

## DATA PROCESSING AGREEMENT

### The Parties:

[NAME + LEGAL FORM], with its registered office in [city, street and house number if any], hereinafter referred to as: "**Controller**", "**You**" or "**Your**", duly represented in this matter by [name], in the capacity of [position];

and

The general partnership under Dutch law Whoonext, with its registered office in Haarlem at Antonides van der Goesstraat 15, hereinafter referred to as: "**Processor**", "**We**", "**Us**" or "**Our**", duly represented in this matter by solely authorized partner Mrs. D. Knaapen;

Hereinafter jointly referred to as "Parties", "We" or "Jointly"

### Whereas:

- A. Controller uses the application developed by Processor to provide services regarding queue management.
- B. For the functioning of the application, collection of Personal Data is not necessary. However You are able to collect Personal Data through the available field. We shall be regarded as "Processor" - because of the performance of the underlying assignment and in respect of the Personal Data that We will Process - and You shall be regarded as "Controller". In this Agreement, We record our mutual rights and obligations.
- C. We don't store any Personal Data on our servers. Any Personal Data that is collected through our application will only be available within our systems as long as it is visible on Your personal page. Meaning that only, in any, Personal Data will be visible if it is made available voluntarily by the Data Subject for the time it is used to determine any queue.

The Parties have agreed as follows:

## 1. Definitions

A number of terms is used in this Agreement. The meaning of these terms is explained below. The terms referred to above shall be capitalised in this Agreement. In the list below, the description of the term from the privacy legislation and regulations is mostly used.

Data Subject:	The person to whom Personal Data relates.
Processor:	A natural or legal person, public authority, agency or other body that processes personal data on behalf of the Controller, without being subject to its direct authority.
Sub-processor:	Another processor engaged by the Processor to carry out specific processing operations on behalf of the Controller.
Controller:	A natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.
Special Personal Data:	This is data revealing race or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and genetic data, biometric data for the unique identification of a person, data concerning health, or data concerning a person's sexual conduct or orientation. This also includes personal data relating to criminal convictions and offences or related security measures.
Personal Data Breach:	A breach of the security leading to - or where it cannot reasonably be ruled out that it will lead to - the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.
Third Parties:	Parties other than You and Us, and Our Employees.
Data Breach Notification Duty:	The duty to report Data Breaches to the Dutch Data Protection Authority and (in some cases) to the Data Subject(s).
Employees	Persons working for You or Us, either in employment or hired on a temporary basis.
Agreement:	This Data Processing Agreement.

Personal Data:	Any information relating to an identified or identifiable natural person ("the Data Subject") processed within the scope of the "Underlying Assignment"; an identifiable natural person is considered to be any natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location details, an online identifier or to one or more elements specific to that natural person's physical, physiological, genetic, mental, psychological, economic, cultural or social identity.
Personal Data of a sensitive nature	Personal Data where loss or unlawful Processing may lead to (among other things) stigmatisation or exclusion of the Data Subject, damage to health, financial damage or (identity) fraud. These categories of personal data shall in any case include: <ul style="list-style-type: none"><li>• Special personal data:</li><li>• Data relating to the financial or economic situation of the Data Subject</li><li>• (Other) data that may lead to the stigmatisation or exclusion of the Data Subject</li><li>• User names, passwords and other log-in data</li><li>• Data that can be misused for (identity) fraud purposes</li></ul>
Processing / Processing Operation:	A processing operation or set of processing operations with respect to personal data or sets of personal data, carried out by means of automated processes or otherwise, such as collection, recording, organisation, storage, updating or modification, retrieval, consultation, use, dissemination by means of transmission, distribution or making available in any other form, aligning or combining, blocking, erasure or destruction.
GDPR	General Data Protection Regulation, including the implementation act of this regulation. The GDPR has replaced the Personal Data Protection Act with effect from 25 May 2018.

## 2. Applicability and duration

- 2.1 This Agreement applies to any Processing Operation performed by Us as Processor on the basis of the Underlying Assignment issued by You, as Controller.
- 2.2 This Agreement shall enter into force on the date on which the Underlying Assignment takes effect and shall end on the date on which We no longer possess any Personal Data that we process on your behalf within the scope of the Underlying Assignment. It is not possible to terminate this Agreement prematurely.
- 2.3 Articles 6 and 7 of this Agreement shall continue to apply even after the Agreement (or the Underlying Assignment) has been terminated.

## 3. Processing Operations

- 3.1 Processing shall occur under Your responsibility. We do not have any control over the purpose and means of the Processing and shall not take decisions on matters such as the use of Personal Data, the retention period of the Personal Data processed on Your behalf and the disclosure of Personal Data to Third Parties. You must ensure that You have clearly determined the purpose and means of the Processing of Personal Data. Control over the Personal Data shall never rest with Us.
- 3.2 You shall be legally obliged to comply with applicable privacy laws and regulations. In particular, you must establish whether there is a legal basis for Processing the Personal Data. We shall ensure that We comply with the regulations applicable to Us as the Processor with respect to the Processing of Personal Data and with what We have agreed in this Agreement.
- 3.3 We may engage other processors (Sub-processors) to carry out certain work arising from the Underlying Assignment, for example if these Sub-processors have specialist knowledge or means at their disposal that We do not have. If engaging Sub-processors results in such Personal Data being Processed, we shall impose the obligations arising from this Agreement on these Sub-processors (in writing). By signing this Agreement, you consent to engaging the Sub-processors listed in the Annex to this Agreement (if any). We shall inform you in advance of any engagement of other Sub-processors and shall afford you the opportunity to object to this.
- 3.4 Where possible, We shall assist You in meeting Your obligations in handling requests by Data Subjects within the scope of exercising their rights. If We receive requests (directly) from the Data Subject(s) for the exercise of their rights (for example, access, modification or deletion of Personal Data), We shall forward these requests to You. You shall handle these requests, whereby We can be of assistance to you if We have access to this Personal Data within the scope of the Underlying Assignment. We may charge You for any related costs.
- 3.5 We will process the Personal Data only within the European Economic Area, unless We have made other relevant agreements with You. These agreements shall be recorded jointly in writing or by email. By signing this Agreement, you consent to the processing operations outside the EEA listed in the Annex to this Agreement (if any).
- 3.6 If We receive a request to provide Personal Data, We shall only be permitted to do so if the request has been made by a competent body. In addition, We shall first assess whether We



believe that the request is binding, or whether We must comply with the request on the basis of rules of professional conduct.

If no criminal or other legal obstacles exist, We shall inform You of the request. We shall endeavour to do so in such a short term that it allows You to appeal against the disclosure of the Personal Data. If We are allowed to inform You, We will also consult with You about the data We will make available and the way in which this will be done.

#### 4. Security measures

- 4.1 We provide adequate and appropriate safeguards with respect to the technical and organisational security measures relating to the Processing Operations to be performed. If you wish to have the manner in which We comply with the security measures inspected, you may submit a request to that effect to Us. We shall make joint agreements with You on this matter. Any costs of an inspection shall be borne by You. You shall provide Us with a copy of the inspection report.

#### 5. Data Breaches

- 5.1 In the event of a Data Breach, We shall inform You accordingly. We aim to do so within 48 hours of discovering this Data Breach, or as soon as possible after we have been informed by Our Sub-processors. Detailed arrangements on how this is to be done have been included in Article 11 of this Agreement. In doing so, We will provide you with the information you reasonably need to prepare an accurate and complete report to the Data Protection Authority, if necessary, and possibly the Data Subject(s), within the scope of the Duty to report Data Breaches, or we will forward You the report of our Sub-processor. We shall also keep you informed of the measures taken by Us or our Sub-processor as a result of the Data Breach.
- 5.2 Reporting the Data Breaches to the Data Protection Authority and (possibly) the Data Subject(s) shall always be Your responsibility.
- 5.3 Maintaining a register of Data Breaches shall always be your responsibility.

#### 6. Duty of Confidentiality

- 6.1 We shall keep the Personal Data obtained from you confidential and will also oblige Our Employees and any Sub-processors to maintain confidentiality.

#### 7. Liability

- 7.1 You guarantee that the Processing of Personal Data on the basis of this Agreement is not unlawful and does not infringe on the rights of Data Subject(s).
- 7.2 We shall not be liable for any damage suffered as a result of Your failure to comply with the GDPR or other laws or regulations. You shall also indemnify Us against claims by third parties on the basis of such damage. Indemnification shall apply not only to the damage that Third Parties may have suffered (both material and immaterial), but also to the costs We must incur in connection therewith, for example in any legal proceedings, and to the costs of any fines imposed on Us as a result of Your acts.
- 7.3 The limitation of Our liability agreed in the Underlying Assignment and associated General Terms and Conditions shall apply to the obligations set out in this Agreement, on the



understanding that one or more claims for compensation under this Agreement and/or the Underlying Assignment shall never result in the limitation being exceeded.

## 8. Transferability of the Agreement

- 8.1 Unless We have jointly agreed otherwise in writing, You and We shall not be permitted to transfer this Agreement and the rights and obligations under this Agreement to another party.

## 9. Termination and return / destruction of Personal Data

- 9.1 If the Underlying Assignment is terminated, We will return to You the Personal Data You have provided Us with or - if You so request - destroy this. We shall only keep a copy of the Personal Data if We are obliged to do so by law or (professional) regulations. Provided that we have any Personal Data since We don't store Personal Data longer than necessary.
- 9.2 The costs of collecting and transferring Personal Data upon termination of the Underlying Assignment shall be borne by You. The same shall apply to the costs of the destruction of the Personal Data. If you request us to do so, we will give you a cost estimate in advance.

## 10. Additions and amendments to the Agreement

- 10.1 Additions and amendments to this Agreement shall only be valid if made in writing. The term "in writing" shall also include amendments communicated by email, followed by agreement by email from the other party.
- 10.2 A change in the Personal Data processed, the reliability requirements or the privacy regulations or Your requirements may give cause to supplement or amend this Agreement. If this leads to significant adjustments in the Underlying Assignment, or if We are unable to provide adequate protection, this may be a reason for Us to terminate the Underlying Assignment.

## 11. Final provisions

- 11.1 At Your request, We shall provide You with all information necessary to demonstrate compliance with the obligations laid down in this Agreement. We shall facilitate audits, including inspections, by You or an auditor authorised by You and contribute to the audit. The costs of such requests, audits or inspections shall be borne by You. Any audits at Our Sub-processors shall also be at Your expense.
- 11.2 If requested, the Parties shall cooperate with the supervisory authority in the performance of its duties.
- 11.3 This Agreement shall be governed by the laws of the Netherlands and shall be subject to the jurisdiction of the courts of the Netherlands in all disputes ensuing from or relating to this Agreement.
- 11.4 This Agreement shall have primacy over any other agreements We have concluded with You. If You apply General Terms and Conditions, these shall not apply to this Agreement. The provisions of this Agreement shall prevail over the provisions of Our General Terms and Conditions, unless explicit reference is made to a provision in the General Terms and Conditions.

11.5 If any provision of this Agreement is found to be invalid, the validity of the other provisions of this Agreement shall not be affected. We shall then enter into consultations with You to jointly draw up a new provision. This provision shall be in the spirit of the invalid provision where possible, but obviously drafted in such a manner that the provision is valid.

### Signature

Signed on [date]

---

[name + name signatory]

---

Whoonext - D. Knaapen