

## SalesManager Software Terms and Conditions for Subscribers

### GENERAL

### DEFINITIONS

1.1 In these terms and conditions, the following capitalised terms have the meaning set forth hereunder:

**Administration:** Customer database which storis kept with the use of the Webservice;

**Environment:** an environment in the Webservice dedicated to Subscriber;

**Order Form:** The SalesManager order form or Service Agreement which has been completed and submitted to SalesManager by Subscriber or any other document in which these terms and conditions have been declared applicable;

**Parties:** Subscriber and SalesManager;

**Price List:** SalesManager's price list for the use of the Webservice and associated services, as amended from time to time;

**Report:** a report from an User to SalesManager on a problem relating to the Webservice or a question about the use or the implementation of the Webservice;

**Servers:** a collection of dedicated computers and related hardware managed by SalesManager, upon which is installed webserver software, support software or database software for providing the Webservice via the Internet;

**Service Hours:** the opening hours of SalesManager's helpdesk, being Monday to Friday 09.00 - 17.00 hours British time;

**Special Conditions:** any special terms and conditions which may have been agreed between the Parties;

**Subscriber:** the natural or legal person who has submitted the Order Form and has therewith entered into the Subscription Agreement;

**Subscription:** a subscription to the Webservice giving Subscriber the rights set forth in Article 3.1;

**Subscription Agreement:** the agreement referred to in Article 2.1;

**Subscription Conditions:** the terms and conditions published on SalesManager's website which apply to each of the Subscriptions of Subscriber;

**Super User:** a User who has been appointed by Subscriber as administrator of the Environment;

**Support:** the provision of customer support pursuant to Article 16;

**SalesManager:** SalesManager International Holding, whose registered office is 40 Shanid Road, Harold's Cross, Dublin D6W HE04, Ireland;

**User:** a natural person who is authorised by Subscriber to use the Webservice on behalf of Subscriber;

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**Webservice:** the on-line web application as supplied by SalesManager;

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### 2. APPLICABILITY

2.1 These terms and conditions, together with the Order Form, the Subscription Conditions and any Special Conditions constitute the Subscription Agreement between Subscriber and SalesManager and are legally binding on Subscriber and SalesManager. The Subscription Agreement governs each Subscription taken out by Subscriber and all services rendered by SalesManager to subscriber to the exclusion of any other terms that Subscriber seeks to impose or incorporate, or which are implied by trade, customer, practice or course of dealing.

2.2 The documents constituting the Subscription Agreement have the following order of priority: the Order Form; the Special Conditions (if any); the Subscription Conditions; these terms and conditions. In case of conflict between those documents, the document with the highest priority will prevail.

2.3 SalesManager may make amendments to the Subscription Agreement. In case of an amendment, SalesManager will give Subscriber at least 30 days' notice thereof. An amendment will be considered to be accepted by Subscriber and will enter into force on the date determined by SalesManager if Subscriber does not reject the Amendment within 30 days following the notification thereof. If Subscriber rejects the amendment, SalesManager will be entitled to terminate the Subscription Agreement by giving at least 30 days' notice of termination with effect from the end of a calendar month.

### 3. SUBSCRIPTIONS

3.1 A Subscription entitles Subscriber to give one User access to the Webservice. The functions offered under a Subscription and the rights attached to a Subscription depend on the subscription level.

3.2 If Subscriber wishes to give access to its Administration to more than one User, it must take out one additional Subscription for each additional User.

3.3 Subscriber acknowledges and agrees that the Webservice is provided on an "as is" basis.

### 4. INDEBTEDNESS OF SUBSCRIPTION FEES

4.1 The fees for Subscriptions are charged on a monthly basis and are payable per quarter in advance. The fees for Subscriptions are based on the maximum number of Subscriptions of Subscriber and the most comprehensive Subscription for each User during the relevant month.

4.2 Subscriber must give timely notice to SalesManager if it wishes to terminate a Subscription or remove a User from the Webservice. In this case the Subscriber will be responsible for the timely removal from the Environment of Subscriptions and Users who it no longer wishes to admit to the Environment. Subscriber shall be charged and pay for each Subscription until such Subscription and Users have been removed from the Webservice and the minimum term and the notice period of the Subscription have expired.

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### 5. PRICING AND TERMS OF PAYMENT

5.1 The fees to be paid by Subscriber to SalesManager for the use of the Webservice and additional services are to be SalesManager's list prices as specified in the Price List. The prices for services which are not specified in the Price List will be determined by agreement.

5.2 SalesManager is entitled to increase its fees annually with the same percentage as the increase of the consumer prices during the prior calendar year as published by The Office for National Statistics and to round up those prices to whole Great British Pounds.

5.3 SalesManager will send Subscriber an invoice each quarter for the use of the Webservice for the following quarter. These fees are due in advance. The fees for training sessions are due in advance. Consultancy services will be charged to and paid for by Subscriber after they have been provided. Consultancy services which are provided during more than one calendar month will be charged on a monthly basis in arrears. SalesManager may demand advance payment of the fees for consultancy services.

5.4 Subscriber shall pay SalesManager's invoices within 14 days from the date of invoice. If Subscriber disagrees with an invoice, it must give SalesManager notice thereof within 2 months following the invoice date. If no objection has been made against an invoice within this term, the indebtedness of the invoice amount by Subscriber will therewith be established. Time is of the essence for payment. A failure of Subscriber to pay any amount due to SalesManager in time shall be considered as a material breach of the Subscription Agreement.

5.5 SalesManager may request Subscriber to pay by direct debit. In case of such payment by direct debit, the amount of the invoice will be debited from Subscriber's account on the day of the invoice. If Subscriber does not agree to pay by direct debit or the direct debit entry fails or is not honoured, SalesManager will be entitled to charge an administration fee to Subscriber of at most GBP 5 per invoice.

5.6 All payments made by Subscriber will first be applied against the oldest of any outstanding invoices from SalesManager, irrespective of any other indication by Subscriber. Subscriber may not postpone payment or withhold payment of any amount due to SalesManager because of any set-off, counterclaim, abatement, or other reason.

5.7 SalesManager is authorised to read out, whether or not automatically, the user management data entered in the Environment and to use those data to ensure correct calculation and invoicing of the fee for the use of the Webservice to Subscriber. In addition, SalesManager has the right to check the numbers of Users and Subscriptions maintained by Subscriber in the Webservice.

5.8 If Subscriber fails to pay SalesManager on the due date, SalesManager may without prejudice to any other right or remedy

a. charge interest on the overdue amount at the rate of 4% per annum above the base rate of the Bank of England from time-to-time. The interest period shall run from the due date of payment until receipt of the full amount by SalesManager, whether before or after judgment. Notwithstanding the foregoing, SalesManager may in the alternative claim interest at its discretion under the Late Payment of Commercial Debts (Interest) Act 1998; and

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b. suspend all provision of the Webservice to Subscriber until payment has been made in full.

5.9 All sums payable by Subscriber to SalesManager shall become due immediately on the termination of the Subscription Agreement, despite any other provision. This Article 5.9 is without prejudice to any other right of SalesManager under the law or the Subscription Agreement.

### 6. LIABILITY

6.1 This Article 6 sets out the entire financial liability of SalesManager (including any liability for the acts or omissions of its employees, agents and sub-contractors) to Subscriber in respect of:

- a. any breach of the Subscription Agreement;
- b. any use made by Subscriber of the Webservice;
- c. any training given or service provided by SalesManager; and
- d. any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Subscription Agreement or the supply of the Webservice.

6.2 Except as expressly and specifically provided in these terms and conditions, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Subscription Agreement.

6.3 Nothing in the Subscription Agreement excludes the liability of SalesManager:

- a. for death or personal injury caused by SalesManager's negligence; or
- b. for fraud or fraudulent misrepresentation of SalesManager; or
- c. for damage caused by an intentional act of gross negligence by directors or senior management of SalesManager.

6.4 Subject to Article 6.3:

- a. SalesManager shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill or similar losses, or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Subscription Agreement; and
- b. SalesManager's total aggregate liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise, arising in connection with the performance or lack of performance of the Subscription Agreement or the supply of the Webservice shall be limited to the fees paid by Subscriber to SalesManager for the use of the Webservice during the 12 months period preceding the event which caused the loss or damage.

6.5 Apart from SalesManager, each of its affiliated companies, employees, agents and sub-contractors may invoke the limitation of liability set forth in this Article 6. Save and except as

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expressly provided in this Article 6.5 in respect of the parties mentioned in this article 6.5 and for the benefit of applying the limit referred to in this Article 6.5, a person who is not a party to the Subscription Agreement shall not have any rights under or in connection with it by value of the Contracts (Rights of Third Parties) Act 1999

6.6 This Article 6 shall survive termination of the Subscription Agreement.

### 7. INDEMNITIES

7.1 Subscriber shall indemnify SalesManager against all liabilities, costs, expenses, damages and losses (including legal costs and expenses) suffered or incurred by SalesManager arising out of or in connection with:

- a. any breach of Articles 9.5, 11.5, 12.5, 12.7, 12.10, 12.13, 15.1, 15.2 and 15.6;
- b. any third party claim arising out of or in connection with Subscriber's unauthorized use or adaptation of the Webservice;
- c. and/or exchanged by Subscriber or Users is unlawful.

7.2 This Article 7 shall survive termination of this Agreement.

### 8. IP RIGHTS AND RIGHTS IN DE THE ADMINISTRATIONS

8.1 Subscriber acknowledges and agrees that all intellectual property rights in the Webservice, including (without limitation) the functional and technical design, the lay out, the programming, the structure of the database, the functionalities and the source codes of the Webservice, all related documents and all goodwill exclusively belong to SalesManager or its licensors. The provision of the Webservice or any related product or service does not imply any transfer of intellectual property rights to Subscriber.

8.2 All rights of whatever nature in the data in an Administration belong to the Subscriber.

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### 9. TERM AND TERMINATION

9.1 A Subscription is entered into for an indefinite period and shall continue for a minimum period of one year, unless terminated as provided in Article 9.3. Either Party may terminate the Subscription Agreement for convenience after the minimum period has lapsed by giving 30 days written notice to the other Party with effect from the end of a calendar month.

9.2 The Subscription Agreement become effective on the date of the submission of the Order Form by Subscriber and terminates by force of law upon the termination of all Subscriptions.

9.3 Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate this Agreement immediately without liability to the other Party if:

a. the other Party commits a material breach of any of the terms of the Subscription Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach;

b. the other Party commits persistent breaches of the Subscription Agreement (such breaches having been notified in writing), so as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to abide by the Subscription Agreement;

c. the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or (being an individual) is deemed either as unable to pay its debts or as having no reasonable prospect of doing so, in either case, within the meaning of Section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

d. an order is made or a resolution is passed for the winding up of the other Party (being a company), or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other Party;

e. an order is made for the appointment of an administrator to manage the affairs, business and property of the other Party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other Party, or notice of intention to appoint an administrator (or administrative receiver as the case may be) is given by the other Party or a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

f. a receiver is appointed of any of the other Party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other Party, or if any other person takes possession of or sells the other Party's assets;

g. the other Party makes an arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;

h. the other Party (being an individual) is the subject of a bankruptcy petition or order.

i. the other Party ceases its business;

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j. the other Party takes or suffers any similar or analogous action in any foreign jurisdiction in consequence of dept.

9.4 In case of termination of the Subscription Agreement all Subscriptions shall automatically end.

9.5 On termination of the Subscription Agreement for any reason:

a. Subscriber shall no longer have access to the Webservice;

b. the right of Subscriber to use the Webservice lapses immediately and Subscriber shall cease all use of the Webservice;

c. SalesManager will no longer be responsible for saving the data in the Administrations and the Environment. The data referred to in Article 21.2 shall be made available to Subscriber, provided that Subscriber makes a written request to that effect to SalesManager within one month after the effective date of the termination of the Subscription Agreement, in which case Article 21.2 shall apply;

d. the accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

9.6 In case of the termination of an Administration or all Subscriptions in respect of an Administration, SalesManager will no longer be responsible for saving the data in such Administration. The data in the terminated Administration referred to in Article 21.2 shall be made available to Subscriber, provided that Subscriber makes a written request to that effect to SalesManager within one month after the effective date of the termination of the Administration, in which case Article 21.2 shall apply.

9.7 SalesManager will be entitled to charge a fee for saving data after termination of an Administration or all Subscriptions in respect of an Administration.



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### 10. FORCE MAJURE

10.1 SalesManager shall not be in breach of the Subscription Agreement, nor liable for any failure or delay in performance of its obligations under the Subscription Agreement arising from or attributable to force majeure. Force majeure includes a failure of a supplier of SalesManager, government measures or instructions, strikes, power cuts, internet or telephone interruptions and other circumstances beyond SalesManager's reasonable control.

10.2 If any delaying event under Article 10.1 continues for a period of 60 days or more, either Party may terminate the Subscription Agreement by giving written notice to the other Party of its intention to terminate the Subscription Agreement at the expiry of 14 days from the date of such notice, unless in the meantime the delay in performance has ended.

### 11. MISCELLANEOUS

11.1 Subscriber consents to SalesManager indicating in advertisements and brochures that Subscriber makes use of the Webservice and using Subscriber's name and logo for that purpose.

11.2 Subscriber consents to receiving messages, newsletters, advertisements and other communications from SalesManager by e-mail, unless it informs SalesManager via SalesManager's website or by e-mail to [cso@twinfield.com](mailto:cso@twinfield.com) that it does not wish to receive such communications.

11.3 All notices and other communications by Subscriber to SalesManager must be in writing and can be sent by e-mail to [info@salesmanager.nl](mailto:info@salesmanager.nl). Subscriber will bear the burden of proof that an e-mail or other written communication has been received by SalesManager. All notices to Subscriber may be given by e-mail or a communication in the Webservice.

11.4 No amendment or variation of the Subscription Agreement shall be effective unless it is in writing and signed by both Parties or in accordance with Article 2.3.

11.5 Subscriber may not, without the prior written consent of SalesManager, assign, transfer, or pledge its rights and obligations under the Subscription Agreement, or allow a third party to make use thereof.

11.6 SalesManager may at any time assign, transfer, or in any other manner dispose of any or all of its rights and obligations under the Subscription Agreement. SalesManager may sub-contract or delegate any or all of its obligations under the Subscription Agreement to a third party.

11.7 The Subscription Agreement constitutes the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to its subject matter.

11.8 If any court or competent authority finds that any provision of the Subscription Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Subscription Agreement shall not be affected.

11.9 No failure or delay by a Party to exercise any right or remedy provided under the Subscription Agreement or by law shall constitute a waiver of such right or remedy, nor shall it preclude or

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restrict the further exercise of such right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

11.10 A person who is not a party to the Subscription Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

11.11 The Subscription Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

11.12 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Subscription Agreement or its subject matter or formation (including non-contractual disputes or claims).

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### USE OF THE WEBSERVICE

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#### PROVISIONS AND USE OF THE WEBSERVICE

12.1 The Webservice is offered from a central location as a shared generic solution. The Webservice is not specifically maintained for Subscriber.

12.2 SalesManager will send Subscriber the URL of the Webservice, a user code and a password within 5 working days after the date on which the Subscription Agreement becomes effective. Subscriber can use these to instruct SalesManager to register other Subscriptions, Administrations and Users.

12.3 If Subscriber has obtained an Environment, Subscriber will use the Webservice for keeping its Administrations and for managing those Administrations and the Environment. In case of an Environment, Subscriber will only have access to the Environment and the Administrations in the Environment.

12.4 If a second user tries to log in to the Webservice with a combination of user code and password that is already being used, the session already in use will automatically be terminated.

12.5 The Environment will contain 2 template Administrations, one for testing and acceptance and a production Administration.

12.6 SalesManager has the right to modify the offered functionalities of the Webservice from time to time to improve or change the functionalities and correct errors. SalesManager will make every effort to solve errors in the Webservice, but does not warrant that all errors are corrected. If a modification results in a change in the functionality, SalesManager will give notice thereof via a communication in the Webservice or an e-mail to the Super User. No changes will be made or omitted for Subscribers or an individual Subscriber.

12.7 The Users determine which information is saved and/or exchanged using the Webservice. SalesManager has no knowledge of this information. Subscriber is responsible for ensuring that the information saved and/or exchanged by Users is lawful and does not breach the rights of third parties. SalesManager does not accept any liability whatsoever for the information saved and/or exchanged using the Webservice.

12.8 SalesManager is not responsible for the correctness of the data or the compliance by Users with accounting regulations. SalesManager makes every effort to ensure that transactions entered by Users are correctly recorded and validated by the Webservice. However, information that is incorrectly entered by a User cannot be recognized as such by the Webservice and will consequently be incorrectly saved or recorded.

12.9 If it becomes apparent to SalesManager that the information that is saved in or exchanged via the Webservice is unlawful, then it will delete such information or block the access to it. In no case shall SalesManager be liable for damages resulting therefrom.

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12.10 SalesManager, Subscriber and the Users are obliged to keep all user codes and passwords secret.

12.11 SalesManager is not liable for misuse or loss of user codes and passwords, and it may assume that the Users who login using a user code and password are actually the Users who have been authorized to do so by Subscriber. The moment Subscriber knows or has reason to suspect that user codes or passwords have fallen into the hands of unauthorized persons, it will immediately inform SalesManager thereof.

12.12 Each User can change her/his own password. Subscriber will endeavour to ensure that the Users change their password at least every 2 months.

12.13 Subscriber shall ensure that the Users carefully observe the user instructions and directions of SalesManager and are bound to the applicable practices of normal use of a webservice such as the Webservice. If the conduct of Subscriber or a User endangers the proper functioning of the Webservice, SalesManager will be entitled to block access to the Webservice by such User or all Users, without prior notice.

12.14 SalesManager provides an initial 10GB of data storage that a customer may use with the Webservice. Extra storage can be purchased from SalesManager for a fee of £10, - per 10GB per month.

12.15 If Subscriber wishes to allow one or more Users to log in via a single sign-on functionality it needs to sign a declaration to be obtained from SalesManager. The use of a single sign-on functionality will be at the risk of Subscriber.

12.16 SalesManager is not permitted to use the data from the Environment or the Administrations, other than to provide services to Subscriber. SalesManager is permitted to use the data in anonymous form for statistical purposes. SalesManager is allowed to use a copy of the Environment in the acceptance environment to monitor the correct functioning of the Environment or to test the correct functioning of an update of the Webservice.

## 13. TRAINING SESSIONS

13.1 Subscriber can register Users to attend a SalesManager training session on the use of the Webservice. If the number of registrations in the judgment of SalesManager gives reason to do so, SalesManager is permitted to reschedule the training session or to combine it with one or more other training sessions. SalesManager gives no warranty whatsoever regarding the content or result of the training. Subscriber accepts that the training will be given by SalesManager to the best of its ability.

13.2 The fees for attending a training session, the cancellation policy and other terms and conditions in respect of training sessions are published on SalesManager's website.

## 14. CONSULTANCY SERVICES

14.1 The Parties can separately and in writing agree on additional advisory and other services by SalesManager to Subscriber. Such services will be provided on a consulting basis. SalesManager warrants that it will use reasonable skill and care in the performance of such services, but does not

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warrant that it will achieve a specific result. Accordingly, SalesManager does not accept liability for failing to achieve a specific result.

14.2 If it is agreed that the consultancy services will be given in phases, SalesManager is authorized to defer the commencement of the services that form a part of a phase until Subscriber has approved the results of the preceding phase in writing.

14.3 SalesManager is only obliged to follow instructions by Subscriber regarding the performance of consultancy services if this is explicitly agreed in writing and does not require extra work, and provided that the instructions are reasonable and given in good time.

14.4 If an agreement to provide consultancy services is entered into with the view of having it performed by a specific person, SalesManager is nevertheless at all times authorized to replace this person with another person after notifying Subscriber.

## 15. PRIVACY, SECURITY AND CONFIDENTIALITY

15.1 SalesManager and all employees of SalesManager shall observe strict confidentiality in respect of all data in the Administrations and the Environment and all information that can be derived there from. The Parties undertake that they shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party or of any member of the group of companies to which the other Party belongs, except as provided in this Article 15.

15.2 No Party shall use any other Party's confidential information for any purpose other than to perform its obligations under the Subscription Agreement.

15.3 Each Party may disclose the other Party's confidential information:

- a. to those of its employees, officers, representatives or advisers who need to know such information for the purpose of carrying out the Party's obligations under the Subscription Agreement. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this Article 15; and
- b. as may be required by law, court order or any governmental or regulatory authority.

15.4 Information will be regarded as confidential if such information is not generally available to the public, unless the Party providing the information indicates such information as being non-confidential.

15.5 The use of the Webservice may involve processing personal data. It is the intention of the Parties that, for the purpose of the Data Protection Act 1998, SalesManager will be the data processor and Subscriber will be the data controller.

15.6 Subscriber shall strictly adhere to the Data Protection Act 1998 and shall ensure that it is entitled to transfer the relevant personal data to the Webservice for the purposes of saving and processing those data. Subscriber shall procure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation.

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15.7 All staff who act under the authority of SalesManager and have access to personal data will observe confidentiality with respect to those personal data.

15.8 SalesManager will take reasonable measures to protect the personal data saved or processed in the Webservice and shall strictly adhere to the Data Protection Act 1998. SalesManager will make reasonable effort to prevent unauthorised persons from accessing data of Subscriber. The information regarding these measures will be made available to Subscriber for inspection, to a limited and responsible extent, on Subscriber's request.

15.9 The data of Subscriber will only be saved and processed on one of the Servers, all of which are located in a country forming part of the European Economic Area (EEA).

15.10 Subscriber shall take reasonable measures to ensure that the Users will use the customary security software that should normally be installed on a computer, such as anti-virus, anti-spam, anti-spyware, anti-malware, anti-phishing and firewall software, as well as the security measures that SalesManager makes available.

15.11 This Article 15 shall survive termination of the Subscriber Agreement.

15.12 SalesManager will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Client Data, as described in the Guidelines. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Client Data by SalesManager personnel except (a) to provide the SalesManager Services and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 15.3, or (c) as a Client or User expressly permit in writing.

SalesManager may use service providers to perform the Services. SalesManager will make commercially reasonable efforts to ensure that data transfers to service providers meet requirements applicable to Clients' processing of data and will provide information on such data transfers in these Terms for Client's consideration.

By agreeing to these Terms, the Client authorizes SalesManager (a general written authorization in the meaning of Article 28 (2) of Regulation (EU) 2016/679) to engage the following service providers for the purposes of performing the Services. SalesManager shall provide 10 business days advance notice before engaging any new service providers under SalesManager's general authorization.

List of service providers processing Client Data:

Google LLC (United States of America)

Google Calendar API used to synchronise and create calendar events between google calendar and SalesManager Online. Users are bound by Google's API Additional Terms of Service (including the Google Privacy Policy). Emails sent to SalesManager are processed by Gmail in accordance with the Google Terms of Service.

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### SERVICE LEVEL

#### 16. SUPPORT

16.1 Subscriber has the right to Support for the use of the Webservice with respect to the functionality of the Webservice. Support is available during Service Hours. SalesManager can only offer Support, if Subscriber uses operating systems that are supported by the manufacturer of the operating systems. Support comprises general assistance regarding the Webservice, including explanation of the documentation, help to allow Subscriber to get the Webservice working correctly and, if Subscriber has taken out a Subscription, verification and analysis of the correctness of the entered and processed data. Support does not extend to the full operation of functions when no training has been followed by the User, or the provision of implementation, training and consultancy services.

16.2 If Subscriber has obtained an Environment, it shall appoint at least one Super User. One of the Super Users will act as principal contact person with SalesManager. SalesManager may require that a Super User meets certain standards of competence set by SalesManager or attends certain training sessions. Articles 5 and 13 shall apply to those training sessions.

16.3 Support is provided via an online helpdesk function in the Webservice or by telephone. SalesManager will be entitled to offer telephone support as a phone paid service. Support by telephone will only be given during Service Hours and will only be available to Super Users. SalesManager will endeavour to adequately answer questions, but does not warrant the correctness and/or completeness of the answers. Questions regarding the method of accounting or internal bookkeeping regulations will not be handled.

16.4 Users can send Reports to SalesManager via the online helpdesk in the Webservice.

16.5 Subscriber shall ensure that, before making a Report, Users will first put their questions in respect of the Webservice to a Super User and consult the knowledge base behind the questions mark in the Webservice.

16.6 SalesManager and third parties who are engaged by SalesManager may have access to the Environment and the Administrations for providing Support and may make those changes to the Environment and the Administrations as they deem necessary for solving a problem indicated in a Report.

16.7 Support is provided from an office of SalesManager. If assistance is desired at the location of Subscriber, a separate agreement must be made at the then applicable rate. Article 14 will apply to such agreement.

16.8 SalesManager is not liable for any failure to react to a Report due to the incorrect, incomplete or delayed sending and/or receipt of a Report submitted by a User, caused by the incomplete functioning of the telecom services or hardware of third parties and/or Subscriber.

16.9 SalesManager can freely choose which staff member deals with a Report. Subscriber cannot demand to be served by a specific person.

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16.10 Subscriber can be charged by SalesManager for processing a Category 40 Report (as referred to in Article 17.1). If so, SalesManager will inform Subscriber in advance.

16.11 Subscriber can monitor in the Webservice how SalesManager follows up a Report.

### 17. RESPONSE TIMES

17.1 Reports have the following priority:

a. Category 10 Report: a report on the Webservice being entirely unreachable owing to a fault on the part of SalesManager, or the Webservice having entirely stopped, such that none of the functions are available;

b. Category 20 Report: a report on a problem that causes a serious application error, which can endanger the progress of an essential processing period, but which does not bring the entire Webservice to a stop;

c. Category 30 Report: a report on a minor problem in the Webservice that does not require the immediate response of SalesManager;

d. Category 40 Report: all questions and requests for information regarding the use or implementation of the Webservice.

17.2 The following response times apply within the Service Hours: Category 10 Reports: 2 hours, Category 20 Reports: 5 hours; Category 30 Reports: 8 hours; Category 40 Reports: 20 hours. In determining the response time, only Service Hours will be taken into account. SalesManager will decide in good faith which category applies to a Report.

### 18. ACCESSIBILITY

18.1 SalesManager will make every effort to ensure the accessibility of the Webservice by Subscriber for the purposes to which it is entitled.

18.2 SalesManager will provide a minimum level of accessibility (uptime) of the Webservice of 99.6% per month, with the exception of the exclusions as indicated in Article 20. The above mentioned percentage is measured over a calendar month and at the closest measuring point. Accessibility is understood to mean that the Webservice is available on the internet at the URL provided to Subscriber and is actually provided on the Servers. Accessibility is not understood to mean the existence of a working point-to-point connection between the systems of Subscriber and the Servers. SalesManager is not responsible for the systems at Subscriber and the connecting internet infrastructure.



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### 19. PERFORMANCE

19.1 SalesManager warrants it makes every effort to ensure that the Webservice works properly without any problems and that the speed is sufficient to be able to continuously work with it during the day. In this regard, the following measurement is used as an objective measuring assessment: the manual retrieval or saving of a document with two lines using an average computer via an internet connection of average speed in an environment with an average size is effected in two out of three cases within 2 seconds, where in the third case the time may not be longer than 5 seconds. Notwithstanding the foregoing, SalesManager:

a. does not warrant that Subscriber's use of the Webservice will be uninterrupted or error-free, nor that the Webservice will meet Subscriber's requirements; and

b. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Subscriber acknowledges that the Webservice may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

### 19.2

SalesManager only warrants the performance indicated in Article 19.1 if and insofar as Subscriber satisfies the minimum system requirements specified by SalesManager from time to time, including the support of Internet Explorer, Firefox and other browsers that run under Windows, Apple Macintosh and Linux or other platforms. Moreover, Subscriber must have sufficient bandwidth. In this regard, it is assumed that at least 128 Kbit/sec (both download and upload) is available at all times for the workstation from where the Webservice is used, to be measured by an independent website such as [www.speedtest.nl](http://www.speedtest.nl). However, it is not necessary for every individual workstation to have this bandwidth.

19.3 SalesManager is at all times authorized to change these minimum system requirements. In this case, Subscriber will be informed about this beforehand. If Subscriber does not satisfy these new requirements, the warranty in article 19.2 regarding performance lapses.

19.4 The Webservice is a pure webservice. This means that the Webservice was not developed for use via Terminal Services or Citrix. SalesManager endeavours to support such constructions to the best of its ability.

19.5 The Webservice is offered from a location equipped to offer the Webservice in a professional manner according to the current state of the art, knowledge and customary and acceptable level of costs. This includes the physical protection of the premises, the prevention of access by unauthorized persons, 24/7 hardware-support, fire prevention, power backup and internet access security including a firewall, general security, data protection, and making reserve copies.

19.6 SalesManager will use reasonable commercial endeavours to monitor the data traffic from and to the Webservice and to respond within 30 minutes to unauthorised attempts by third parties to access the Webservice, to irregular traffic that cannot be handled by the Webservice, to harmful data traffic or other attempts to undermine the correct functioning of the Webservice. In such cases, SalesManager is authorized to block access to the Webservice.

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### 20. EXCLUSIONS

20.1 Without prejudice to Article 19.1 sub a and b the service level set forth in Article 16 through 19 does not apply in the following situations:

- a. during the regular maintenance windows. These will not be scheduled more than 2 times a month and will take place during weekends. SalesManager will inform Subscriber about such a maintenance window in writing at least 2 working days in advance;
- b. in case of incidents resulting from or attributable to force majeure;
- c. in case of any problem or disruption caused by an act of a User;
- d. in case of the unavailability of the Webservice at the request of Subscriber and/or unavailability of the Webservice during work at the request of Subscriber;
- e. if SalesManager needs the assistance of Subscriber to determine or isolate a problem or fault, and Subscriber does not provide such assistance;
- f. if the Subscriber does not comply with the minimum system requirements set forth in Article 19.2;
- g. if the incident is caused by malfunctioning of the systems at Subscriber or the internet infrastructure.

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### 21. BACK-UP AND OTHER SERVICES

21.1 Subscriber consents to a reserve copy being made of the data in the Administrations and the Environment. The back-up procedure used by SalesManager is as follows. SalesManager will make every effort to a) make a reserve copy once a day that will be kept for 30 days. The reserve copies are saved in an externally located data centre in a country forming part of the European Economic Area (EEA).

21.2 After termination of the Subscription Agreement or an Administration and provided that the request thereto has been made in accordance with Articles 9.5 sub d or 9.6, SalesManager will, at the expense of Subscriber and provided that agreement has been reached by the Parties on the conditions thereof, make the audit file(s) of the relevant Administration(s) or specific data or records in the Environment or the relevant Administration(s) available to Subscriber, in a generally accessible file format. In case of such request SalesManager will make an offer to Subscriber as regards the data to be exported, the fee and the other terms and conditions of the data transfer. Such offer will be based on SalesManager's consultancy fees as specified in the Price List. Subscriber agrees that the liability of SalesManager for the availability, completeness, integrity or possibilities for use of such data is entirely excluded. SalesManager is in not obliged to convert the data provided or otherwise make them appropriate for use by Subscriber.

21.3 Subscriber can request the restoration of data using the reserve copies. To this end, a separate agreement must be made at the then applicable rate and under the then applicable terms and conditions.