

INVENTIVE DESIGNERS SERVICES AGREEMENT

THIS AGREEMENT IS CONCLUDED BY AND BETWEEN

- (1) **Inventive Designers NV**, with registered office at Sint-Bernardsesteenweg 552, 2660 Hoboken, with company number 0453.758.377 or their legal representative;

Hereafter referred to as "**Inventive Designers**"; and

- (2) [**Complete company**], with registered office at [**Complete**], with company number [**Complete**];

Hereafter referred to as "**Company**",

Inventive Designers and Company individually or collectively referred to as the "**Party**" or "**Parties**";

WHEREAS:

- A. Inventive Designers is a company specialized in the provision of a platform for customer communications management and related professional services;
- B. Company has shown an interest in acquiring [**Complete with the specific services requested by the Company**],
- C. This Services Agreement, together with the documents referred to in it, set out the conditions under which Inventive Designers will provide such services to the Company.

IT IS AGREED AS FOLLOWS

1. SCOPE

- 1.1. This Services Agreement, and all documents referred to in it (jointly, the "**Agreement**" as defined below), applies to the Services ordered by Company from Inventive Designers.
- 1.2. The Parties explicitly agree that any general, specific, purchase, payment and/or any other conditions of the Company do not apply to the Agreement.
- 1.3. The contractual relationship between the Parties with regard to the acquisition of the Services as described in the Agreement is, with the exclusion of any other documents exchanged between Inventive Designers and the Company with regard to these Services, exclusively governed by the Agreement.
- 1.4. The Services may be subject to terms of suppliers of Inventive Designers. Such third-party suppliers' terms constitute an integral part of this Agreement. A link to the third-party supplier terms applicable to the Agreement are included in Schedule [*]. The Company acknowledges and agrees to have consulted, read and accepted such third-party supplier terms, as modified from time to time by the concerned third-party suppliers.

2. Definitions

In the Agreement, the terms and expressions written with a capital shall have the meaning given to them below, unless the context necessarily requires otherwise.

- 2.1. **Affiliate** refers to any company which is either (i) directly or indirectly Controlled by a Party, (ii) directly or indirectly Controlling a Party, (iii) forming a consortium with a Party or (iv) which is directly or indirectly Controlled by Company which directly or indirectly Controls a Party.

- 2.2. **Agreement** means the entire set of documents which regulates the legal relationship between Inventive Designers and the Company with respect to the provision of Services as described in this Agreement, consisting of the Services Agreement (including its Schedules) and the terms applicable to the Services, as well as all documents referred to in those documents;
- 2.3. **Assumptions** has the meaning as specified in article [7\(h\)](#);
- 2.4. **Charges** means the amounts due by the Company to Inventive Designers for the provision of Services, as determined in, or calculated in accordance with the provisions of the Agreement;
- 2.5. **Company** means the service, institution, partnership, association or organisation designated as such in the preamble of this Services Agreement, excluding its Affiliates (unless otherwise agreed);
- 2.6. **Company Data** means the set of data belonging to the Company which is processed, stored and/or transported in or through the systems and infrastructure of the Company and/or Inventive Designers;
- 2.7. **Confidential Information** means any information provided or disclosed by the Disclosing Party which is explicitly indicated as being confidential or which must reasonably be considered as confidential, regardless of the format (orally, in writing and/or electronically) in which the information was provided or disclosed;
- 2.8. **Company IP** means all Company Data and information input into the Services by the Company and any other materials provided by the Company under the Agreement;
- 2.9. **Control** means ownership or control of more than fifty per cent (50%) of the shares issued by a company or the attached voting rights;
- 2.10. **Damage** means any costs, delays, damage, loss, expenses and other liabilities incurred by a Party;
- 2.11. **Data Privacy Laws** means all applicable data protection and privacy Laws that apply to Inventive Designers' performance under this Agreement or to Company's receipt and use of the Services, in particular the Belgian Privacy Act of 8 December 1992 (applicable until 24 May 2018) and the EU General Data Protection Regulation (applicable as from 25 May 2018);
- 2.12. **Disclosing Party**: means the Party which provides or discloses its Confidential Information to the Receiving Party;
- 2.13. **Effective Date**: means the date of signature of the Services Agreement by the last Party;
- 2.14. **Force Majeure**: has the meaning as specified in article 11.2(b);
- 2.15. **Inventive Designers** means the entity indicated as such in the preamble of the Services Agreement;
- 2.16. **Law(s)** means all applicable local, state, national, and international laws, treaties and regulations, codes, ordinances, rules, restrictions, licenses, and judicial or administrative orders that are in effect at the Effective Date (and as subsequently amended) or that may come into force thereafter;
- 2.17. **Party/Parties** means Inventive Designers and/or the Company, as applicable;
- 2.18. **Personal Data** has the meaning as specified in Data Privacy Laws;
- 2.19. **Privacy Policy** means the Inventive Designer privacy policy applicable to the provision of the Services, and which forms an integral part of the Agreement;
- 2.20. **Process** shall have the meaning attributed to it in applicable Data Privacy Laws (and "Processed" and "Processing" shall be construed accordingly);
- 2.21. **Receiving Party** means the Party which receives Confidential Information from the Disclosing Party;
- 2.22. **Responsibilities**: has the meaning as specified in article 7(g);
- 2.23. **Schedule** means any schedule to the present Services Agreement. For the avoidance of doubt, Schedules form an integral part of the Agreement;

- 2.24. **Service Level Agreement** or **SLA** means the document which describes the Service Levels for the **provision** of the Services, as included in Schedule **[*]**;
- 2.25. **Service Levels** means the quality and availability standards applicable to the provision of Services, as included in the SLA;
- 2.26. **Services** means the services provided by Inventive Designers to the Company in the framework of, and as described in, the Agreement and as may be further defined in the terms applicable to the Service;
- 2.27. **Services Agreement** means the present services agreement entered into between Inventive Designers and the Company, including all of its Schedules;
- 2.28. **Third Party Beneficiaries** has the meaning as specified in article 3.2(b);
- 2.29. **Third Party Beneficiary Claim** has the meaning as specified in article 3.2(c);
- 2.30. **Working Day** means any day of the week excluding Saturday, Sunday and public holidays in Belgium.

3. THE AGREEMENT

3.1. Structure of the Agreement

In the event of conflicting provisions between the different documents constituting the Agreement, the Parties agree that the Schedules take precedence over the Services Agreement.

3.2. Parties to the Agreement

- (a) Unless explicitly otherwise agreed in this Agreement, (i) Inventive Designers delivers the Services only to the Company, and not to any Company Affiliates or any other third parties; and (ii) only the Company may invoke the rights granted to the Company under this Agreement. In case the Agreement is concluded with multiple Companies, each of those Companies will have the obligation to fulfil all conditions and obligations resulting from this Agreement.
- (b) In the event the Agreement explicitly grants certain rights to any third parties such as Company Affiliates ("**Third Party Beneficiaries**"), the Company warrants ("*sterkmaking*"/"*porte-fort*") that (i) the Third Party Beneficiaries shall comply with the obligations related thereto under the Agreement, including any licensing terms and/or terms of use, and that (ii) the benefit and use of such rights by the Third Party Beneficiaries shall be exclusively limited to the fulfilment by such Third Party Beneficiaries of the Company's own business purposes and (iii) the Third Party Beneficiaries always act under the exclusive responsibility of the Company. In no case will a Third Party Beneficiary be granted more rights than the Company.
- (c) The exclusions and limitations of liability of Inventive Designers under the Agreement apply for all Services, regardless of whether they were delivered to the Company or to a Third Party Beneficiary. Any claim for compensation of Damage suffered by a Third Party Beneficiary as a result of the provision of Services by Inventive Designers ("**Third Party Beneficiary Claim**"), must be directed to Inventive Designers by the Company in accordance with the provisions and limitations of the Agreement.
- (d) Without prejudice to article 3.2(c), in the event a Third Party Beneficiary Claim is addressed directly to Inventive Designers by the Third Party Beneficiary, the Company shall indemnify and hold harmless Inventive Designers for and against any Damage which Inventive Designers would have to compensate to the Third Party Beneficiary.
- (e) Inventive Designers may always address a claim for compensation of Damage incurred as a result of a Third Party Beneficiary's fault or negligence to the Company and/or the Third Party Beneficiary concerned, it being understood that each occurrence of the Damage must be compensated only once.

4. EXECUTION OF THE AGREEMENT

4.1. Provision of Services

- (a) The obligations of Inventive Designers regarding the provision of Services are exhaustively defined in the Agreement.
- (b) Unless explicitly otherwise agreed, all obligations of Inventive Designers are considered to be obligations of means ("*middelenverbintenissen*" / "*obligations de moyens*").
- (c) The Company acknowledges and agrees that Inventive Designers may need to and has the right to modify the provision of Services so as to maintain and/or evolve of the functioning of certain Services.
- (d) Delivery terms are determined by Inventive Designers to the best of its ability based on the information made available to Inventive Designers, and must, unless explicitly agreed otherwise, be considered as indicative delivery terms. Inventive Designers will undertake reasonable efforts to comply with the delivery terms and to inform the Company in the event Inventive Designers determines that it will reasonably not be able to comply with the delivery terms.
- (e) Inventive Designers does not give any guarantees in addition to the guarantees explicitly set out in the Agreement. The Parties agree that no other explicit or implicit guarantees or conditions apply, including implicit conditions or guarantees regarding the quality and fitness for a certain purpose or use envisaged by the Company.
- (f) In addition to the present Service Agreement, the following documents apply depending on the Services provided to the Company:
 - (i) For cloud Services: the Software As A Service Terms as set forth in Schedule [**] and the documents referred to in it;
 - (ii) For on-premises Services: the Subscription License Agreement Terms as set forth in Schedule [**] and the documents referred to in it;
 - (iii) For consultancy Services: the Professional Service Agreement Terms as set forth in Schedule [**] and the documents referred to in it.

The Parties agree that several of the above documents can apply to the Services to be provided under this Agreement.

4.2. Personnel

- (a) The personnel of Inventive Designers and of its subcontractors always act under the exclusive responsibility of Inventive Designers or its subcontractors, as applicable, during the provision of the Services. The Company will refrain from any act incompatible with the total absence of an employment relation between the Company and any employee of Inventive Designers and/or a subcontractor. The Company may under no circumstances be considered as being the legal or factual employer of the personnel.
- (b) At no time will a Party allow that one of its employees presents himself or is being presented, treats or is being treated, or considers himself or is being considered, as an employee of the other Party.
- (c) Inventive Designers reserves the right to determine which staff members it involves in the provision of the Services and may replace them at any time with other staff members.
- (d) During the execution of the Services and during a period of one (1) year after the termination of all Services under the Agreement, neither Party shall without the explicit written approval of the other Party, solicit employees of the other Party which are or were involved in the provision of Services, in view of concluding an employment agreement or an agreement for the provision of services.

5. ACCEPTANCE

- 5.1. The applicable acceptance procedure and criteria are set forth in the respective Service terms as set forth in Schedule **[*]** and the documents referred to in it.

6. SERVICE LEVELS

- 6.1. If any Service Levels are applicable to the provision of Services, they are set forth in the Service Level Agreement. If, notwithstanding Inventive Designers' efforts, a Service Level is not complied with due to Inventive Designers' failure, Inventive Designers will undertake reasonable efforts to take the necessary corrective measures.
- 6.2. Inventive Designers will report the measurements of the applicable Service Levels (i) to the extent the Services are provided on a cloud basis, (ii) upon specific request from the Company and (iii) in accordance with the applicable Service Level Agreement.

7. COMPANY COOPERATION

- (a) The Company shall, at no cost, cooperate with Inventive Designers with respect to the provision of the Services. In this context the Company shall among other things provide the information, dedicated office environment (in accordance with applicable Law) and technical environments and deploy sufficient qualified personnel which Inventive Designers reasonably deems useful or necessary for the provision of the Services. The data carriers on which data, information, programs and/or materials must be or are being provided by the Company shall always meet the specifications applicable pursuant to the then current state of the art.
- (b) The Company warrants that all decisions and approvals in relation to the provision of Services are taken or granted by authorised representatives of the Company.
- (c) The Company shall at all times comply with the terms of the Agreement and shall ensure ("*sterkmaking*"/"*porte-fort*") that its personnel, consultants, Third Party Beneficiaries and service providers who have access to the Services shall comply with such terms. Inventive Designers shall not be liable for any Damage incurred by the Company as a result of its failure to comply with such terms.
- (d) The Company shall timely notify Inventive Designers of any circumstances which may affect Inventive Designers' obligations, in particular (but not limited to) with respect to the execution, timing, pricing and progress of the provision of Services.
- (e) The Company warrants that it has and shall maintain for the duration of the Agreement all approvals, agreements, authorisations, allowances, licenses and permissions which may be required for the receipt and use of the Services, and for all activities in the framework of this Agreement.
- (f) The Company shall comply with all applicable Laws (and in particular the Laws applicable to the receipt and use of the Services). The Company will timely notify Inventive Designers of any requirements and practices which apply to its industry or specifically apply to the Company and which are not set out in the Agreement.
- (g) The responsibilities of the Company consist of performing its obligations and tasks as specified in the Agreement and/or which reasonably and/or necessarily should be carried out in order to adequately and correctly carry out the obligations included in the Agreement ("**Responsibilities**"). These include in particular but not exclusively the correct and timely payment of all invoices.
- (h) The execution of the Agreement by Inventive Designers depends on the accurateness and completeness of the information provided by the Company in the framework of the Agreement and any other assumptions which were provided to Inventive Designers by the Company ("**Assumptions**").
- (i) The Company is responsible for any delay, all additional costs or other Damage caused by the Company as a result of its failure to comply with its Responsibilities or the incorrectness of the Assumptions.

- (j) As a condition for the execution of the Agreement, the Company shall during the entire duration of the Agreement (i) comply with its obligations and Responsibilities and ensure that all Assumptions are accurate; (ii) provide reliable, accurate and complete information to Inventive Designers, as required; and (iii) make timely decisions and obtain the required internal approvals.
- (k) The Company is responsible for all use of the Services, operations performed via the Services, confidentiality of accounts, usernames and passwords, for access to its computer systems and for actions and negligence by any party that uses the Company's accounts. Company indemnifies, defends and holds harmless Inventive Designers (and its shareholders, agents, representatives, employees, or any other person connected to it) for any and all claims, damages, losses, costs or other obligations resulting from the Company's breach of this Agreement, any applicable Laws or use of the Services.

8. CHARGES, INVOICING AND PAYMENT

8.1. Charges and costs

- (a) Unless otherwise specifically agreed in this Agreement, the Company shall pay the Charges as set forth in Inventive Designer's quotation as provided to the Company.
- (b) The amounts mentioned in the Agreement are expressed in EUR or USD. They are exclusive of taxes and duties. VAT and any other taxes, duties and levies which apply at the moment of invoicing, are always payable by the Company and are charged in addition to the Charges. The Company shall defend, indemnify and hold harmless Inventive Designers against any third party claims regarding all taxes, duties and/or levies due by the Company pursuant to this article.
- (c) If the Charges are determined on the basis of the number of "man days", "Working Days", etc., this refers to a period of eight (8) hours, unless otherwise agreed in the Agreement.
- (d) Unless specifically otherwise agreed, the Charges for:
 - (i) additional services shall be determined on the basis of the then applicable man day rates of Inventive Designers for such services, and
 - (ii) overtime shall be determined in the following manner:
 - overtime on a Working Day will be calculated *pro rata* on the basis of hundred and fifty per cent (150%) of the applicable man day rate for the Services concerned;
 - overtime on Saturday, Sunday or a Belgian public holiday will be calculated on the basis of two hundred per cent (200%) of the applicable man day rate for the Services concerned.
- (e) In case of professional Services, the Services will be performed at Inventive Designers' locations. On explicit request of the Company (and to the extent accepted by Inventive Designers), it is possible to perform the Services (partially or wholly) at the location designated by the Company to ensure optimal coordination. In that case, all needed infrastructure will be made available by the Company without cost.

Reasonable costs incurred by Inventive Designers in the execution of the Agreement, including transport, accommodation and logistics costs, are payable by the Company based on the standard rates of Inventive Designers.

Unless otherwise agreed, for onsite services assignments in Belgium there are no extra costs. Hotel and meal expenses will be charged for assignments in the Netherlands and Luxembourg. For onsite assignments outside the Benelux, the following expenses will be charged: travel, hotel and meals. These travel and accommodation costs are to be ordered separately or organized directly by the Company (e.g. hotel booking at booking rate).

The expenses are at charge of the Company and will be invoiced separately if not pre-organized and fully prepaid by the Company directly.

- (f) Inventive Designers has the right to decide each year whether or not it will index the rates, other unit prices and recurrent amounts relating to the provision of the Services. Such indexation will be calculated on the basis of the following formula:

$$P = P_0 (0,2 + 0,8 X_1/X_0)$$

in which

P = revised amount;

P₀ = original amount;

X₁ = national reference labour costs for the month of December preceding the revision as published by Agoria;

X₀ = national reference labour costs in December preceding the year of entry into force of the Agreement as published by Agoria;

and provided that the indexation will not be applied in case P is lower than P₀.

- (g) Inventive Designers has the right, at any time in its sole discretion, to change the Charges for recurring Services with three months' prior notice. Notice of such change shall be provided to Company via email to the registered email address, via post, or via any other way Inventive Designers deems reasonable. In case Company does not agree with such change, it must notify Inventive Designers by registered letter within thirty (30) calendar days as from the notification of the change by Inventive Designers, in absence of which the Company is deemed to agree with the change. In case of a notification by registered letter from the Company that it does not agree with the change, Inventive Designers has the right to terminate the Agreement at any time without court intervention and without entitling Company to any damages or payment of whatever nature.
- (h) In case of professional Services, the preliminary planning will be reserved for the Company for 5 Working Days starting from the signed Agreement, close of business day, unless otherwise specified. If the Purchase Order from the Company is not received by Inventive Designers by that time, the planning might need to be revised. After the receipt of the Purchase Order, the detailed planning will be set up between the project manager of the Company and the services manager of Inventive Designers.

Changes to the communicated planning must be submitted to the services manager of Inventive Designers at least 5 Working Days in advance – in this case no cancellation fee for the Services will be charged but costs already made (e.g. booked and non-refundable airplane ticket) will be charged completely.

Changes to the communicated planning that are communicated by the Company up to 2 Working Days before the foreseen execution of the Services, will be charged to the Company at 50% of the corresponding Charges for the Services concerned. Costs already made (e.g. booked and non-refundable airplane ticket) will be charged completely.

Any changes in the planning that are communicated by the Company during the last 2 Working Days before or during the foreseen execution will be charged at 100%

8.2. Invoicing

- (a) Services shall be invoiced in accordance with the invoicing schedules determined in the Schedule **[*]** of the Agreement.
- (b) In case no specific invoicing schedules are agreed, the following principles apply, it being understood that Inventive Designers may at all times invoice the relevant Services at a later moment:
- (i) recurring Services (such as but not limited to hosting and management, maintenance renewal and subscription Services) shall be invoiced in advance on a monthly or yearly basis, and must be fully paid before the start of the (renewal) period to which they relate;

- (ii) one-off Services, such as but not limited to consulting Services and Services regarding implementation, customization, integration and migration for which fixed Charges are agreed, invoices are to be submitted as described in the signed order form;
 - (iii) one-off Services, such as but not limited to consulting Services and Services regarding implementation, customization, integration and migration which are to be invoiced on a time and material basis, a monthly invoice shall be submitted for the Services provided during the preceding month;
 - (iv) one-off license fees are invoiced and paid at the moment the licenses are ordered; and
 - (v) recurring license fees are invoiced and paid at the moment the licenses are ordered and then in advance on a yearly basis;
 - (vi) If Company's use of the Service exceeds the Service Capacity that Company is currently enrolled in, Company will be invoiced at the then current list price for such overages for the applicable month, in arrears.
- (c) Invoices will be sent by e-mail. The Company is at all times solely and entirely responsible for providing a valid e-mail address and, therefore, for timely communicating any change to such e-mail address to Inventive Designers.

8.3. Payment

- (a) Invoices must be paid by the Company within thirty (30) calendar days following the date of invoice, except otherwise mentioned on the invoice.
- (b) Payments must be made in EUR or USD, as quoted, through bank transfer on the bank account of which the bank account number is mentioned on Inventive Designers' invoice, including the required references.
- (c) Payment through set-off is never possible. All payment obligations are non-cancellable, and all amounts paid are non-refundable except as otherwise set forth in the Agreement.
- (d) In the event of a dispute with respect to a part of the invoice, the part of the invoice that is not disputed shall be paid in accordance with the provisions of this article 8.3 (*Payment*).
- (e) In the event of failure to pay the invoices by their due date, the following shall apply automatically and without prior notice of default, to the outstanding amount due on the due date of the invoices until payment thereof:
 - (i) all amounts due are immediately payable, regardless of the agreed payment terms;
 - (ii) a late payment interest of 1% per month is due on the outstanding amount, with a minimum of 250 euro, increased with a fixed compensation of 15% of the outstanding amount, whereby each month started counts as a complete month.
- (f) In case of a delay in payment, and even in case of a partial delay in payment, of more than thirty (30) calendar days, Inventive Designers reserves the right to suspend or terminate the Agreement in accordance with articles 12.3 (*Suspension*) and [12.4](#) (*Termination for cause*), without prejudice to the other rights of Inventive Designers under the Agreement and/or applicable Law.
- (g) In case doubts arise as to the solvency of the Company, for instance in case of non-payment of invoices, Inventive Designers is entitled to require payments in advance, or to ask for guarantees for the provision of Services still to be provided, in the absence of which Inventive Designers is entitled to terminate the Agreement in accordance with article [12.4](#) (*Termination for cause*).

9. INFORMATION AND DATA

9.1. Confidential Information

- (a) The Receiving Party shall treat the Confidential Information received from the Disclosing Party confidential in accordance with the annexes and this article 9.1.

- (b) Any prior obligations or agreements between the Parties with respect to the Confidential Information shall continue and shall supplement the terms of this Agreement. These confidentiality obligations, as well as any additional confidentiality obligations in this Agreement, shall survive the termination of this Agreement.
- (c) The Receiving Party shall in particular (i) only use such Confidential Information for the purposes of complying with its obligations under the Agreement; (ii) store such Confidential Information with at least the same level of care applied when storing its own Confidential Information, and in no case with a less than reasonable level of care; and (iii) not disclose such Confidential Information to any third party. The Disclosing Party may only deviate from the foregoing obligations in the event the Receiving Party has obtained the written consent from the Disclosing Party and/or to the extent permitted by this article 9.1.
- (d) The confidentiality obligations as specified in this article 9.1 do not apply to Confidential Information which: (i) has become publicly known in a way other than by violation by the Receiving Party of its obligations under the Agreement; (ii) was disclosed to the Receiving Party as non-confidential by a third party and of which the Receiving Party is of the opinion that, by lack of an obligation in favour of the other Party, it is not unlawful to disclose the information; (iii) was developed by the Receiving Party independent of the Disclosing Party, or was already known by the Receiving Party prior to the information being disclosed to it by the Disclosing Party; and/or (iv) is disclosed with the written consent of the Disclosing Party.
- (e) Article 9.1(a) does not apply to the extent the Receiving Party is required to disclose the Confidential Information by a court or regulatory authority of competent jurisdiction or on the basis of laws or regulations or any other administrative or legal proceedings. Where the Receiving Party is so required to make such disclosure, it shall, where reasonably practicable, inform the Disclosing Party and consult with the Disclosing Party as to the terms, content and timing of the disclosure.
- (f) Notwithstanding article 9.1(a), the Receiving Party may disclose the Confidential Information of the Disclosing Party to its employees, consultants and suppliers which are directly involved with and/or should be informed of such Confidential Information for the execution of the Agreement. The Receiving Party warrants ("*sterkmaking*"/"*porte-fort*") that its employees, consultants and suppliers are in such case aware of the confidential nature of the information. The Receiving Party shall impose on them confidentiality obligations which are at least similar to those included in this article 9.1.
- (g) In the event the Receiving Party no longer needs the Confidential Information for complying with its obligations under the Agreement, the Receiving Party shall destroy the Confidential Information (together with any copy and summary thereof). The Receiving Party warrants ("*sterkmaking*"/"*porte-fort*") that each person to whom the Confidential Information was disclosed in accordance with this article 9.1, shall also comply with this obligation.
- (h) This article 9.1 applies without prejudice to Inventive Designers' right to maintain a copy of the project documentation for archiving purposes and quality control following termination of the Agreement.

9.2. Company Data and Personal Data

- (a) The Company is solely and fully responsible for the content of the Company Data. The Company warrants that the Company Data, and Inventive Designers' access to and processing of the Company Data in the context of the provision of Services in accordance with the Agreement, do not violate any Laws and/or any third-party rights. The Company shall comply with the applicable terms of use at all times with respect to the Company Data.
- (b) Taking into account the possible sensitive nature of the Company Data and in particular Personal Data which are part of the Company Data, the Company shall comply with Data Privacy Laws when receiving and using the Services.
- (c) If Inventive Designers is provided with access to any Personal Data and/or must Process any Personal Data in the framework of the provision of Services, the Company acts as "data controller" and Inventive Designers acts as "data processor", as specified in Data Privacy Laws, for the duration of the Agreement. Such is further detailed in Inventive Designer's Privacy Policy (see <https://www.inventivedesigners.com/legal> for the latest version).

9.3. Security

- (a) In the provision of the Services, Inventive Designers shall undertake reasonable efforts not to introduce into the systems and infrastructure of the Company viruses or codes of which Inventive Designers may reasonably know that these are harmful. The Company shall sufficiently inform Inventive Designers regarding its systems and infrastructure, so as to allow Inventive Designers to take appropriate measures.
- (b) Unless explicitly agreed otherwise in the Agreement, and without prejudice to article 9.2(b), the Company is solely and fully responsible for the safety and security of the Company Data, and for making the necessary back-ups in order to avoid loss and/or corruption of the Company Data. Inventive Designers is only responsible (if any) for making back-ups to the extent explicitly specified in the Agreement.
- (c) In case of loss or corruption of the Company Data following the provision of Services, Inventive Designers is only obliged to restore based on the most recent available back-up. Under no circumstances is Inventive Designers obliged to input or reconstruct the Company Data.

10. INTELLECTUAL PROPERTY

- 10.1. The specific rights and obligations of the Parties with respect to intellectual property rights are set out in the respective Service terms.
- 10.2. Without prejudice to Article 10.1, Inventive Designers (and its licensors, where applicable) owns all right, title and interest, including all intellectual and industrial property rights, in and to the Services. In addition, Inventive Designers alone (and its licensors, where applicable) own all right, title and interest in and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by the Company or any other party relating to the Services.

This Agreement does not convey to the Company any rights of ownership in or related to the Services, or the intellectual and industrial property rights owned by Inventive Designers (or its licensors, where applicable) except as explicitly provided in the Agreement. Any trademarks used by Inventive Designers or its Affiliates/licensors within or associated with the Services, are trademarks of Inventive Designers or third parties, and no right or license is granted to the Company to use them.

- 10.3. The Company owns (and its licensors, where applicable, own) all right, title and interest, including all intellectual and industrial property rights, in and to the Company IP. The Company grants to Inventive Designers a non-exclusive, worldwide right and license to use, adapt, display, perform and distribute all Company IP, in connection with the provision of the Services by Inventive Designers to the Company and the Company's use thereof.
- 10.4. To the extent applicable and without prejudice to the Article 10.1, Inventive Designers agrees to defend the Company in the event of a claim made by a third party that the Service (when used in accordance with its documentation) constitutes an infringement of any patent, copyright, trademark or trade secret of any such third party and Inventive Designers shall pay all damages the Company has been sentenced to pay as a result thereof provided that the below conditions have all been met. Should the Company be sued on any claim for damages, Inventive Designers will voluntarily intervene in the lawsuit.

The above indemnification and intervention obligation by Inventive Designers is subject to the compliance by the Company with all of the below conditions:

1. Inventive Designers shall be informed of any claim for damages made by a third party by registered letter within three (3) Working Days from the moment the Company has knowledge of such claim; and
2. Inventive Designers shall have sole control of and the Company shall reasonably cooperate in all respects in the defence of each such claim and all related settlement negotiations;
3. the Company shall not make any admission or disclosure or otherwise take any action prejudicial to Inventive Designers without the prior written agreement of Inventive Designers;

4. Inventive Designers will have no indemnity obligation if the infringement of any patent, secret, copyright, trademark or trade results from an act or omission of the Company, including (without limitation) (i) a correction or modification of the Service not provided by Inventive Designers, (ii) the failure to promptly install a (temporary) fix, update or release upgrade where installation would have removed the cause of the infringement, or any breach of the Agreement by the Company or (iii) the combination of the Service with other software not provided or developed by Inventive Designers. In no event will Inventive Designers have any indemnity obligation for infringements or abuse on (including but without limitation) any patents, copyright, trademark or trade secret registered in USA and/or Canada.

11. RISK ALLOCATION

11.1. Liability

- (a) Except in case of Inventive Designers' fraud or wilful misconduct, Inventive Designers' liability for a failure to comply with an obligation under this Agreement which is imputable to Inventive Designers, is limited to compensation of proven direct Damage in accordance with the following principles, which apply cumulatively:
- (i) The liability of Inventive Designers per occurrence of direct Damage is limited to the amounts paid by the Company to Inventive Designers for the Services which caused the direct Damage. In the event of yearly fees paid in advance, the maximum amount of liability will be converted pro rata based on the number of months expired since the moment the Damage occurred; and
 - (ii) The total aggregate and cumulative (i.e. not per event) liability of Inventive Designers for occurrences of direct Damage is limited to the amounts paid by the Company to Inventive Designers in the last calendar year for the Services in the context of which the Damage occurred. In case no complete calendar year has passed, the maximum amount of liability will be calculated pro rata based on the amounts already paid, with the exception of yearly fees or Charges paid in advance.
 - (iii) In case of infringement of intellectual property rights, Inventive Designers' liability is limited to 10.000,- EUR per case or 20.000,- EUR in the aggregate.
- (b) Except in case of fraud or wilful misconduct, Inventive Designers is never liable for any indirect Damage and/or consequential damage, such as but not limited to loss of profit, loss of income, loss of anticipated savings, loss of opportunity, loss of use of products, interruption in use or availability of data, loss of customers, claims of customers or other third parties, damage as a result of loss and/or corruption of data, stoppage of other work or impairment of other assets, loss of goodwill and reputational damage even if an Inventive Designers representative has been advised of the possibility of such damages, or for any claim by any third party.
- (c) Nothing in this Agreement limits or excludes Inventive Designers' liability for any Damage for which liability cannot be excluded or limited in accordance with applicable Law.
- (d) Inventive Designers shall only be liable for a failure to comply with the Agreement which is imputable to Inventive Designers to the extent the Company informs Inventive Designers immediately (and at the latest six (6) months following the occurrence of the direct, proven Damage) via registered mail and in a detailed manner of such failure, and Inventive Designers does not correct such failure within a reasonable period of time.
- (e) Company acknowledges that Inventive Designers is not aware of the extent of any potential loss or damage to the Company resulting from any breach of warranty or other failure by Inventive Designers to discharge its obligations under this Agreement and that the extent and limits of any appropriate insurance cover in respect of its assets or business or otherwise are within its knowledge and not that of Inventive Designers. Insofar as, having regard to the terms of this Agreement, the Company requires any insurance (whether in respect of loss or damage it may suffer or claims made against it by third parties or otherwise) it shall effect and maintain such insurance, ensuring always that its insurers shall in no circumstances whatsoever have any rights or remedies against Inventive Designers in addition to or in excess of those of the Company under this Agreement.

11.2. Force Majeure

- (a) A Party shall not be liable for delays or failure to perform its obligations under this Agreement if such delay or failure is caused by Force Majeure.
- (b) **"Force Majeure"** is any event beyond the reasonable control of one of the Parties that affects the execution of its obligations under the Agreement, including but not limited to, natural disasters, riots, war and military operations, national or local emergencies, actions or omissions of the government, economic disputes of whatever nature, actions of employees, fire, flooding, lightning, explosions, collapses, the reduced or non-functioning of networks, systems and equipment of third parties as well as any action or omission of a person or entity beyond the reasonable control of the affected Party. The Parties explicitly agree that the situation where the Company cannot meet its payment obligations, does not qualify as Force Majeure.
- (c) The Party which invokes Force Majeure, must immediately notify the other Party in writing of these circumstances. The execution of the obligation which cannot be carried out due to Force Majeure, will be suspended for the duration of the Force Majeure and must be resumed as soon as the Force Majeure has disappeared. The Party which invokes the Force Majeure, must also notify the other Party of the cessation of these circumstances.

12. DURATION, SUSPENSION AND TERMINATION OF THE AGREEMENT

12.1. Entry into force and duration

- (a) The Agreement enters into force on the Effective Date.
- (b) The duration for each Service needs to be specified in the order form. If no such specific provisions have been included, recurring Services are deemed concluded for a period of one (1) year which will be automatically renewed for the same duration unless a Party to the Agreement notifies the other Party of its decision not to renew the Agreement with at least sixty (60) days prior written notice.

12.2. No termination for convenience

- (a) Neither Party may terminate Services concluded for a determined period of time for convenience.
- (b) The Parties may terminate a Service in accordance with the terms and conditions set forth in the relevant terms for such Service.
- (c) The notification by either Party of its decision to terminate this Agreement (or any of the Service(s)) does not relieve either Party of any obligations that have accrued on or before the date on which termination becomes effective.

12.3. Suspension

- (a) Without prejudice and in addition to the provisions on suspension as set out in the terms for the relevant Service(s):
 - (i) Inventive Designers is entitled to suspend the provision of Services in whole or in part, with immediate effect and without court intervention, if Inventive Designers in its discretion determines that the Company jeopardizes or threatens to jeopardize Inventive Designers' rights and/or provision of services to Inventive Designers' customers, poses a security risk to or may materially harm the Services or any third party, may adversely impact the services, systems or content of any other Inventive Designers customer, or may subject Inventive Designers, its Affiliates or any third party to liability;
 - (ii) Inventive Designers is entitled to suspend the provision of Services in whole or in part, with immediate effect and without recourse to the courts, if the Company fails to comply with one or more of the obligations under the Agreement and fails to cure such breach within a period of thirty (30) calendar days following notice thereof by Inventive Designers;
 - (iii) Inventive Designers is entitled to suspend the provision of Services in whole or in part, with immediate effect and without recourse to the courts, if it is allowed or required to do so by Law;

- (iv) The Company acknowledges and agrees that Inventive Designers may reasonably suspend the provision of Services in emergency situations so as to avoid and limit to a strict minimum any detrimental impact for Inventive Designers, the Company and/or other customers of Inventive Designers;
- (b) Inventive Designers will, where not prohibited by Law and where reasonable under the circumstances, provide Company with prior notice of any such suspension or discontinuation of Services and an opportunity to take steps to avoid any such suspension and Company shall remain responsible for all Charges it has incurred through the date of suspension and Company will not be entitled to any service credits under any SLA pertaining to any suspended Service.
- (c) Inventive Designers' right to suspend Company's or any User's right to access or use any Service is in addition to Inventive Designers' right to terminate this Agreement pursuant to this clause 12.
- (d) This clause 12 is without prejudice to Inventive Designers' other rights and remedies under applicable Law and contract.

12.4. Termination for cause

- (a) Without prejudice and in addition to the provisions on termination as set out in the terms for the relevant Service(s), each Party has the right to terminate the Services, in whole or in part with immediate effect and without court intervention, by means of registered mail, in the event:
 - (i) the other Party fails to comply with one or more of its essential obligations under the Agreement, and to the extent such Party did not cure such breach within a period of thirty (30) calendar days following notice of default;
 - (ii) the bankruptcy of the other Party has been requested or declared;
 - (iii) the other Party loses the power of decision over its capital or loses substantial parts thereof due to seizure, dissolution of its company or liquidation of its assets, guardianship order or due to any other event.
- (b) Inventive Designers has the right to terminate the Services, in whole or in part, with immediate effect and without court intervention, by means of registered mail, in the event of the impending insolvency of the Company.

12.5. Consequences of termination

Without prejudice and in addition to the provisions on consequences of termination as set out in the terms for the relevant Service(s):

- (a) the expiry or termination of a Service for whatever reason, shall not automatically entail termination of any other on-going Services. Unless otherwise agreed, the Parties continue executing any on-going Services in accordance with the terms applicable to that/those Service(s). The provisions of the Agreement remain fully applicable to the on-going Services;
- (b) following termination of the Agreement, Inventive Designers shall invoice Company for all accrued Charges, and Company shall pay the invoiced amount within thirty (30) days from the date of such invoice. In the event of a breach by Company, no refunds or credits will be due; and
- (c) this article 12.5 applies without prejudice to the right of the Parties to terminate the Agreement and/or one or more Services at the same time in accordance with article 12 and in accordance with the provisions of the Agreement and the terms applicable to each Service.

13. MANAGEMENT OF THE AGREEMENT

- 13.1. Company will designate an employee who will be responsible for all matters relating to this Agreement ("**Primary Contact**"). Company may change the individual designated as Primary Contact at any time by providing written notice to Inventive Designers.

13.2. If a dispute would arise in the context of the Agreement, the Parties shall aim to find an acceptable solution in good faith and taking into account the general standards of reasonableness.

14. MISCELLANEOUS

14.1. Entire agreement

This Agreement and any attachments and addenda, together with any confidentiality agreements already in place between the parties, constitute the entire understanding between the parties with respect to the subject matter hereof. There are no representations, promises, warranties or understandings relied upon by Company that is not contained herein.

14.2. Interpretation

- (a) The section headings used throughout the Agreement are for convenience of reference only and shall have no effect upon the construction or interpretation of this Agreement or any part thereof.
- (b) The use of the singular or plural form shall include the other form and the use of the masculine, feminine or neuter gender shall include the other genders. In construing or interpreting this Agreement, the word “including” shall not be limiting and the word “hereunder” means under this Agreement.
- (c) The Parties agree that any principle of construction or rule of law that provides that an agreement shall be construed against the drafter shall not apply to this Agreement.

14.3. Subcontracting

Inventive Designers reserves the right to subcontract the execution of the Agreement to third parties, including the Inventive Designers Affiliates.

14.4. Transfer

The Company may only transfer its rights and obligations under the Agreement provided that it has obtained the prior written consent of Inventive Designers, and provided that its successor shall comply with the terms and conditions of the Agreement. Inventive Designers is entitled to refuse its consent without motivation and based on reasons which it deems opportune. Moreover, Inventive Designers may make its consent subject to the fulfilment of the conditions which it deems necessary, without any claim or right to damages for the Company towards Inventive Designers.

14.5. Non-exclusivity

Nothing in the Agreement restricts or hinders the possibility for Inventive Designers to provide any services and/or materials to third parties, or to develop materials for itself or third parties which may compete with the Services, regardless of a possible resemblance with the Services. Inventive Designers is entitled to use its general knowledge, skills and experience and all ideas, concepts, know-how and techniques which it has gathered or used in the framework of the provision of Services.

14.6. References

Inventive Designers and its Affiliates have the right to use the name and logos of the Company on reference lists and in publicity regarding their provision of services.

14.7. Waiver and remedies

The situation where a Party does not claim, invoke or apply a right, sanction or procedure, and where Inventive Designers does submit a claim, shall not be considered to constitute a waiver or renunciation of rights. Unless explicitly specified otherwise, the rights and remedies of a Party under the Agreement apply cumulatively with and do not exclude any other rights and/or remedies granted to such Party under the Agreement and/or applicable Law.

14.8. Survival

Termination or expiry of the Agreement, howsoever caused, shall not prejudice any rights and remedies of either Party which may have accrued under the Agreement up to the date of termination or expiry, and shall not affect any provision of the Agreement which is expressly or by implication intended to come into or remain in effect on or after termination or expiry.

14.9. Severability

In the event one or more provisions (or part thereof) of the Agreement are deemed or declared to be null and void by virtue of a final judgment of a competent court, the other provisions will maintain their binding force and scope without modification. The Parties shall replace the null and void provision (or part thereof) by a new provision which embodies as much as possible the original purposes of the provision that was declared null and void.

14.10. Notification

- (a) All mandatory or permitted notifications under this Agreement will be considered to be communicated legitimately provided that such notification was made in writing and was delivered personally or by courier, by mail with confirmation by mail and/or by email with confirmation by email, to the Parties using the addresses mentioned in the Services Agreement.
- (b) Each change in address must be communicated to the other Party by registered mail. In the absence of such communication all notifications communicated to the latest communicated address will be considered to be made legitimately.

14.11. Audit

Inventive Designers reserves the right, upon reasonable prior notice to the Company (unless the circumstances require otherwise) and during normal business hours to audit (including through third party audit representatives), at any location, the usage of the Service for the purpose of verifying the Company's compliance with the terms of this Agreement. The Company shall fully co-operate with Inventive Designers or its (third party) audit representatives, including by providing access to any locations at which the Services are being used.

Without prejudice to Article 12(3)(a)(ii), if it appears from this audit that the Company is not complying with one or more of its obligations under the Agreement, the cost of the audit shall be borne by the Company and the Company shall take all necessary measures to cure such non-compliance within a period of maximum thirty (30) calendar days following the sending of notice thereof by Inventive Designers.

14.12. Independence

- (a) With respect to the conclusion and execution of the Agreement, Inventive Designers acts as an independent service provider. Nothing in this Agreement, nor the behaviour of the Parties during the execution of the Agreement will be presumed to give rise to the establishment of a partnership, temporary partnership, joint venture or any other collaboration form between the Parties.
- (b) Save where explicitly requested or consented to by Inventive Designers, the Company shall have no authority to act in the name and/or on behalf of Inventive Designers.

14.13. Applicable Law and competent court

- (a) The Agreement is governed by and will be interpreted in accordance with Belgian law.
- (b) Any dispute with respect to the validity, interpretation or execution of the Agreement will be finally settled by the competent courts of Antwerp, subject to article 13

14.14. Open Source

- (a) Inventive Designers hereby agrees to defend and indemnify every Open Source Contributor ("Indemnified Contributor") against any losses, damages and costs (collectively "Losses") arising from claims, lawsuits and other legal actions brought by a third party against the "Indemnified Contributor" to the extent caused by the acts or omissions of Inventive Designers in direct connection to its development and distribution of the Service. The obligations in this section do not apply to any claims or losses relating to any actual or alleged intellectual property

infringement. In order to qualify, an Indemnified Contributor must: a) promptly notify Inventive Designers in writing of such claim, and b) allow Inventive Designers to control, and cooperate with Inventive Designers in, the defense and any related settlement negotiations. The Indemnified Contributor may participate in any such claim at its own expense The Agreement is governed by and will be interpreted in accordance with Belgian law.

14.15. Notices

- (a) Use of the Commercial Features for any commercial or production purpose requires a separate license from Oracle. “Commercial Features” means those features identified Table 1-1 (Commercial Features In Java SE Product Editions) of the Java SE documentation accessible at <http://www.oracle.com/technetwork/java/javase/documentation/index.html>.

EXECUTED ON [DD/MM/YYYY] IN TWO (2) ORIGINALS, EACH PARTY ACKNOWLEDGING RECEIPT OF ITS OWN ORIGINAL.

FOR INVENTIVE DESIGNERS:

FOR COMPANY:

NAME: _____

NAME: _____

FUNCTION: _____

FUNCTION: _____

TITLE: _____

TITLE: _____

DATE:

DATE:

NAME: _____

NAME: _____

FUNCTION: _____

FUNCTION: _____

TITLE: _____

TITLE: _____

DATE:

DATE:

Schedules

[Note: List of Schedules to be completed.]