deduction for or on account of any tax (**"Tax Deduction"**), except as may be required by Law. Where any Tax Deduction is required to be made, the person making the payment shall make that Tax Deduction in the amount and within the time limit prescribed by Law and shall pay such additional amount as will ensure that the recipient of the payment receives the amount that it would have received had the Tax Deduction not been required. If any credit or repayment is available to the recipient in respect of the Tax Deduction, the recipient shall use its reasonable endeavours to obtain the credit or repayment and, having obtained the same, shall promptly repay to the payer an amount which will leave the recipient in the same overall position that it would have been in had the Tax Deduction not been required to be made.

8.1.3. The Customer shall reimburse SD Worx for all reasonable expenses incurred by SD Worx for the performance of the Agreement, including travel and accommodation costs.

8.2. Fees changes

8.2.1. The fees for all Services under the Agreement can be adjusted by SD Worx with a one (1) month prior written Notice to the Customer in the event of:

a) a change in the number of employees in a Territory, Users, Territories and/or a change in the employing entities; and

b) a change in payment method used by the Customer, e.g. direct debit mandate or bank mandate; and

c) changed market conditions, such as but not limited to an increase of the costs to perform the Services, a price adjustment by subcontractors or external suppliers; or a change in the applicable Laws or of compliance with existing laws which imposes new and/or more onerous obligations on the Customer as employer and/or on SD Worx. In such event, SD Worx shall adjust its fees to the cost-increasing circumstances not caused by SD Worx, insofar as such costs can be demonstrated; and

     d)   a change in the scope of the Services.

8.2.2.   All fees under the Agreement are subject to indexation as set out in the relevant Statement of Work. The application of this indexation cannot lead to a fee reduction.

8.3. Invoicing

8.3.1.   The Customer shall pay all invoices submitted by SD Worx within thirty (30) days of the date of such invoice. All the necessary information required for the invoicing shall be provided by Customer without undue delay and initially at the latest within five (5) calendar days as from the start of the Services.

8.3.2.   If the Customer reasonably and in good faith disputes its obligation to pay part or all of an invoice submitted by SD Worx, then:

    a)   The Customer must, within thirty (30) days of receipt of the invoice, notify SD Worx in writing of the amount of the invoice which it disputes being obligated to pay ("**Disputed Amount**") and the reasons why it believes it is not obligated to pay the Disputed Amount. Any invoice which is not disputed by Notice within thirty (30) days of the invoice date will be deemed accepted;

    b)   The Customer's failure to pay the Disputed Amount when originally due will not be deemed to be a breach of the Agreement;

    c)   The Customer must pay the undisputed balance of the invoice to SD Worx in accordance with the Agreement;

    d)   The Parties must as soon as reasonably practicable discuss and use their respective reasonable endeavours to agree how much of the Disputed Amount is payable to SD Worx; and

    e)   If the Parties are unable to reach an agreement pursuant to this Article within thirty (30) days of the payment due date, then either Party may refer the matter to the dispute resolution procedure as described in Article 19.10.

8.3.3.   Any invoice amount which has not been paid by its due date and which is not subject to a bona fide dispute will, as from the next day, automatically and without notice accrue late payment interest at one percent (1%) per month. The Customer shall reimburse SD Worx for all reasonable administrative costs and collection costs incurred by SD Worx for the recovery of all outstanding amounts and any other damages SD Worx has suffered as a result of this default, with a minimum amount of 40 EUR per invoice, unless agreed otherwise in a Statement of Work.

8.3.4.   If the Customer fails to pay two (2) undisputed invoices or invoices disputed in bad faith by the Customer by the required payment date or if SD Worx questions the Customer's solvency, SD Worx is entitled to require payment in advance from the Customer.

8.3.5.   Without prejudice to any other rights of SD Worx, SD Worx may suspend its Services without prior intervention of any court in the event of non-payment of two (2) undisputed invoices or invoices disputed in bad faith by the Customer due to SD Worx or any of its Affiliates. However, SD Worx will communicate at least thirty (30) calendar days in advance the date from which the Services will be suspended allowing the Customer to remedy the payment of all undisputed amounts. During this suspension, the fees are still due. All consequences resulting from the suspension of the Services and/or termination of the Master Services Agreement or a Statement of Work on the grounds of non-payment of undisputed amounts in accordance with Article 7.2.4 are at the Customer's risk and expense. If SD Worx terminates the Agreement or a Statement of Work on the basis of repeated non-payment by the Customer of any undisputed outstanding amounts and/or any amounts disputed in bad faith, a Termination Fee as described in Article 7.2.6 will be paid by the Customer to SD Worx. Claims for damages by SD Worx will remain unaffected.

9. LIABILITY

9.1.   A Party is liable for all claims, demands or actions in relation to the Agreement, whether for breach of contract, warranty, misrepresentation or in tort (including negligence) irrespective of the gravity of the fault, for damage caused by proven defaults attributable to it within the bounds of this Article 9.

9.2.   SD Worx shall not be liable for any breach of its obligations under the Agreement if such breach results from:

    a)   the Customer's failure to comply with the provisions of the Agreement; and/or

    b)   the Third Party Stakeholders' failure to deliver any of the pre-requisites, tasks and operational assumptions described in the agreement(s) between such Third Party Stakeholders and the Customer (if any), if and to the extent such compliance is required for the performance of the Services by SD Worx; and/or

    c)   the Customer's failure to provide accurate, complete and legal Customer Data; and/or

    d)   any suspension of the Services by SD Worx in accordance with the terms of the Agreement; and/or

    e)   any Force Majeure Event.

9.3.   If one of the Parties is in breach of the Agreement or the relevant Statement of Work, the other Party may serve Notice of default. The Notice of default must specify in reasonable detail the nature of the default allowing the defaulting Party a reasonable period - and at least thirty (30) days from the receipt of the Notice of default - to remedy the default. If the default is rectified by a Party in breach, the other Party cannot claim damages.

9.4.   Each Party's liability will be limited to foreseeable, direct and personal damages suffered. In no event shall a Party be liable for Consequential Damages, even if advised of the possibility of such Consequential Damages or if the possibility of such Consequential Damages was reasonably foreseeable.

9.5.   SD Worx's liability under the Agreement will be limited per Statement of Work. SD Worx's aggregate maximum liability under a Statement of Work during a Contract Year, shall for that Contract Year be limited to an amount equal to fifty per cent (50%) of the fees for Services paid and/or payable by the Customer to SD Worx in relation to that Statement of Work in the period of twelve (12) months preceding the first event giving rise to the a liability. In any event, SD Worx's aggregate maximum liability under a Statement of Work during the entire Term of such Statement of Work will be limited to an amount equal to one hundred per cent (100%) of the fees for Services paid and/or payable by the Customer to SD Worx in relation to that Statement of Work in the period of twelve (12) months preceding the first event giving rise to a liability. If the event giving rise to the liability occurs during the first twelve (12) months after the Effective Date of Statement of Work, the liability caps (per Contract Year and aggregate) are calculated on the basis of the average monthly fees paid or payable under Statement of Work from the Effective Date of such Statement of Work until the date on which such event occurred.

9.6. If SD Worx's aggregate maximum liability as set out in Article 9.4 has been reached, both Parties are entitled to terminate the affected Statement of Work without any Termination Compensation being due by giving at least six (6) months' Notice.

9.7. The Parties acknowledge that the allocation of risk and liability is balanced in all the circumstances, having regard to all relevant factors including the nature and fees of the Services.

9.8. Nothing in this Agreement shall exclude or limit either Party's liability for: (i) fraud ("bedrog"/"fraude") or wilful misconduct ("opzet"/"dol") of a Party, (ii) any liability that cannot, as a matter of Law, be limited or excluded, (iii) the Customer's obligation to pay the invoices properly due further to Article 8 or (iv) a Party's liability for personal injury or death arising from its negligence or fraud or from its directors, Affiliates, officers, employees or subcontractors.

9.9. The right to claim damages attributable to SD Worx will be forfeited irrevocably twelve (12) months after the occurrence of the alleged error; the Customer must serve a Notice of default within the aforementioned term, providing a detailed description of the alleged error.

9.10. Each Party must to the extent possible mitigate the damages or losses (including under any indemnity) for which they may claim compensation pursuant to this Agreement, including by taking actions to reduce or limit the amount of damages and/or losses suffered (including under any indemnity).

9.11.   Insurance

The Parties shall insure themselves and keep themselves adequately insured with a reputable insurance company against insurable liability under the Agreement. Either Party shall within ten (10) days following the other Party's written request, provide such Party with (i) certificates of insurance evidencing adequate coverage and (ii) a proof of payment of the insurance premiums.

10.   INDEMNIFICATION

10.1. Each Party will indemnify the other Party and such Party's officers, directors, employees, agents, successors and assignees, subject to Article 9, against any and all Losses arising from, related to, or in any way connected with, third party court action and/or claims arising from an infringement, misappropriation or other violations of that third party's Intellectual Property Rights ("**Infringement Claim**"), because of systems, services or other resources provided by the first Party to the other Party. This section does not diminish the Parties ' respective obligations to mitigate any loss or damage to the extent possible. Notwithstanding the foregoing, SD Worx shall have no obligation under this Article 10.1 if a claim and/or court action and/or Losses result from the Customer's failure to comply with the provisions of the Agreement.

10.2. If any Service becomes the subject of an Infringement Claim or, in SD Worx's reasonable opinion, is likely to constitute an infringement, SD Worx shall undertake at SD Worx's sole discretion either of the following actions, at no additional charge to the Customer:

a) promptly secure the right to continue using the Service; or

b) replace or modify the Service to make it non-infringing, provided that any such replacement or modification must not degrade in any material respect the performance or quality of the affected component of the Service and SD Worx shall be responsible for the cost of any integration work required as a result of the replacement or modification; or

c) cease the Service concerned, in which case SD Worx's fees shall be equitably adjusted to reflect such discontinuation.

10.3. If any item provided by the Customer or any of its Affiliates in connection with the Services becomes the subject of an Infringement Claim of which SD Worx is notified in writing, SD Worx may, in SD Worx's discretion, promptly cease using such item and will be excused from performing the affected Services.

10.4. If an indemnitor is obligated to indemnify an indemnitee under the Agreement, the indemnitor shall, upon fulfilment of its obligations with respect to indemnification, be subrogated to the rights of the indemnitee with respect to the claims to which such indemnification relates.

11.   FORCE MAJEURE AND HARDSHIP

11.1.   Force Majeure
11.1.1. Neither Party shall be liable to the other for delay, non-performance or improper performance of its obligations under the Agreement to the extent due to a Force Majeure Event.

11.1.2. Where a Party is delayed or prevented from performing its obligations under the Agreement by a Force Majeure Event, that Party shall notify the other as soon as reasonably possible with details of the Force Majeure Event, its reasonably anticipated effect on the relevant obligations and its estimated duration. The affected Party shall use all reasonable endeavors to mitigate the effect of the Force Majeure Event on the performance of its obligations under the Agreement. As soon as reasonably possible following the end of the Force Majeure Event, the affected Party shall notify the other Party and the Agreement will continue to be performed on the terms existing before the occurrence of the Force Majeure Event.

11.1.3. If any Force Majeure Event prevents a Party from fulfilling its obligations under the Agreement for a continuous period of more than three (3) months, the other Party may terminate the relevant part of the Agreement in accordance with Article 7.2.5.

11.2.   Hardship
11.2.1. When events occur after the signing of the Agreement which aggravate or complicate the performance of the obligations of the affected Party so that the contractual balance of the Agreement is affected (**"Hardship"**), the affected Party can send the other Party a detailed analysis of the problems encountered and their impact.

11.2.2. In such event, the other Party will consider this analysis and the Parties shall negotiate in good faith a revision of the Agreement and in particular, the prices or Services delivered taking into account the developments noted by SD Worx. The Parties shall make every effort to initiate, investigate, validate and implement the request to amend the Agreement.

11.2.3. If the Parties do not agree to any amendment, within thirty (30) days, then the affected Party shall be free to terminate the Agreement upon Notice providing three (3) months' notice without being due a compensation for early termination.

12.   INTELLECTUAL PROPERTY

12.1. Each Party shall respect all Intellectual Property Rights of the other Party and any third party.

12.2. Nothing in the Agreement may be interpreted or construed as a transfer of Intellectual Property Rights from one Party to the other Party. Neither Party shall alienate, pledge or transfer to any third parties or otherwise dispose in any other way whatsoever of any Intellectual Property Rights of a Party without that Party's express written consent.

12.3. Unless expressly provided otherwise in the Agreement, all information, techniques, methods, know-how, models and more generally, all the tools and/or materials of any kind whatsoever used by SD Worx for the provision of the Services are and remain the property of SD Worx at all times. SD Worx preserves the right to use the knowledge, experience and know-how acquired during the provision of the Services for its own benefit and/or the benefit of third parties.

13. SOFTWARE

13.1. Right of Use

13.1.1. Unless provided otherwise in a Statement of Work, Software provided to the Customer pursuant to the Agreement will be provided either (i) in the form of Software as a Service ("**SaaS**") or (ii) in object code form for installation and use at an installation site ("**On-premises Software**"). If a Statement of Work does not specify how Software is to be provided, it will be provided in the manner which is standard for SD Worx for that Software. To the extent technically feasible and commercially available, any request from the Customer to change from one mode to another will be subject to additional charges and a change request.

13.1.2. Unless provided otherwise in the relevant Statement of Work, SD Worx grants the Customer as part of the Services, a limited, non-exclusive, non-transferable, non-sublicensable right to use the Software, ("**Right of Use**"), for the Term of such Statement of Work upon full and timely payment of the applicable Fees. Upon termination of the relevant Statement of Work, its Annexes or the Services thereunder, the Customer's right to use the Software shall cease. The Right of Use extends for the period of any Termination Assistance only if required to provide such Termination Assistance, strictly for the purpose of such Termination Assistance and subject to payment by the Customer of the applicable fees.

13.1.3. Some Services require the Customer to use internet browsers and browser-based plug-ins which are supported by the browser publishers. SD Worx shall supply on request from time to time a list of the browsers compatible with specific Services at that time.

13.1.4. The Customer will have access to the standard version of the Software and any optional and/or custom-made functionalities, modules or configurations, such as interfaces, as set out in a Statement of Work. The Customer may request to extend the Right of Use to other optional and/or custom made functionalities, modules or configurations of the Software by submitting a change request. Such additional Right of Use will be charged at the then-applicable fees of SD Worx.

13.1.5. This Right of Use does not automatically include Support Services and Maintenance Services. These Services will be provided if and under the conditions foreseen in the relevant Statement of Work.

13.2. SaaS

When Software is provided as SaaS, references in the Agreement to a Right of Use or license for such Software are to be interpreted as follows:

a) such Right of Use does not confer on the Customer any right to require the Software in object code form for installation on any Customer facilities

b) such Right of Use includes the configuration, provision and maintenance of the hosting facilities used by SD Worx to operate the Software as SaaS

c) to the extent provided in Statement of Work, SD Worx shall provide the hosting facilities with such capacity, performance, resilience and Internet connectivity as SD Worx, acting reasonably, determines as appropriate for the demands placed on the hosting facilities by the Software and the volume of users to provide end users with a reasonable user experience commensurate with predictable usage patterns

d) SD Worx shall lawfully procure, operate and maintain at its own cost the operating system software and any other software required on the hosting environment to operate the Software as SaaS

e) SD Worx's obligation to provide the Software as SaaS ends at the Point of Connection.

13.3. Maintenance

13.3.1. As regards SaaS, the Customer acknowledges that the implementation of updates or new versions of any Software is and remains in the sole discretion of SD Worx. As regards On-premises Software, the Customer undertakes to install any updates or new versions and acknowledges that the provision of updates or new versions of such Software is and remains in the sole discretion of SD Worx. In both cases, SD Worx reserves the right to restrict, in whole or in part (including with respect to an individual User or group of Users), access to the Services for a reasonable period of time for maintenance or installation purposes. SD Worx shall use reasonable efforts to timely inform the Customer thereof, to limit any adverse impact on the Services as much as possible and to carry out such interventions outside the business hours of the relevant Territory (if practicable).

13.3.2. In the event of Defects in the Software, the Customer shall immediately notify SD Worx of any such Defects, providing a detailed description thereof (including the symptoms of the Defect, the circumstances of its occurrence and the operating environment if the latter is not provided by SD Worx). After such notice, SD Worx will use commercially reasonable efforts to repair any reported Defects in accordance with the provisions of the relevant Statement of Work. The Customer shall cooperate with SD Worx to enable the efficient handling and repair of Defects. SD Worx shall be entitled to a minimum of two attempts to repair a Defect. SD Worx shall be entitled to examine the Defect and access and/or use, if required, all computer systems, software and networks on Customer's side of the Point of Connection to perform tests in order to determine the cause of any Defect and to modify the Services in order to repair a Defect.

13.3.3. In any event, the Maintenance Services and Support Services will be subject to additional charges at the then applicable rates if the Customer cannot prove that such items have been sufficiently covered during acceptance testing or if the Defect (or the report of any apparent Defect) is the result of:

a) any improper or abnormal use of the Software by the Customer;

b) changes or modifications made to the Software by the Customer, unless such changes or modifications were made at the express written request of and in accordance with the instructions issued by SD Worx;

c) modifications, errors, malfunctions, degradation or other problems relating to the operating system, the hardware or any external software or other technology or technology services used by the Customer but otherwise not provided by SD Worx. The Customer will inform SD Worx in order for SD Worx to verify whether maintenance is required and feasible;

d) the unavailability of the Customer's telecommunication system; or

e) an error that cannot be reproduced on SD Worx's system.

13.4. SD Worx shall use reasonable endeavours and precautions to prevent the introduction into the Software or other Services it provides of any Malicious Code or computer software code, routines or devices that are disabling, damaging, impairing, erasing, deactivating or electronically repossessing the Software, other Services or other systems or data. SD Worx does not warrant that Software or Services delivered using computer software will be entirely error free or will run uninterrupted.

14.   CONFIDENTIAL INFORMATION

14.1. "**Confidential Information**" means any non-public or sensitive information, data or materials belonging to, related to or in the possession or control of a Party, in any format disclosed or made available by or on behalf of a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), regardless of whether such information is specifically designated as confidential. Confidential Information will not include information, data or materials that are:

a) already in the public domain other than by a breach of the Agreement;

b) rightfully received from a third party not in breach of any obligations of confidentiality;

c) independently developed by a Party without use of or referral to the Confidential Information of the other Party; or

d) proven to be already known to the Receiving Party at the time of disclosure.

The above-mentioned exemptions do not extend to Confidential Information that qualifies as "Personal Data".

14.2. A Receiving Party shall:

a) keep Confidential Information strictly confidential unless agreed otherwise;

b) use or make copies of Confidential Information only to the extent reasonably necessary for the purposes of the Agreement, or for the Parties ' discussions regarding potential Services under the Agreement;

c) treat Confidential Information with the same degree of care that it treats its own Confidential Information, and with at least a reasonable standard of care;

d) take all reasonable technical measures to avoid unauthorized use or disclosure of Confidential Information;

e) promptly notify the Disclosing Party of any unauthorized disclosure or unauthorized use of any of the Confidential Information by the Receiving Party or any third party.

14.3. The Parties undertake to limit the disclosure of and access to the Confidential Information to their Affiliates, directors, managing directors, employees, subcontractors, agents and/or external advisors (i) who are directly involved with the performance of the relevant part of the Agreement, (ii) for whom the Confidential Information is essential in this respect and (iii) upon the condition that they are bound by obligations of confidentiality substantially similar to the provisions of this Article 14.

14.4. Notwithstanding the foregoing, in the event disclosure of Confidential Information is mandated or requested by applicable Law, or by governmental authority, then (i) if not so prohibited by a governmental authority, the Receiving Party shall promptly notify the Disclosing Party of such requirement, (ii) if so requested by the Disclosing Party and at the expense of such Party, the Receiving Party shall use good faith efforts, in consultation with the Disclosing Party, to secure a protective order or other confidential treatment of the Confidential Information to be disclosed and (iii) the Receiving Party shall furnish only that portion of the Confidential Information required to be disclosed.

14.5. Notwithstanding the agreement on deletion and return of Personal Data further to the Data Processing Agreement, each Party will return or destroy the other Party's Confidential Information and any copy thereof in its possession or control within sixty (60) calendar days immediately following written request by the other Party, unless with regard to backup archives which will be stored in accordance with Article 14.6, unless agreed otherwise or unless provided otherwise by applicable Laws.

14.6. A Party is entitled to retain a copy of the other Party's Confidential Information which is stored within electronic back-ups or in accordance with that Party's internal archival policies or procedures provided that such back-ups and archives take place in the ordinary course of business and in accordance with Good Industry Practice and lawfully, without making the Confidential Information easily accessible to any persons in the course of day-to-day operations, and subject to continuing obligation of confidentiality.

14.7. Neither the performance of the Agreement, nor the furnishing of any Confidential Information by either Party, shall be construed as granting to the other Party expressly, by implication or otherwise, any license under any invention, patent, trademark, copyright or other proprietary right now or hereafter owned or controlled by the Party furnishing the same.

14.8. Both the Customer and SD Worx will each appoint one or more contact persons. Any request for information and/or supply of information must only take place through the intermediary of these person(s).

14.9. The confidentiality obligations expire two (2) years after the Last Effective Date or so long as it qualifies as Confidential Information.

15.   SECURITY AND PRIVACY

15.1. SD Worx is committed to helping protect the security of Customer Data through an extensive security and privacy program. SD Worx has implemented and will maintain appropriate technical and organizational measures set out in ***Annex 2: General Security Terms*** intended to protect the Customer Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

15.2. Each Party shall, at all times, comply with its respective obligations under all applicable Data Protection Legislation and the Data Processing Agreement set out in ***Annex 3: Data Processing Agreement*** in relation to all Personal Data that is processed under the Agreement.

15.3. The Customer shall implement appropriate technical and organizational measures to ensure an appropriate level of security while using the Services and communicating with SD Worx.

16.   PERSONNEL

16.1. The employees of SD Worx can never be regarded as employees of the Customer or its Affiliates. In accordance with applicable local Laws on temporary work, temporary employment and the posting of workers to users, the Customer, its

employees or agents shall not give any instructions to employees of SD Worx and will expressly refrain from exercising any kind of authority over SD Worx's employees. The consequences of a violation of this prohibition are to be borne by the Customer. If, during the performance of the Services, directions or instructions prove necessary, the Customer shall contact the account manager of SD Worx.

16.2.   The Parties agree and acknowledge explicitly that the legal relationship created between them is one of two independent legal persons. The Parties shall observe all legal, social, fiscal and commercial obligations applicable to independent undertakings.

16.3.   SD Worx will assign skilled personnel, or engage competent and trained third parties to assist with the provision of the Services, it being understood that SD Worx is free to select the means, sites and resources used to deliver the Services.

16.4.   It is the intention of the Parties to the Agreement that neither the Acquired Rights Directive 2001/23/EC nor any local Law implementing this Directive (together "**ARD Provisions**") will apply on the Agreement or any part thereof. To give effect to the intention of the Parties, the Parties further agree to respectively organize the personnel they engage in connection with the provision of the Services in such a way as to minimize the likelihood of the ARD Provisions applying on the Agreement. The Party causing the ARD Provisions to be applicable ("**Transferring Party**"), shall indemnify the other Party (subject to the limits set out in Article 9) against any and all Losses arising (i) from any claims or demands (a) made or brought against this Party by a person who is employed or engaged by the Transferring Party or (b) submitted on their behalf by a trade union or employee representative or (ii) otherwise on the grounds that their employment and/or any liabilities in connection with that employment or its termination or cessation have transferred from the Transferring Party to the other Party pursuant to the ARD Provisions or otherwise.

17.   NON-SOLICITATION

During the term of the Agreement and for one (1) year immediately following the effective date of termination of the Agreement, the Customer shall not, without the prior written consent of SD Worx, actively solicit the employment or other engagement of, or hire or engage, either directly or indirectly (e.g. as consultant, independent contractor or otherwise), any of SD Worx's employees who will have been directly associated with the performance of the Agreement, or incite a third party to do so. In the event of a violation of this clause, the Customer shall pay SD Worx an amount equal to one (1) year of gross salary for the employee concerned at the time of termination of the employment contract or engagement contract, including the benefits acquired under the employment contract and the employer's contribution.

18.   ANTI-BRIBERY

Each Party represents and warrants that neither it, nor anyone acting on its behalf, will violate any anti-bribery Laws or international anti-bribery standards applicable to it. Each Party agrees that it will not, directly or indirectly, pay, promise or offer to pay, or authorize the payment of, any money or anything of value to an officer, employee, agent or representative of any government, including any department, agency or instrumentality of any government or any government-owned or government controlled entity or any person acting in an official capacity on behalf thereof for the purpose of influencing any act or decision of such government official, including a decision to do or omit to do any act in breach of the lawful duty of such person or entity, or inducing such person or entity to use his or its influence with the government or instrumentality thereof to affect or influence any act or decision, in order to assist the Customer or SD Worx in the transactions contemplated under the Agreement.

19.   GENERAL PROVISIONS

19.1.   Assignment

19.1.1.   Neither Party shall assign or otherwise transfer any of its rights or obligations under the Agreement without the prior written consent of the other Party, which will not be unreasonably withheld, conditioned or delayed. The other Party's consent should be requested by Notice, disclosing the identity of the prospective transferee. Subject to any restrictions on assignment herein contained, the provisions of the Agreement will inure to the benefit of and will be binding upon the Parties hereto and their respective legal representatives, successors and assignees.

19.1.2.   Notwithstanding the foregoing, SD Worx, any Affiliate thereof and/or any SD Worx Partner may assign its rights and obligations under the Agreement or the Agreement itself, either in whole or in part, to an Affiliate or to any other company that is part of the SD Worx group and which is capable of fulfilling the Agreement, subject only to written notice to the Customer. The transferor will be released from all its obligations under this Agreement. In the event of notification of transfer of the Agreement, the Customer is deemed to have expressly consented to the transfer of this Agreement.

19.2.   Costs

Each Party shall bear its own costs for the preparation and negotiation of the Agreement.

19.3.   Entire Agreement

The Agreement constitutes the entire agreement and understanding between the Parties in respect of the subject matter hereof and supersedes, replaces, cancels and nullifies, where applicable, any previous agreement between the Parties in relation to such subject matter. Neither Party will have any claim for innocent or negligent misrepresentation based on any statement made before this Agreement was entered into. Each clause in this Agreement reflects the actual intention of the Parties and Parties agree that it creates a balance between the rights and obligations of both Parties.

19.4.   Third Party Beneficiaries

The Parties agree that, except as expressly set out herein, no provision of the Agreement is intended, expressly or by implication, to purport to confer a benefit or right of action upon a third party (whether or not in existence, and whether or not named, as of the Effective Date).

19.5.   Modification

No revision, modification or amendment of the Agreement, or any terms and conditions hereof, will become effective unless agreed in writing between the Parties or unless Parties have complied with a procedure foreseen in the Agreement to formalize a change.

19.6.   Severability

If any provision in the Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any applicable Law, that provision or where applicable the illegal, invalid or unenforceable part thereof will be deemed not to form part of the Agreement, and the legality, validity or enforceability of the remainder of the Agreement or provision will not be affected and

shall be valid and enforced to the fullest extent permitted by Law. Each Party shall use its best efforts to immediately negotiate in good faith a valid replacement provision with an equal or similar economic effect.

19.7.   Subcontractors

SD Worx reserves the right to deploy subcontractors for the performance of the Services under the Agreement. SD Worx shall be responsible for all acts and omissions of its subcontractors as if such acts and omissions were its own and, unless agreed otherwise, SD Worx is the Customer's only admitted interlocutor. If a subcontractor is a Sub-processor. as set out in the Data Processing Agreement, the procedure set out in the Data Processing Agreement will apply for the appointment and change of such Sub-processor.

19.8.   Waiver

Failure by either Party to exercise a right or to apply a sanction cannot be interpreted as a waiver of these rights. No waiver under the Agreement will be effective unless set out in a writing signed by a duly authorized representative of the Party granting such waiver.

19.9.   References

SD Worx is entitled to use the name and logo of the Customer as reference with respect to its service provision.

19.10.   Dispute Resolution

19.10.1.   Unless otherwise required under applicable Laws, the Parties undertake to use good faith efforts to settle amicably between them any dispute arising out of or in connection with the Agreement by means of consultation and discussion between the Customer's management and SD Worx for a period of at least thirty (30) days before initiating any proceeding before a court, governmental agency, arbitrator or mediator. The aforementioned period of thirty (30) days starts when a Party has requested this dispute resolution procedure in writing.

19.10.2.   Nothing in the Agreement, including Article 19.10.1, shall prevent either Party from seeking urgent relief before the courts, in particular but not limited to the event Customer violates the term for use of the Services and/or breaches its confidentiality obligations.

19.11.   Applicable Law and Jurisdiction

19.11.1.   This Master Services Agreement shall be governed by and construed in accordance with Please select an SD Worx entity. Unless explicitly provided otherwise, in a Statement of Work, a Statement of Work, including the terms and conditions of the Master Services Agreement that are incorporated by reference, shall be governed by and construed in accordance with the laws of the State in which SD Worx (or the relevant SD Worx Affiliate or SD Worx Partner signing such Statement of Work) has its registered office.

19.11.2.   All disputes arising out of or in connection with the Master Services Agreement and which the Parties were unable to settle amicably in accordance with the aforementioned dispute resolution procedure shall be subject to the exclusive jurisdiction of the courts of the location where SD Worx has its registered office. Unless explicitly provided otherwise in a Statement of Work, all disputes arising out of or in connection with a Statement of Work, and which the Parties were unable to settle amicably in accordance with the aforementioned dispute resolution procedure shall be subject to the exclusive jurisdiction of the courts of the location where SD Worx has its registered office.

19.12.   Execution

In the event that any signed copy is delivered by electronic mail in a ".pdf" or ".jpeg" format data file or via any other format that ensures the accuracy of the copy, the signature incorporated therein shall create a valid and binding obligation of the party signing (or on whose behalf such signature is done) with the same value, force and effect as if it was original.

ANNEX 1: ACCEPTABLE USE POLICY

The Customer agrees that it shall not and/or shall not attempt to, and shall ensure that its employees and contractors it authorizes to use the Services shall not and/or shall not attempt to, unless and to the extent such restriction is not permitted under applicable Laws:

a) use the Services for any illegal purpose or in any manner that would be illegal, offensive or damaging to SD Worx or any third party;

b) copy, reproduce or in any way duplicate modify, reverse engineer, disassemble, decompile, translate, attempt to discover the source code of, or integrate in any other software, or create derivative works based on the Services in whole or in part;

c) assign, transfer, sublicense, charge or otherwise deal in, encumber or make available to any third party the Services or any Intellectual Property Rights of SD Worx or any third party;

d) remove, obscure, alter or deface any notice of confidentiality, any trademark, any copyright notice, or any other indicia of ownership that may be contained in or displayed via any information, data or materials supplied by or on behalf of SD Worx in connection with the Services;

e) circumvent, eliminate, override, disable or modify any security measures as SD Worx may provide with respect to the Services;

f) use any robot, spider or other automatic device, manual process or application or data mining or extraction tool to access, monitor, copy or use the Services;

g) use the Services or other Software in combination with any items not provided, approved or acknowledged by SD Worx;

h) take any action that imposes an unreasonable or disproportionately large load on the Services; or

i) refer to any portion of the Software or Services, or any documentation or knowledge thereof in connection with the development of any software or other product or service having functionality, look and feel, or other features similar to the Software or any other aspects of the Services.

The Customer agrees he (and its Users shall not upload or otherwise transmit to or via the Services or other Software of SD Worx any Customer Data that: (i) infringes or otherwise violates any copyright, patent, trademark, trade secret, right of privacy, right of publicity, or other proprietary right of any individual or entity, (ii) is fraudulent, misleading, defamatory, slanderous, libellous, expresses hate, harassing, abusive or unlawfully threatening, (iii) is pornographic, obscene, vulgar or exploitative of any minor, (iv) contains or embodies any Malicious Code, (v) impersonates any individual or entity or misrepresents the Customer's connection to any Person, (vi) advocates illegal activity or discusses an intent to commit any illegal act or (vii) otherwise violates any applicable Laws.

The Customer shall use reasonable efforts to avoid introducing into the Services or other Software of SD Worx any Malicious Code. In the event any Customer Data provided by the Customer contains any Malicious Code, or in the event the Customer (or any other person utilizing the Customer's access methods) introduces any Malicious Code into the Services or other Software of SD Worx, the Customer shall promptly reimburse SD Worx for all damages, Losses, costs and expenses associated with eliminating such Malicious Code and otherwise remedying any adverse effects suffered by SD Worx and other persons, relating to such Malicious Code.

The Customer shall notify SD Worx immediately upon becoming aware of (i) any and all actual or suspected unauthorized uses of any of the Customer's assigned passwords/access methods and/or any thefts, losses or other breaches of security with respect thereto, (ii) any and all actual or suspected unauthorized use or misuse of any Services, (iii) any and all actual or suspected infringement or other violation of any rights of SD Worx (or its licensors) in or to any Services, (iv) any other acts or omissions of any individual or entity which might jeopardize or prejudice the rights of SD Worx in the Services or threaten the security of the Services and (v) any claim, demand, or cause of action brought against the Customer or any other person, or any subpoena or other similar legal document served upon the Customer or any other person, which relates to this Agreement, the Software or any Services.

SD Worx reserves the right to decide unilaterally to investigate, prosecute, or otherwise take any action in respect of any such violation of which it is notified by the Customer.

ANNEX 2: GENERAL SECURITY TERMS

1.   SECURITY PROGRAM

1.1.   SD Worx has implemented a security plan in accordance with Good Industry Practice, and more specifically taking into account the principles of the ISO27001 information security standard, and will update such plan on a regular basis.

1.2.   SD Worx has implemented and will maintain the security measures established under ***Appendix to General Security Terms*** of ***Annex 2: General Security Terms***.

2.   ACCESS TO SD WORX SERVICES

2.1.   Users of the Services will be uniquely identified and access to the Services will only be permitted after a User has been identified and authenticated through the appropriate mechanism/tool used to prove a person's identity, such as passwords and access tokens ("**Authentication Credentials**"). SD Worx offers the possibility to use Authentication Credentials of different strength. A User should select an appropriate Authentication Credential in line with the Customer's requirements.

2.2.   If passwords are used and generated for authentication, SD Worx ensures passwords have at least eight (8) characters and are hard to guess. The Customer must see to it that Users are educated about choosing proper passwords and that passwords are changed on indication or suspicion of compromise.

2.3.   The Customer is responsible for managing Users and Authentication Credentials issued to Users. Users and Authentication Credentials are unique to a specific individual and shall not be shared with other individuals, or third parties. The Customer recognizes that the protection of Authentication Credentials forms an integral part of its own security policies and procedures and ensures that the necessary measures are taken to adequately protect the Authentication Credentials to access Services.

2.4.   The Customer shall be solely responsible for all activities that occur under Authentication Credentials that have been issued to its Users. SD Worx reserves the right to disable any User access, at any time, if in SD Worx's opinion the account has been compromised or in the event activities do not comply with the provisions of the Agreement.

2.5.   It is the exclusive responsibility of the Customer to indicate and request changes in Users or access rights to SD Worx. The Customer shall periodically and at least annually review Users and access rights to the Services and shall communicate required changes to SD Worx in a timely manner. Upon request of the Customer, SD Worx shall provide the Customer with a report of all Users of the Services and their access rights.

3.   VULNERABILITY TESTING

The Customer shall not on its own initiative execute or have executed any penetration test (also called "ethical hacking") or security test on SD Worx's systems. Such tests can only be executed upon prior written approval of SD Worx. The Customer may request a penetration test to verify the security level and the resistance to potential attacks originated from public networks, taking into account a four (4) weeks' notice. The test will be executed by a third party agreed between the Parties. The scope, test schedule and obligations will be described in a separate security testing authorization agreement. All costs and expenses of such penetration test shall be borne by the Customer.

4.   SECURITY INCIDENT HANDLING

4.1.   Each Party shall notify the other Party of any breach of the provisions of this Annex that occur and potentially impact the Services or the confidentiality, integrity or availability of Customer Data ("**Security Breach**") without undue delay after having become aware of it.

4.2.   The Parties shall reasonably cooperate to investigate Security Breaches.

4.3.   A Party's obligation to notify or respond to a Security Breach will not be construed as an acknowledgement by that Party of any fault or liability with respect to the Security Breach.

APPENDIX 2.1 TECHNICAL AND ORGANIZATIONAL MEASURES

Domain	Practices
Information Security Policy and Organization of Information Security	**Ownership for Security and Data Protection.** SD Worx has appointed a Risk & Security Officer responsible for coordinating and monitoring the security rules and procedures as well as data protection compliance. **Security Roles and Responsibilities.** Security responsibilities of SD Worx co-workers are formally documented and published in security and privacy policies. **Risk Management Program.** SD Worx executes periodical risk assessments of the implemented security controls.
Human Resources Security	**Confidentiality obligations.** SD Worx co-workers are subject to confidentiality obligations and these are integrated into employment contracts. **Security and privacy training.** SD Worx informs its co-workers about relevant security measures to protect Customer Data. **Termination.** SD Worx ensures according to formal security administration procedures that access rights are timely revoked upon termination.
Asset Management	**Asset Inventory.** SD Worx maintains an inventory of all computing equipment and media used. Access to the inventories is restricted to authorized SD Worx personnel. **Asset Handling** - Data on portable devices are encrypted. - SD Worx has procedures for securely disposing of media and printed materials that contain confidential data.
Cryptography	Encryption of Customer Data is performed according to formal processes and encryption standards. SSL/TLS encryption mechanisms follow the highest standards only using strong ciphers and at least 128-bit encryption.
Physical and Environmental Security	**Physical Access to Facilities.** - SD Worx limits access to facilities where Customer Data are processed to identified and authorized individuals. - Physical access to data centres is only granted following a formal authorization procedure and access rights are reviewed periodically **Protection from Disruptions.** SD Worx uses a variety of industry standard systems to protect its data centres against loss of data due to power supply failure, fire and other natural hazards.
Access Control	**Access Policy.** SD Worx enforces an access control policy based on need-to-know and least privileges principles. **Access Authorization** - SD Worx has implemented and maintains an authorization management system that controls access to systems containing Customer Data. - Every individual accessing systems containing Customer Data has a separate, unique identifier/username. - SD Worx restricts access to Customer Data to those individuals who require such access to perform their job function. **Authentication** - SD Worx uses industry standard practices to identify and authenticate Users who attempt to access SD Worx network or information systems, including strong authentication. - Where Authentication Credentials are based on passwords, SD Worx requires that the passwords are at least eight characters long and sufficiently complex. - De-activated or expired identifiers/usernames are not granted to other individuals. - Accounts will be locked out in case of repeated attempts to gain access to the information system using an invalid password. - SD Worx maintains practices designed to ensure the confidentiality and integrity of passwords when they are assigned and distributed, and during storage. **Network access.** SD Worx maintains control measures (e.g. firewalls, security appliances, network segmentation) to provide reasonable assurance that access from and to its networks is appropriately controlled.
Operations Security	**Data Recovery Procedures** - On an ongoing basis, but in no case less frequently than once a day (unless no data has been updated during that period), SD Worx maintains backup copies of Customer Data for recovery purposes. - SD Worx stores copies of Customer Data and data recovery procedures in a different place from where the primary computer equipment processing the Customer Data is located. **Malicious Software.** SD Worx maintains anti-malware controls to help avoid malicious software gaining unauthorized access to Customer Data. **Security updates.** Security patches are followed-up and installed following a documented security patch management process. **Event Logging.** SD Worx logs access and use of its information systems containing Customer Data, registering the access ID, time and relevant activity.

Communications Security	**Network Segregation.** SD Worx has implemented a network segmentation policy and controls to avoid individuals gaining access to communication and systems for which they have not been authorized. **Transfer outside own network.** SD Worx encrypts, or provides the mechanisms to the Customer to encrypt, customer information that is transferred across public networks. **Information Transfer.** Any transfer of Customer Data to third parties is only performed when authorized and following the execution of a formal written non-disclosure agreement.
System Acquisition, Development & Maintenance	**Security Requirements.** Requirements for protecting data and systems are analysed and specified. **Change Control.** SD Worx has implemented a formal change management process to ensure changes to operational systems and applications are performed in a controlled way.
Supplier Relationships	**Supplier Selection.** SD Worx maintains a selection process by which it evaluates the security and privacy and practices of a subcontractor with regard to data handling. **Contractual Obligations.** Suppliers with access to Customer Data are subject to data protection and security obligations and these are formally integrated into supplier contracts.
Information Security Incident Management	**Incident response.** SD Worx maintains a record of security breaches with a description of the breach, the time period, the consequences of the breach, the name of the reporter, and to whom the breach was reported. **Incident notification.** For each security breach that impact the confidentiality or integrity of Customer data, notification by SD Worx will be made without unreasonable delay.
Business Continuity Management	**Disaster Recovery.** SD Worx maintains a disaster recovery plan (DRP) for the facilities in which SD Worx information systems that process customer data are located. The DRP is tested at least annually. **Redundancy.** SD Worx's redundant storage and its procedures for recovering data are designed to attempt to reconstruct customer data in its last-replicated state from before the time it was lost or destroyed.
Compliance	**Security Reviews.** Information security controls are independently audited and reported to management on a periodical basis.

N.B. (1) With regard to components that the Customer provides or controls, including but not limited to workstations connected to SD Worx Services, data transfer mechanisms used and credentials issued to Customer personnel, the Customer shall implement and maintain the required technical and organizational measures for data protection. (2) To the extent SD Worx provides Services on the Customer's systems or premises, to use reasonable efforts to perform the Services in accordance with the Customer's reasonable security related policies and procedures, including the applicable technical and organizational measures for data protection, as applicable on the relevant systems and premises and which do not conflict with the Agreement, if communicated to SD Worx and the relevant SD Worx staff beforehand. If a change in such Customer policies and procedures results in incremental costs to SD Worx, SD Worx will pass the proven incremental costs on to the Customer upon notifying the Customer thereof.

ANNEX 3: DATA PROCESSING AGREEMENT

1. **INTERPRETATION**

1.1. This Data Processing Agreement forms an integral part of the Agreement. The provisions of the Agreement therefore apply to this Data Processing Agreement. All capitalized terms not defined in this Data Processing Agreement will have the meaning set out in the Agreement.

1.2. This Data Processing Agreement constitutes the entire agreement and understanding between the Parties in respect of the subject matter hereof and supersedes, cancels and nullifies any previous provisions agreed between the Parties in relation to such subject matter.

1.3. In case of conflict between any provision in this Data Processing Agreement and any provision of another part of the Agreement, this Data Processing Agreement shall prevail.

2. **SCOPE AND PURPOSE**

In connection with and for the purpose of the performance of the Services under the Agreement, the Customer instructs SD Worx to Process such Personal Data on its behalf in accordance with the provisions of the present Data Processing Agreement. A more detailed description of the instructions and purposes for the Processing of Personal Data is contained in ***Appendix: Details of the Personal Data processing*** hereto and in the relevant Statement of Work.

3. **SPECIFICATION OF THE DATA PROCESSING**

3.1. The Parties shall comply with the applicable Data Protection Legislation. However, unless explicitly agreed otherwise, SD Worx is not responsible for compliance with any Laws applicable to the Customer or the Customer's industry that are not applicable to SD Worx. If compliance therewith requires any actions with regard to data protection on the part of SD Worx in addition to the obligations set out in this Data Processing Agreement, such actions will only be taken upon mutual agreement between the Parties. In any event, the Customer will provide reasonable advance notice of the required actions, cooperate fully with SD Worx in respect thereof and compensate SD Worx for any such efforts that require additional services or investment or modifications in the Services.

3.2. For the performance of the Services, SD Worx is a Processor acting on behalf of the Controller, in particular the Customer or as the case may be the Customer's Affiliate(s). The Customer warrants and represents that it is and will at all times remain duly and effectively authorised to give the instructions set out in this Data Processing Agreement and, as the case may be, in the relevant Statement(s) of Work on behalf of each Affiliate (who may be, as the case may be, the Controller for the processing of Personal Data), including where SD Worx is to provide services to Affiliates other than the signatories of the Agreement and/or the relevant Statement(s) of Work. As a Processor, SD Worx will only act upon Customer's instructions (for the purpose of the Agreement, acting on its own behalf and on behalf of its Affiliates). The Agreement, including this Data Processing Agreement, is Customer's complete instruction to SD Worx with regard to the Processing of Personal Data. Any additional or alternate instructions must be given in writing and agreed by the Parties.

3.3. A more detailed description of the subject matter of the Processing of Personal Data in terms of the concerned categories of Personal Data and of Data Subjects (envisaged Processing of Personal Data) is contained in ***Appendix: Details of the Personal Data processing*** hereto.

3.4. SD Worx shall direct to the Customer or the relevant Controller directly, any requests of Data Subjects, Personal Data Breach notifications, requests for audit or investigation or any other requests. The Customer shall subsequently internally distribute such request or notifications to the relevant Controller.

3.5. Notwithstanding the above or anything to the contrary in this Data Processing Agreement, SD Worx shall be entitled to Process the Personal Data as Controller for the purposes of improving its services (including the Services) and of carrying out scientific, statistical or historic research, such as benchmarking operations, through the anonymization of Personal Data and providing the results thereof to its customers (such as the Customer). Such Processing is carried out for purposes related to SD Worx's legitimate interest in providing to its customers (such as the Customer) or otherwise making available anonymous information regarding aspects in relation to which SD Worx provides services. This includes but is not limited to trends in the sector in which SD Worx's customers operate, renumeration benchmarking, or any other observations (aggregate or not) that can benefit SD Worx's customers. As Controller, SD Worx remains solely liable and responsible for such Processing.

4. **DATA SUBJECT RIGHTS**

4.1. Taking into account the nature of the processing and only to the extent that the relevant information or means are not otherwise at the Customer's disposal, SD Worx shall assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the rights of the Data Subject as laid down in Chapter III of the GDPR.

4.2. Should a Data Subject directly contact SD Worx wanting to exercise any of such rights, SD Worx will direct such Data Subject to the Customer. SD Worx may provide the Customer's and/or its Contact Persons' basic contact information to such Data Subject.

5. **DISCLOSURE**

5.1. SD Worx will not disclose Personal Data to any third party, except (i) as the Customer instructs, (ii) as stipulated in the Agreement, (iii) as required for Processing by approved Sub-processors in accordance with Article 7 or (iv) as required by Law. If the Customer instructs SD Worx to transfer the Personal Data to a Third Party Stakeholder, the Customer is and remains solely responsible to enter into written agreements with such Third Party Stakeholder regarding the protection of such Personal Data, and the Customer shall indemnify, defend and hold SD Worx harmless against any and all Losses arising from a transfer of Personal Data between SD Worx and such Third Party Stakeholder, unless and to the extent such Losses are attributable to proven defaults of SD Worx.

5.2. SD Worx represents and warrants that persons authorized to Process Personal Data, have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

6. **CONSULTATION, DELETION AND RETURN OF PERSONAL DATA**

6.1. Upon termination of the Agreement or the relevant Statement of Work, SD Worx shall delete or anonymize all Personal Data on its systems (without prejudice to any backups made for recovery purposes which are retained for no longer than six (6) months) at the latest sixty (60) calendar days after the Last Effective Date of the Agreement or the relevant Statement of Work, unless instructed otherwise by the Customer.

6.2. Upon written request submitted by the Customer no later than thirty (30) calendar days prior to the Last Effective Date of the Agreement or the relevant Statement of Work, SD Worx will provide the Customer with a copy of the live Personal Data on its systems on the Last Effective Date of the Agreement or the relevant Statement of Work.

6.3. SD Worx will provide the Customer, within a reasonable period of time after having received such written request, with the ability to consult and to correct the Personal Data being processed under the provision of the Services, and a copy of such Personal Data.

7. **USE OF SUB-PROCESSORS**

7.1. The Customer acknowledges and expressly agrees that SD Worx may transfer Personal Data to Sub-processors for the provision of the Services if such transfer is done in accordance with the terms of the present this Article 7. Upon signature of the present Data Processing Agreement, the Customer authorises the use of the Sub-processors on the list of Sub-processors as set out in this Data Processing Agreement or Statement of Work.

7.2. SD Worx will enter into written agreements with any such Sub-processor which contain obligations no less protective than those contained in this Data Processing Agreement. SD Worx remains fully liable for any such Sub-processor's compliance with its obligations under such agreement.

7.3. Before authorizing a new Sub-processor to Process Personal Data in connection with the provision of the Services, SD Worx will inform the Customer about such intended changes concerning the addition or replacement of Sub-processor (s).

7.4. If the Customer reasonably objects to the Processing of Personal Data by one or more such new Sub-processors, the Customer shall notify SD Worx in writing (including e-mail) within thirty (30) calendar days after receipt of SD Worx's notice.

7.5. In the event the Customer objects to such a new Sub-processor, SD Worx will use reasonable efforts to change the affected Services or to recommend a commercially reasonable change to the Customer's use of the affected Services to avoid the Processing of the Personal Data by the Sub-processor concerned. If SD Worx is unable to make available or propose such change within sixty (60) calendar days, the Customer may terminate upon Notice the relevant part of the Agreement regarding those Services which cannot be provided by SD Worx without the use of the Sub-processor concerned in accordance with the provisions of the Agreement.

7.6. Any Sub-processors to whom SD Worx transfers Personal Data will be permitted to obtain Personal Data only to deliver the services SD Worx has entrusted them with and will be prohibited from Processing Personal Data for any other purpose.

8. **TRANSFERS TO THIRD COUNTRIES**

Subject to Article 7, if SD Worx, for the performance of the Services, transfers Personal Data to third countries, SD Worx will ensure such transfer takes place in accordance with applicable Data Protection Legislation (including the execution of Standard Contractual Clauses).

9. **TECHNICAL AND ORGANISATIONAL MEASURES**

9.1. SD Worx assists the Customer in ensuring compliance with its obligations pursuant to Article 32 of the GDPR taking into account the nature of processing and the information available to SD Worx.

9.2. SD Worx has implemented and will maintain appropriate technical and organizational measures intended to protect Personal Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss or destruction. The present technical and organizational measures are described in ***Appendix to General Security Terms*** of ***Annex 2: General Security Terms*** of this Master Services Agreement. SD Worx shall adapt such measures systematically to the development of regulations, technology and other aspects and supplemented with the applicable technical and organizational measures of Sub-processors, as the case may be. In any event, the implemented technical and organizational measures shall ensure a level of security appropriate to the risks represented by the Processing and the nature of the Personal Data to be protected, taking also into account the state of the art, the cost of their implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

9.3. During the term of this Data Processing Agreement, the Customer may request SD Worx to provide the Customer within a reasonable period of time with an updated description of the implemented technical and organizational protection measures.

10. **PRIVACY AND DATA PROTECTION REPRESENTATIVE**

10.1. SD Worx has appointed a Data Protection Officer responsible for privacy and data protection matters. This Data Protection Officer can be reached at the following address:

SD Worx Group

Attn: Data Protection Officer

Brouwersvliet 2

2000 Antwerp, Belgium

dataprotectionofficer@sdworx.com

11. **PERSONAL DATA BREACH**

11.1. In the event of a Personal Data Breach and irrespective of its cause, SD Worx shall notify the Customer without undue delay after having become aware of such Personal Data Breach, specifying where known or readily identifiable:

a) the nature of the Personal Data Breach;

b) the categories and approximate number of Data Subjects and Personal Data records concerned;

    c) as the case may be, the remedial actions taken or proposed to be taken to address the Personal Data Breach, to mitigate its effects and to prevent re-occurrence;

    d) the identity and contact details of the Data Protection Officer or another Contact Person from whom more information can be obtained;

    e) likely consequences of the Personal Data Breach.

11.2. The Customer must notify SD Worx without undue delay about any possible misuse of its Authentication Credentials or any security issue related to its use of the Services.

11.3. The Party responsible for the Personal Data Breach shall without undue delay further investigate the Personal Data Breach and shall keep the other Party informed of the progress of the investigation and take reasonable steps to further minimize the impact. Both Parties agree to fully cooperate with such investigation and to assist each other in complying with any notification and communication requirements and procedures as per the Data Protection Legislation.

11.4. A Party's obligation to report or respond to a Personal Data Breach is not and will not be construed as an acknowledgement by that Party of any fault or liability with respect to the Personal Data Breach.

12. DATA PROTECTION IMPACT ASSESSMENTS

Where the Customer executes a data protection impact assessment (DPIA) or performs a prior consultation as per the Data Protection Legislation, SD Worx shall assist the Customer, only to the extent that the relevant information or means are not otherwise at the Customer's disposal, taking into account the nature of processing and the information available to SD Worx.

13. NOTIFICATIONS

13.1. Unless legally prohibited from doing so, SD Worx shall notify the Customer as soon as reasonably possible if it or any of its Sub-processors, with regard to the Customer's Personal Data:

    a) receive an inquiry, a subpoena or a request for inspection or audit from a competent public authority relating to the Processing;

    b) intend to disclose Personal Data to any competent public authority outside the scope of the Services of the Agreement. At the request of the Customer, SD Worx shall provide a copy of the documents delivered to the competent authority to the Customer;

    c) receive an instruction that in the opinion of SD Worx infringes the Data Protection Legislation and/or the obligations of this Data Processing Agreement

13.2. Any notification under this Data Processing Agreement will be delivered to one or more of the Customer's Contact Persons. Upon request of the Customer, SD Worx shall provide the Customer with an overview of the contact information of the registered Customer's Contact Persons. It is Customer's sole responsibility to timely report any changes in contact information and to ensure Customer's Contact Persons maintain accurate contact information.

14. COMPLIANCE & AUDIT

14.1. SD Worx will demonstrate its compliance with this Data Processing Agreement by making available upon request of the Customer all information necessary to demonstrate such compliance.

14.2. The Customer is entitled to reasonably verify SD Worx's compliance with such obligations. To this extent, the Customer may, upon request in writing and with prior notice of thirty (30) calendar days, at its own expense instruct acknowledged audit professionals to execute such audit:

    a) once every twelve (12) months provided that such additional audit inquiries shall not unreasonably impact in an adverse manner SD Worx's regular operations and do not prove to be incompatible with the applicable legislation or with the instructions of a competent authority; or

    b) where a competent data protection authority requires this under applicable Data Protection Legislation; or

    c) following a Personal Data Breach.

14.3. Before the commencement of any such audit inquiries, the Customer and SD Worx shall mutually agree upon the scope, timing and duration of the audit.

14.4. The Customer shall promptly notify SD Worx with information regarding any non-compliance discovered during the course of additional audit inquiries. The Customer agrees to provide SD Worx with a draft of the audit report for review. SD Worx is entitled to propose any amendments and to add management comments to this draft before the Customer establishes the final version.

14.5. During such audit, SD Worx shall provide reasonable cooperation and assistance to the auditors. The Customer shall not be entitled to claim compensation for any kind of audit expenses incurred by the Customer.

14.6. The SD Worx audit report, any other information to which the Customer or the aforementioned audit professionals have access pursuant to any audit activities, as well as an attestation of the implementation of the technical and organizational measures to protect Personal Data will be considered SD Worx confidential information.

15. ASSISTANCE

SD Worx shall be entitled to invoice the Customer on a time and material basis at the then-current applicable fees for any assistance as set out in Articles 12 and 14.5, and for the execution of requests as set out in Articles 6.2 and 6.3. These fees will be made available to the Customer upon request and, in any case, before the commencement of any such assistance or execution.

16. TERM AND TERMINATION

This Data Processing Agreement remains in force until Processing of Personal Data by SD Worx is no longer required (including in accordance with legal retention requirements as per applicable Law) (i) in the framework of or pursuant to the Agreement or (ii) for a period after termination of the Agreement or the relevant Statement of Work in accordance with the Customer's explicit instructions.

17. **APPLICABLE LAW**

This Data Processing Agreement and any rights and obligations arising out of it shall be interpreted according to and governed by the Laws governing the Agreement, except if an Article or provisions dictates the application of another Law. If the Personal Data are protected by EU Data Protection Laws, such EU Data Protection Laws will in any event prevail.

APPENDIX 3.1 - DETAILS OF THE PERSONAL DATA PROCESSING

1.   THE DATA SUBJECTS

Data Subjects may include the following: present and former job candidates, employees, contractors, agents and other collaborators of the Customer, as well as third parties who are appointed by the aforementioned persons as family members or contact persons.

2.   CATEGORIES OF PERSONAL DATA

The Personal Data transferred concerns all relevant information that is required to deliver the requested Services, which may include (a subset of) the following categories of data:

a) Personal details such as name, birth date, etc.;

b) Contact details such as address, e-mail address, telephone number, etc.;

c) Marital status and information on partner and children ;

d) Payment details, including bank account number;

e) Employee number;

f) Job (description);

g) Employee contract data including but not limited to gross salary, compensations and other employee benefits;

h) Social security number (if required for government declarations), such as Rijksregisternummer (INSZ) in Belgium or Burgerservicenummer (BSN) in the Netherlands;

i) Expenses;

j) Time registration and absence information;

k) Qualifications, including CV and references;

l) Information regarding education, training, etc. the Data Subject has received or will follow;

m) Information regarding personal development and evaluations;

n) Authentication Credentials to use the Services, such as username, IP address, PC Name, etc.;

o) Activities performed by Customer users in their use of the Services;

p) Any other category of Personal Data agreed upon between Parties in the relevant Statement of Work or any other document of the Agreement.

Customer's data fields can be partly configured as part of the implementation of the Services or as otherwise permitted within the scope of the Services.

3.   PURPOSES OF THE PROCESSING OF PERSONAL DATA

Personal Data will be Processed for the purpose of the performance of the Services under the Agreement including the following purposes:

a) Employee HR administration;

b) Payroll and employee benefits administration;

c) Compliance with social and fiscal Laws;

d) Management of employee development and training plans;

e) Personal development and performance evaluation of employees;

f) Work planning and organization;

g) Specific scientific, historic, or statistical research per Customer's instruction;

h) Providing access to information systems and premises;

i) Specific improvement or tailoring of the Services per Customer's instruction ;

j) Compliance with Data Protection Legislation, information security requirements and service level agreements;

k) Claims management with and between the Customer, SD Worx, the Data Subject(s) and/or third parties, including beyond termination of the Agreement for any reason whatsoever;

l) Any other purpose of Processing of Personal Data agreed upon between Parties in the relevant Statement of Work or any other document of the Agreement.

For the avoidance of doubt, Personal Data will be Processed beyond termination of the Agreement for the purposes established in c) and k).