General Terms & Conditions

NextNovate b.v.

NextNovate

Digital workplace specialists

Contents

General terms

1 Definitions

- **NextNovate:** an enterprise that is part of NextNovate B.V. – in the meaning of article 2:24a, b or c of the Netherlands Civil Code – as specified in the Agreement.

- **Third Party Software:** software the intellectual property rights to which are vested in other parties than NextNovate.

- **Service(s):** activities under and in accordance with the Agreement to be performed by NextNovate in relation to making the functionality of the Software available and keeping it available during the period of time agreed upon.

- **Error(s):** this is understood to mean the situation where the Software or hardware substantially fails to meet the specifications with respect to the Software or hardware as these have been made explicitly known by NextNovate in writing. Any error is only considered to be an error if Client can demonstrate it and if it can be reproduced.

- **Business Hours:** 08:30 until 17:00 hours on weekdays, not being national holidays and Sundays.

- **Software:** the software application(s) and user documentation agreed upon in the Agreement.

- **Client:** the legal or natural person NextNovate enters into the Agreement with.

- **Agreement:** a (written) Agreement, including its appendices, between NextNovate and Client, in which NextNovate undertakes to deliver to Client one or more Products and/or Services, on payment by Client of the relevant price.

- **Parties:** Client and NextNovate together.

- **Service Level Agreement (SLA):** the specific terms and conditions under which NextNovate performs support and maintenance services for Client with respect to the Software.

2 Applicability

2.1   These general terms and conditions apply to every offer made by NextNovate and to each Agreement.

2.2   The applicability of any general terms and conditions applied by Client is explicitly rejected.

2.3   NextNovate is entitled to change these general terms and conditions unilaterally. In that event NextNovate informs Client in time of the changes. This notification and the date the changed terms and conditions take effect are at least two (2) months apart and Client is entitled to terminate the Agreement within this two-month period

by giving a thirty-day (30) notice of termination.

2.4 If a provision or part of a provision in these general terms and conditions should be null and void or should be voided, the other provisions in these general terms and provisions continue to apply in full. Parties will then consult each other to replace this provision or part of the provision, observing as much as possible the purpose and the purport of the provision or part of a provision that is null and void or has been voided.

3 Offers

3.1 All of NextNovate's offers are without obligation and never remain valid for more than one (1) month following the date of the offer, unless NextNovate explicitly indicates otherwise in writing. When an offer is forwarded, any previous offers relating to the same project are cancelled.

3.2 Client represents and warrants that the information provided by Client is correct and complete.

4 Rates and other financial provisions

4.1 All prices are in euros and exclusive of turnover tax (VAT) and other levies imposed by the authorities.

4.2 Payments by Client are to be made by means of direct debiting, unless otherwise agreed. If NextNovate has agreed to payment by invoicing, payments are to be made, within thirty (30) days following the invoice date, into the bank account indicated by NextNovate, unless explicitly agreed otherwise in writing.

4.3 In the event Client should be under a periodic payment obligation, NextNovate may adjust the applicable rates and prices, in writing, observing a notification period of at least three (3) months. If Client does not agree to the adjustment, Client is entitled to terminate the relevant Agreement by serving notice of termination in writing, within thirty (30) days following the notification of the adjustment and effective from the date on which the new prices and/or rates would take effect.

4.4 As per 1 January of each year, NextNovate may index its rates and prices in accordance with the price index of Statistics Netherlands (*Centraal Bureau voor de Statistiek*). Client's right to terminate the relevant Agreement as meant in article 4.3 of these general terms and conditions does not apply to this indexation.

4.5 NextNovate informs Client about the intended adjustments to its rates and prices as referred to in the previous paragraph at least one (1) calendar month before these take effect.

4.6 Client is not entitled to set off any amounts due and payable or to suspend any payments.

4.7 In the event Client should fail to make a payment or to make the payment in time or in the event Client should fail to meet any of its obligations or should fail to meet these properly, NextNovate is entitled to terminate the Agreement for breach (*ontbinden*) out of court and to cease any further delivery or performance of activities and/or Services, notwithstanding NextNovate's right to demand specific performance by Client or to demand compensation of damages suffered as a result of the termination (*ontbinding*) of the Agreement.

4.8 In the event Client challenges, in part or in whole and well-founded, an invoice received from NextNovate, Client informs NextNovate about this in writing, as soon

as possible but at the latest ten (10) working days after the invoice was sent, thereby explicitly stating the reasons for challenging the invoice. In that event Client's obligation to pay the challenged invoice or the challenged part of the invoice is suspended until Parties have reached agreement on the question whether the amount challenged by Client should or should not be paid, or until a court has established Client's obligation to pay. In the event it should be established that the amount challenged by Client is indeed payable by Client to NextNovate, statutory commercial interest pursuant to article 6:119a DCC is payable by Client to NextNovate from the moment the payment term of the relevant invoice was exceeded. Without prejudice to its other rights, including the right to terminate the Agreement (*ontbinding*), NextNovate has the option to suspend the performance of the Service and to block Client's access to the Software in part or in whole in the event Client, even after a payment demand has been made, leaves unchallenged invoices or parts of invoices for the Service or other services unpaid.

4.9   Rights are always granted to Client or, where relevant, transferred to Client on condition that Client pays the fees agreed upon in time and in full.

5   Transfer

5.1   Client is not granted the right to use the Software until Client has met its payment obligations under the Agreement.

5.2   Title to the goods delivered does not pass to Client until Client has met the relevant payment obligations under the Agreement. The risk of loss, theft or damage of goods and data passes to Client at the moment these goods and data are at Client's disposal.

6   Complaints

6.1   Unless otherwise agreed, Client must notify, in writing and with a clear description of the complaint(s), NextNovate of complaints about Software and Services within thirty (30) days after the Software has been forwarded or has first been made available, online or otherwise, or after the Services have been delivered. If no such notification takes place, any claim with respect to Errors in the products and/or Services delivered will lapse.

7   Term and termination of the Agreement

7.1   An Agreement is entered into – where applicable with retroactive effect – at the moment NextNovate first performs activities in the context of the Agreement, unless Parties explicitly depart from this provision in the Agreement.

7.2   Parties cannot terminate an Agreement entered into for a definite period of time, nor an Agreement which in its nature and content is discharged by fulfilment, by giving notice of early termination (*tussentijds opzeggen*).

7.3   An Agreement that is entered into for a definite period of time, is tacitly renewed each time by a period of one (1) year, unless it is terminated by giving notice of termination, thereby observing a notice period of three (3) months before the end of the year, unless explicitly agreed otherwise.

7.4   Parties can terminate an Agreement entered into for an indefinite period of time and which in its nature and content is not discharged by fulfilment, by giving notice of termination (*opzeggen*). Termination (*opzegging*) must be effected by registered letter,

thereby observing a notice period of six (6) months, unless explicitly agreed otherwise. NextNovate will not be obliged to pay damages as a result of the termination (*opzegging*).

7.5 Either Party may terminate, in part or in whole, an Agreement for breach (*ontbinden*), without a notice of default being required, in the event of the other Party's liquidation, (provisional) suspension of payment, cessation of business activities or termination of business activities other than as a result of a merger, division or a change in the actual control of the other Party.

8 Liability

8.1 NextNovate's total, cumulative liability, on whatever legal basis (including an obligation to indemnify or a breach of a warranty) is limited to the compensation of direct damages to the maximum price stipulated for the relevant Agreement. If the relevant Agreement is, in principle, a continuing performance contract which has a term of more than one (1) year, the price stipulated for the Agreement is set at the total sum of the fees stipulated for one (1) year. NextNovate's total, cumulative liability for directly attributable damages never exceeds the sum of two hundred and fifty thousand euros (€ 250,000). A number of consecutive or related events is seen as one (1) event.

8.2 NextNovate's liability for damage caused by death or bodily injury or caused by substantive damage to goods never amounts, in total, to more than one million two hundred and fifty thousand euros (€ 1,250,000).

8.3 Direct damages are exclusively understood to mean:
   a) the reasonable costs incurred by Client to have NextNovate's performance comply with the Agreement. These damages are not compensated, however, if this Agreement has been terminated for breach (*ontbinden*);
   b) the extra costs, within reason and demonstrable, incurred by Client to keep Client's old system or systems and the facilities connected with this or these;
   c) the costs, within reason, incurred by establishing the cause and the extent of the direct damage;
   d) the costs, within reason, incurred to prevent or limit the damage, in so far as Client demonstrates that these costs have resulted in a limitation of the damages.

8.4 The exclusions and limitations in this article cease to apply if the damage is caused by intent or wilful recklessness of NextNovate's management.

8.5 The right to compensation of damages exclusively arises provided always that Client notifies NextNovate's management, in writing, of the damage as soon as possible after it has occurred. Any claim for compensation of damages filed against NextNovate expires twelve (12) calendar months after its inception, unless Client has taken legal action for compensation of damages before this term has lapsed.

9 Force Majeure

9.1 Neither NextNovate nor Client is obliged to meet any of its obligations if it is unable to do so because of circumstances beyond its control.

9.2 Circumstances beyond a party's control are understood to include: (i) circumstances beyond the control of NextNovate's suppliers; (ii) failure by a supplier to meet its

obligations properly – which supplier NextNovate was instructed by Client to engage; (iii) defective condition of goods, materials and/or Third Party Software that Client instructed NextNovate to use; and (iv) measures by authorities, power cuts, breakdown of the internet, of data network or telecommunication facilities, shortages in staffing, the unavailability of one or more members of staff, strike, general transportation problems, consequences of pandemics.

9.3   If a force majeure situation lasts more than ninety (90) days, either Party is entitled to terminate an Agreement in writing. Any activities already performed under that Agreement at that moment will then be settled pro rata, without Parties owing anything to each other.

10   Intellectual property and right to use

10.1   All intellectual property rights to Software, hardware, data files, documentation, or other materials that have been developed or made available to Client under the Agreement, remain exclusively vested in NextNovate or its suppliers.

10.2   NextNovate grants Client a right to use the Software and user documentation delivered under the Agreement for the duration of the Agreement. This right to use is non-exclusive, non-transferable, non-pledgeable and may not be sublicensed.

10.3   Client is not entitled to modify the Software without NextNovate's prior permission in writing. With respect to any Software for which Parties have explicitly agreed that NextNovate will provide the source code to Client, Client is exclusively granted the right to modify this Software for its own use. As from that moment, NextNovate is no longer responsible for managing and maintaining the Software.

10.4   NextNovate indemnifies Client and holds Client harmless against any claims by third parties which are based on the allegation that the use of the Software, hardware, data files or documentation delivered by NextNovate under the Agreement infringes any intellectual property right of that third party. This indemnity exclusively applies on condition that Client promptly informs NextNovate, in writing, about the existence and content of the claim and on condition that Client leaves handling the claim and possibly settling it entirely to NextNovate. NextNovate does not indemnify Client against claims relating to any of the Third Party Software delivered if the infringement concerns a modification that Client has made, without NextNovate's written permission, in the material mentioned in this article 10.

11   Acceptance

11.1   In the event Parties have not agreed upon an acceptance procedure, the Software is considered to have been accepted when it is actually put into use.

11.2   In the event Parties have agreed upon an acceptance procedure, NextNovate is considered to have met its obligation to deliver and install following acceptance by Client.

11.3   An Error in the Software or hardware can never be reason for Client not to accept the Software or hardware if that Error does not prevent the Software or hardware from actually being put into use.

11.4   If it should appear during the acceptance procedure that the Software contains an Error other than an Error referred to in 11.3, NextNovate makes the effort, within reason and within the context of the order agreed upon, to repair this Error provided

that Client has informed NextNovate about this in writing. NextNovate is entitled to repair such Error by means of temporary solutions, workarounds of by applying restriction in the Software that avoid the problem, in which case NextNovate makes the effort to provide, as much as possible, a structural solution, in all reasonableness and within the context of the order agreed upon.

12 Warranties

12.1 NextNovate will make every effort, to the best of its abilities, to see to it that any Errors in the Software and/or hardware are repaired within a reasonable period of time, provided NextNovate has been notified of these Errors, in detailed writing, within a period of three (3) months after the moment referred to in article 11.4. NextNovate neither guarantees that the Software is fit for the intended use in so far as this intended use has not been explicitly agreed upon in writing, nor guarantees that the Software will operate without interruptions and/or that all Errors can or will be repaired.

12.2 Client is obliged to test, without delay and properly, any Error that has been repaired. Should Client not report to NextNovate what the status of the Error is within one (1) week, the Error will be considered to have been repaired.

12.3 The warranty obligations end in the event Errors are the result, in part or in whole, of incorrect, uncareful or incompetent use of the Software and/or hardware or if Client has made modifications to the Software and/or hardware without NextNovate's permission, of has these made.

12.4 NextNovate is not obliged to restore any corrupt or lost data, except where NextNovate should be obliged to do so pursuant to the general data protection regulation or a (processing) agreement entered into by Parties.

12.5 NextNovate is not obliged to repair Errors that are reported after the warranty period described in this article has lapsed. NextNovate makes the effort, charging this retrospectively, to repair Errors that are reported after the warranty period.

12.6 In the event Next Novate assists in repairing a defect other than an Error, NextNovate is not obliged to comply with the service level agreed upon in the Service Level Agreement or with any other obligations and the costs incurred by its assistance will be at Client's expense.

13 Software of third parties: Third Party Software

13.1 Parties agree that NextNovate, in its capacity as supplier, does not act as legal supplier of user rights where Third Party Software is concerned.

13.2 In the event NextNovate delivers Software and/or hardware of third parties to Client, the (licence) terms and conditions of that third party apply. These (licence) terms and conditions apply in addition to all other terms and conditions that Parties have agreed upon. NextNovate provides Client with a copy of these (licence) terms and conditions or with the hyperlink to the website on which these terms and conditions may be downloaded.

13.3 NextNovate does not bear any responsibility for any assistance – whether or not correct and in time – by the relevant third party for the realisation and the maintenance of the Third Party Software. The realisation and the proper functioning of the Third Party Software is the relevant third party's responsibility, not

NextNovate's responsibility.

13.4 In the event these (licence) terms and conditions of third parties are deemed not to apply between NextNovate and Client, for whatever reason, or are are declared inapplicable, the present general terms and conditions apply.

14 Data exchange

14.1 Client guarantees the accurateness, quality, integrity, lawfulness, reliability and suitability of the data delivered by Client. Client ensures that any relevant permission has been obtained for making available to NextNovate the data delivered for the performance of the Agreement, including collecting, using, processing, transferring and making personal data available, and for NextNovate to use these data.

15 Courses and trainings

15.1 Courses and trainings are not included in the delivery of Software and/or hardware, unless explicitly agreed otherwise in writing.

15.2 Registration for a course or training should take place in writing and is binding after NextNovate has confirmed it.

15.3 NextNovate is entitled to change the day or location of the course or training, or, where applicable, to cancel the course or training. Client is informed of this – if possible – at least two (2) weeks before the day the relevant course or training starts.

15.4 Client can cancel the course or training, free of charge, until two (2) weeks before the day the relevant course or training starts.

15.5 NextNovate determines the content of the course or training.

15.6 The relevant teaching material is included in the fee for the course or training and is handed out during the course or training.

15.7 The NextNovate teaching material is protected by copyright and may not be duplicated or be shared with third parties without NextNovate's permission.

15.8 NextNovate may request that Client should pay the fee due for the training or course before the training or course starts.

15.9 All fees quoted for trainings and courses are exclusive of travel and accommodation expenses.

16 Suspension and setoff

16.1 Pursuant to article 6:52 Netherlands Civil Code, Client is entitled to suspend the performance of its obligations, including its payment obligations, if NextNovate imputably fails to perform its obligations arising from the Agreement – including accompanying appendices – or fails to perform these in full or in time and provided there is sufficient coherence between the relevant obligation and the claim to justify the suspension. Client is not entitled to suspend its payment obligations under the Agreement – including its appendices – if this should result, considering NextNovate's failure to perform, in a disproportionate disadvantage for NextNovate. NextNovate is not entitled to suspend its obligations under the Agreement – including accompanying appendices – if this should result, considering Client's failure to perform, in a disproportionate disadvantage for Client.

16.2 Pursuant to article 6:127 Netherlands Civil Code Client is entitled to set off its payment obligations arising from the Agreement – including the accompanying

appendices – against any enforceable claims for payment arising from the Agreement, including the accompanying appendices. Client is not entitled to any setoff against claims for damages as long as these have not been irrevocably established in law. If a claim is statute-barred, Client is not entitled to any setoff either.

17 Software

17.1 Client is only entitled to use the Software in and for its own organisation or company and only insofar as required for the intended use.

17.2 Client is never entitled to sell, lease or alienate the Software, or to grant limited rights to it.

17.3 Parties agree that the Agreement entered into by parties is never construed as a purchase agreement where it concerns making software available for use.

17.4 In the event Parties have agreed upon this in writing, NextNovate installs Software and updates of the Software at Client's organisation or company. Client itself is obliged to parametrise the Software and to modify the existing application landscape.

18 Software maintenance

18.1 If Parties have agreed upon this, NextNovate performs maintenance activities, during Business Hours, with respect to the Software referred to in the Agreement. The maintenance obligation includes the repair of Errors in the Software and, if agreed upon in writing, making new versions of the Software available.

18.2 Client is to report, in detail, any Errors discovered in the Software. If Parties have agreed upon maintenance, NextNovate makes every effort, following receipt of the report, to repair Errors. NextNovate is entitled to apply temporary solutions (workarounds) in the Software or to propose these to Client.

18.3 In so far as possible, repair of Errors takes place at a location, in a way, for a duration and at a time to be determined by NextNovate.

18.4 NextNovate may temporarily take the Service out of use, in part or in whole, for preventive, corrective or adaptive maintenance or other types of service activities. Next Novate does not continue the out of use situation any longer than strictly required and performs these activities as much as possible outside Business Hours.

18.5 In the event Client is behind schedule with a subversion of the Software, NextNovate is entitled to charge Client for additional costs for maintenance activities. NextNovate is not obliged to provide maintenance if this maintenance is related to a certain Error that has been repaired in a new subversion of the Software.

18.6 Client renders every assistance required by NextNovate for the performance of maintenance activities.

19 Service Level Agreement / Back-ups

19.1 Possible arrangements about a service level (Service Level Agreement) are exclusively and explicitly agreed upon in writing. Parties always inform each other about any circumstances that could affect the service level and its availability.

19.2 If any arrangements have been made about a service level, the availability of Software, hardware and related services is always measured in such a way that

unavailability due to preventive, corrective or adaptive maintenance or other forms of service activities that NextNovate has notified Client of in advance and unavailability due to circumstances beyond NextNovate's control are not taken into account. Subject to proof to the contrary offered by Client, the availability measured by NextNovate is considered conclusive.

19.3 Client is responsible for making back-ups, unless explicitly agreed otherwise. Client itself is always responsible for a proper and complete back-up of its data and checking that a back-up is made.

20 Terms and deadlines

20.1 Any time frames agreed are approximates only and are exclusively considered strict deadlines if this has explicitly been agreed upon by Parties. In the event Parties have agreed strict deadlines, NextNovate is not liable for exceeding such deadline where exceeding this deadline does not result from any act or omission on the part of NextNovate.

21 Non-disclosure

21.1 Both Parties ensure that secrecy is observed with respect to all information received from the other Party, which information is known or could reasonably be known to be confidential, unless a statutory duty requires this information should be made public. The Party that receives the confidential data will exclusively use these data for the purpose for which they were provided. Data are in any event considered confidential if labelled as such by either Party and/or where personal data are concerned.

22 Non-solicitation

22.1 For the duration of the Agreement and one (1) year following the end of the Agreement, Client shall not employ any NextNovate staff, or engage this staff in any other direct or indirect way, without NextNovate's prior permission in writing. In the event Client should breach the provisions of this article, Client incurs a penalty amounting to € 10,000, which is immediately payable by Client, without neither judicial intervention nor prior notice of default being required, per breach, to be increased by € 1,000 per day – to a maximum of € 30,000 – for each day the breach continues.

23 Applicable law and choice of forum

23.1 Any offer made by NextNovate and each Agreement entered into between Parties is subject to the laws of the Netherlands.

23.2 Applicability of the Vienna Convention 1980 (The United Nations Convention on Contracts for the International Sale of Goods (CISG)) is excluded.

23.3 If any dispute should arise between Parties, they will first try to resolve the dispute in mutual consultation. If this should fail, Parties will do their best to solve the dispute through mediation. Mediation takes place at the *Stichting Geschillenoplossing Automatisering* (SGOA), (internationally known as: ITDR - experts in IT and data conflict management, (www.sgoa.eu)). The SGOA ICT Mediation Regulations apply. In order to give mediation a chance of success, Parties are obliged to actively

participate in the mediation proceedings. Therefore, Parties, whether jointly or separately, have to attend at least one meeting with the mediator.

23.4 If parties fail to find a solution themselves or via mediation, the dispute is resolved by means of arbitration in accordance with the SGOA Arbitration Regulations. This provision does not affect the right either party has to file for a decision in preliminary relief proceedings, either in court or through arbitration, all of this without prejudice to either party's right to file for provisional.

Standard provisions for processing

The provisions laid down in this chapter apply in addition to the general provisions of these general terms and conditions in so far as NextNovate processes Personal Data, in the context of the performance of the Agreement, for Client being Controller as meant in the legislation in the field of personal data protection. In so far as these provisions are in violation of the general provisions, the provisions in this paragraph prevail.

24 Definitions

- **Data Breach:** A breach of security leading to the accidental or unlawful destruction, loss, alteration, or unauthorized access to Personal Data transmitted, stored, hosted or otherwise processed as meant in article 4 paragraph 12 of the GDPR.

- **Personal Data:** The personal data as meant in the Applicable Law that are processed by NextNovate for Controller's objectives under the Processing Agreement.

- **Applicable Laws and Regulations:** The applicable laws and regulations for the protection of personal data, including the General Data Protection Regulation (the "GDPR") and the relevant, applicable national implementation act (the Dutch General Data Protection Regulation (Implementation) Act, the *Uitvoeringswet Algemene verordening gegevensbescherming "UAVG"*)

- **Controller:** Client

25 General

25.1 NextNovate only processes Personal Data as instructed by the Controller.
25.2 If NextNovate is of the opinion that a processing instruction by the Controller is in breach of the Applicable Laws and Regulations, NextNovate immediately notifies Controller of this, without undue delay.
25.3 NextNovate is a processor in the sense of the GDPR and, for that reason, has no control over the purpose of the personal data processing and the means for the

personal data processing and, therefore, does not take any decisions on, amongst other things, the use of the personal data.

25.4 NextNovate implements the GDPR as laid down in these general terms and conditions and in the Agreement. Controller is responsible for assessing, on the basis of this information, whether NextNovate offers adequate warranties with respect to applying appropriate technical and organisational measures for the processing to meet the requirements posed by the GDPR and to adequately safeguard the protection of the data subjects' rights.

25.5 Client guarantees vis-à-vis NextNovate that it acts in compliance with the GDPR.

26 Security measures

26.1 NextNovate takes such appropriate technical and organisational measures – or has these taken – as are appropriate for the nature of the Personal Data and the instructions under which these are processed, the state of the art techniques and the costs incurred. NextNovate protects the Personal Data against loss or unlawful processing as meant in article 32 GDPR.

26.2 Controller informs, without unreasonable delay, NextNovate of any requests, instructions or any other announcements by the competent supervisory authority (such as the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*)) concerning the Personal Data.

26.3 In any event NextNovate ensures that only persons authorised by NextNovate, which persons are needed to process the Personal Data, have access to the Personal Data. NextNovate gives the relevant persons appropriate instructions to ensure confidentiality with respect to the data and to ensure awareness of their responsibilities and obligations under the Applicable Law.

26.4 NextNovate takes all measures required to ensure compliance with the principles "Privacy by Design" and "Privacy by Default" as laid down in article 25 GDPR. NextNovate may adjust the security measures taken if, in NextNovate's opinion, this should be required to continue to offer an appropriate security level.

26.5 Controller may request NextNovate to implement further security measures. Further to this request, NextNovate is not obliged to implement any adjustments in its security measures. NextNovate may charge Controller for the costs involved in implementing the adjustments requested by client. Parties will only be bound by this after written agreement.

27 Personal Data Breaches

27.1 NextNovate does not guarantee that the security measures are effective in all circumstances. In the event of a Data Breach, NextNovate (i) notifies Controller, without unreasonable delay after the Data Breach has been discovered, in accordance with the Applicable Law and (ii) takes reasonable measures, in accordance with article 3 of this Processing Agreement, to restrict the Data Breach and prevent any further and any future Data Breaches.

27.2 It is Controller's responsibility to assess whether the Data Breach reported by NextNovate in the context of article 27.1 must be reported to the supervisory authority or the data subject.

27.3 NextNovate supports and keeps Controller informed – in all reasonableness and

fairness and taking into account the nature of the processing and the information at NextNovate's disposal – with respect to the Data Breach and any new developments concerning the Data Breach.

27.4 Where required, NextNovate assists Controller in properly notifying, in compliance with the stipulations under the Applicable Law, the relevant supervisory authority or authorities, in accordance with the relevant provisions in the Applicable Law.

27.5 NextNovate is never liable for the notification duty that Controller has – as meant in articles 33 and 34 GDPR – nor for the proper and/or timely performance of this notification duty.

28 Third parties and subcontactors

28.1 NextNovate is allowed, in the context of this Processing Agreement, to contract subprocessors and/or third parties. NextNovate informs Controller before NextNovate engages or replaces a subprocessor, in which case Controller has the possibility to object to the change. Controller only objects if it has compelling and well-founded reasons. In the event the subprocessor and/or the third party is established in a country that does not offer an appropriate security level, NextNovate may only contract this subprocessor and/or third party following Controller's prior consent in writing, including consent by email, which consent Controller will not withhold on unreasonable grounds.

28.2 NextNovate imposes the same obligations on the subprocessor and/or third party contracted by NextNovate that apply for NextNovate itself under this Processing Agreement.

29 Non-disclosure and confidentiality

29.1 NextNovate is obliged to observe secrecy with respect to the Personal Data that are provided by Controller, except in so far as:
- disclosure/provision necessarily results from the assignment as described in the Agreement; or
- disclosure/provision necessarily results from an additional, written instruction by the Controller; or
- disclosure/provision necessarily results from a statutory obligation; this obligation includes: processing that is required pursuant to an order of a competent court, an order by a competent public authority, an instruction or lawful request by the competent supervisory authority (such as the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*)); or
- Controller's prior, written consent has been obtained for disclosure/provision.

29.2 NextNovate ensures that anyone who acts under its instructions is obliged to observe confidentiality with respect to the Personal Data that have come to this person's attention in accordance with the provisions of the previous paragraph.

30 Data processing outside the EEA

30.1 NextNovate is only allowed to transfer Personal Data outside the European Economic Area if the applicable, relevant statutory obligations are observed and/or following Controller's prior consent in writing, including consent by email, which consent

Controller will not withhold on unreasonable grounds.

31 Liability

31.1   NextNovate is liable, for whatever reason and on whatever legal ground, in so far as and to the extent that Parties have agreed in the Agreement. Notwithstanding this, NextNovate's liability for corruption, loss and destruction of Personal Data in connection with this Processing Agreement, for whatever reason and on whatever legal ground, is limited to the compensation of the direct damages that can be imputed to NextNovate up to the amount of NextNovate's liability that Parties have agreed.

31.2   Controller is never entitled to recover from NextNovate, on whatever legal ground, any administrative penalty imposed on Controller by the competent supervisory authority (such as the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*)).

31.3   In so far as claims based on one and the same or on a coherent body of facts should arise from several legal relations between Parties, this will not constitute a cumulation of claims.

32 Obligations upon termination

32.1   Within a reasonable period of time after the Processing Agreement has ended, NextNovate either returns to Controller – at Controller's choice and except for statutory obligations requiring otherwise – all Personal Data processed or destroys or removes all these Personal Data, inclusive of all electronically and physically stored Personal Data or copies of such Personal Data, at Controller's request and expense, and informs Controller of this in writing.

32.2   The obligations which according to their nature are intended to continue to have effect after the termination of this Processing Agreement, will continue to have full effect after the termination of the Processing Agreement. These provisions include, amongst others, stipulations with respect to non-disclosure, liability and applicable law.