

## **SAAS AGREEMENT SelfGuide (20220207)**

### **PARTIES:**

This Software as a Service Agreement (hereinafter: “Agreement”) is entered into between Customer and PolderValley B.V., a corporation incorporated and existing under the laws of the Netherlands (hereinafter: “PolderValley”). PolderValley and Customer agree that the following terms and conditions will apply to the services provided under this Agreement.

PolderValley and Customer hereinafter are collectively referred to as “Parties” and individually as “Party”.

### **WHEREAS:**

- Customer wishes to obtain a right to the SaaS product;
- PolderValley is willing to grant the Customer the right to use the SaaS product for internal purposes only for the term and specific purpose set forth in this Agreement.

### **HAVE AGREED AS FOLLOWS:**

#### **Article 1 Definitions**

- 1.1** “Software as a Service (SaaS) product” refer to the specific PolderValley’s service that provides the use of PolderValley’s SelfGuide software that is hosted by PolderValley and made available to Customer on a term-use basis.
- 1.2** “SelfGuide” is an application used to record, validate and share instructions for business applications.
- 1.3** “Quote” shall mean a quote or invoice issued by PolderValley and accepted by Customer by Customer’s payment of the specified fees.
- 1.4** “Schedule” is a written document attached to this Agreement or executed separately by PolderValley and Customer for the purpose of purchasing SaaS product under the terms and conditions of this Agreement.
- 1.5** “Term” shall mean the period as specified in article 8 of this Agreement during which PolderValley grants a right to Customer to use the SaaS product.
- 1.6** “Confirmation Email” shall mean the email sent to Customer containing the start date of the Agreement and the confirmation of the purchase of the SaaS product and the agreed number (or bundle) of instructions.

#### **Article 2 SaaS**

- 2.1** PolderValley hereby grants to Customer, during the Term, a non-exclusive, non-assignable, non-transferable (unless otherwise agreed in writing) right to access and use the SaaS product from PolderValley or distributed through a distributor reseller or a service provider of PolderValley (collectively referred to as “PolderValley Partner”), subject to the terms of

this Agreement and solely for internal purposes within Customer's own business.

- 2.2** The use of the SaaS product is subject to payment of the fee and the fulfilment of all requirements stipulated in this Agreement. The rights granted herein are limited to PolderValley's and its licensor's intellectual property rights in the SaaS product. Software products not proprietary to PolderValley ("Third Party Products") are licensed separately from the respective proprietary owner of such Third Party Products.
- 2.3** Customer acknowledges and agrees that nothing herein transfers or conveys to Customer any right, title or interest to any intellectual property rights in or to the SaaS product and any part thereof or copy thereof. No title to any intellectual property rights is transferred to the Customer.
- 2.4** Customer acknowledges that this Agreement is a services agreement and PolderValley will not be delivering copies of SelfGuide as part of the SaaS product.

### **Article 3 Trial license**

- 3.1** There is a possibility for a trial license. A trial license is a trial of a period of 30 days prior to the initial Term of 12 months, as determined by PolderValley. In the Confirmation Email is indicated if there is a trial period. If so, the last day of the trial period will be indicated as well.
- 3.2** The trial ends:
- After the last day of the trial as indicated in the Confirmation Email if Customer has not configured a payment method. After that day, the SaaS product shall no longer be available;
  - As soon as Customer has configured a payment method, from that day on the trial license will end and the subscription starts for a period of 12 months.
- 3.3** During the trial period, no costs will be charged.

### **Article 4 Restrictions on Use**

- 4.1** Except as expressly permitted by mandatory applicable law and this Agreement, Customer agrees not to: (i) copy or republish the SaaS product or SelfGuide, (ii) make the SaaS product available to any person other than authorized users, (iii) use or access the SaaS product to provide service bureau, time-sharing or other computer hosting services to third parties, (iv) modify or create derivative works based upon the SaaS product, (v) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the software used to provide the SaaS product, (vi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software used to provide the SaaS product, except and only to the extent such activity is expressly permitted by applicable law, or (vii) access the SaaS product in order to build a similar product or competitive product.
- 4.2** PolderValley, and as the case may be PolderValley licensors, reserves all right, title, and interest in and to the SaaS product not explicitly granted herein, including without limitation all copyrights, patents, and other proprietary rights, including all modifications, improvements, upgrades, derivative works and feedback related thereto and all intellectual

property rights therein. Customer agrees to assign all right, title and interest it may have in the foregoing to PolderValley.

- 4.3** PolderValley reserves the right to make such audits at Customer's premises as is necessary to ascertain that the Customer's use of the SaaS product accord with the provisions of this Agreement and the Customer shall be obliged to assist PolderValley in the preparation of such audit and shall grant PolderValley access to the Customer's computer equipment and systems.

## **Article 5 Customer Responsibilities**

- 5.1** Assistance. Customer shall provide reasonable information and assistance to PolderValley to enable PolderValley to deliver the SaaS product. Upon request from PolderValley, Customer shall promptly deliver Customer content (like configuration details, data files and graphics) to PolderValley in an electronic file format specified and accessible by PolderValley. Customer acknowledges that PolderValley's ability to deliver the SaaS product in the manner provided in this Agreement may depend upon the accuracy and timelines of such information and assistance.
- 5.2** Unauthorized use; False information. Customer shall: (a) notify PolderValley immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to PolderValley immediately and use reasonable efforts to stop any unauthorized use of the SaaS product that is known or suspected by Customer or any user, and (c) not provide false identity information to gain access to or use the SaaS product.
- 5.3** The recorder is required to create a new Application Work Instruction (AWI). The recorder tool must be installed on a computer on premises. Customer is responsible for the installation of the Recorder.

## **Article 6 Fees**

- 6.1** Customer shall pay a fee for the SaaS product per month, as specified in the Confirmation Email and as agreed with PolderValley or a PolderValley Partner, if the SaaS product is distributed through a PolderValley Partner.
- 6.2** The fees shall be paid in advance by the Customer. PolderValley only allows the Customer to make payments by credit card. Depending on the country where the SaaS product is purchased, there may be other payment options.
- 6.3** PolderValley retains the right to change the prices for the SaaS product at any time provided that PolderValley notifies Customer no later than thirty (30) days prior to the change of the fees.

## **Article 7 Right to collect information**

- 7.1** The SaaS product contains programs that may collect data about the use of the SaaS product. PolderValley saves telemetry data about the use of the user interface, the agent and the recorder. Telemetry data concerns performance data, exceptions and events. Customer agrees that PolderValley may collect such Customer data about the use of the SaaS product and that the data collected through such programs may be used by PolderValley to monitor Customer's compliance with the terms of this Agreement, to provide Customer with support

services and/or to improve the SaaS product. Customer agrees that it will not prevent or in any matter restrict the right of PolderValley to collect such data.

## **Article 8 Term and termination**

- 8.1** The use of the SaaS product is granted to the Customer on a subscription basis. The term of this Agreement shall be twelve (12) months commencing on the start date as specified in the Confirmation Email (“Term”). If no subscription start date is specified in the Schedule or Quote, the start date of the Agreement shall be the date of delivery of the Agreement to use the SaaS product to the Customer. The Customer and PolderValley shall not be entitled to terminate this Agreement prematurely.
- 8.2** Upon the expiration of the Term, the Agreement will automatically renew for one (1) month, unless either Party provides the other Party with a minimum of thirty (30) days’ written notice of termination before the end of the Term. After expiration of the Term, the Agreement can be terminated by the Customer or PolderValley monthly.
- 8.3** If a trial period or subscription Term ends and is not renewed, Customer will no longer have access to the data.
- 8.4** PolderValley may terminate this Agreement at any time with immediate effect and without judicial intervention, by written notice to Customer upon any breach of this Agreement by Customer which is capable of complete remedy but which is not completely remedied within thirty (30) days after written notice from PolderValley specifying the breach and requiring it to be remedied, or upon any breach of this Agreement by Customer which cannot be remedied.
- 8.5** This Agreement shall further terminate, without notice, (i) upon the institution by or against Customer of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Customer’s debts, (ii) upon Customer making an assignment for the benefit of creditors, or (iii) upon initiation of dissolution proceedings of Customer.
- 8.6** Upon termination of the Agreement, all the rights granted to Customer under this Agreement shall immediately cease.
- 8.7** Upon termination Customer shall cease any and all use of the SaaS product and shall destroy all copies of the SaaS product in Customer’s possession.
- 8.8** Upon termination no repayment of fees paid in advance will be made.
- 8.9** After termination or expiration of this agreement, PolderValley will retain Customer data for up to 14 days, after which it is permanently deleted. During this grace period (14 days), on Customer request, a copy of the data can be received in a PolderValley supplied format and standard encoding.

## **Article 9 Limited Warranty**

- 9.1** PolderValley warrants during the Term that the SaaS product will be free of material defects and will function in substantial conformance to its documentation provided to Customer by PolderValley, which provision may be through PolderValley’s website, and which

documentation sets out a description of the SaaS product and the instructions for use of the SaaS product.

- 9.2** PolderValley does not make any representations or warranties that the functions performed by the SaaS product will meet Customer's requirements, that the operation of the SaaS product will be uninterrupted or error free, or that all defects in the SaaS product will be corrected. To the extent permitted by applicable law, the foregoing limited warranty is in lieu of all other warranties or conditions, express or implied, and PolderValley disclaims any and all other warranties or conditions, whether express, implied, oral, or written, including, without limitation, any and all implied warranties of merchantability, reasonable care, and/or fitness for a particular purpose (whether or not PolderValley knows, has reason to know, has been advised, or is otherwise in fact aware of any such purpose). To the extent permitted by applicable law, PolderValley further disclaims any and all warranties, conditions, and/or representations of title and non-infringement. The SaaS product is provided "as-is" without warranty of any kind. No oral or written information or advice given by PolderValley or its employees shall create a warranty or in any way increase the scope of PolderValley's obligations hereunder. No action for breach of the limited warranty set forth in this article 9 may be commenced more than one (1) year following the expiration of the Term.

## **Article 10 Third Parties**

**10.1** Customer acknowledges and agrees that:

- the provision of the SaaS product may be contingent on, or impacted by, third parties, the moment of notification of a change by third parties, end users, suppliers, other subcontractors (**Third Party Inputs**); and
- despite anything to the contrary, to the maximum extent permitted by law, we will not be responsible for, and will have no Liability for, any default or breach of these Terms or law, if such default or breach was caused by or contributed to by any Third Party Inputs.

**10.2** Customer acknowledges that the SaaS product include certain optional functionality that may interface with third party software or services. To the extent that you choose to use such functionality, you are responsible for: (i) the purchase of, (ii) the ancillary requirements related to, and (iii) the licensing obligations related to the applicable third party software and services. It is your responsibility to ensure the requirements are met in order for you to benefit from the specific functionality made available to you.

**10.3** Customer is aware that the SaaS product incorporates third-party material. All incorporated material is available as open source software or licensed by PolderValley. If required, license information is shared on <https://ppprodsa001.blob.core.windows.net/website/thirdparty.licenses.txt>

## **Article 11 Application upgrades and maintenance**

**11.1** The SaaS product is maintained and receives periodic updates and upgrades through releases. PolderValley schedules releases in such a way that any impact on the availability and performance of the service is kept to a minimum.

**11.2** Each of PolderValley's releases may incorporate new features or enhancements that increase the functionality of the SaaS product. Release notes are made public by e-mail or webpage in

advance of the actual release. These communications cover the reasons for, and impact of, the release to Customer's users.

- 11.3** PolderValley shall only provide bug fixes, corrections, modifications, enhancements and upgrades to the latest release of the SaaS product. PolderValley only supports the latest release of the SaaS product and can only ensure the proper functioning of the SaaS product if the Customer uses the latest release of the SaaS product.

## **Article 12 Availability support team**

- 12.1** A support request must be sent via e-mail. This notification can only be made by the registered contact persons of the client. The support team is available on working days between 8:30 AM - 5:00 PM CET.

## **Article 13 Patent and Copyright Indemnity**

- 13.1** PolderValley shall, at its own expense, defend or settle any suit or proceeding that is instituted against Customer to the extent such suit or proceeding alleges that any SaaS product granted by PolderValley hereunder infringes any intellectual property right of a third party, and shall pay all damages awarded therein against Customer or agreed upon in settlement by PolderValley; provided that Customer (i) gives PolderValley immediate notice in writing of any such suit, proceeding or threat thereof; (ii) permits PolderValley sole control, through counsel of PolderValley's choice, to answer the charge of infringement and defend and/or settle such suit; and (iii) gives PolderValley all the needed information, reasonable assistance and authority, at PolderValley's expense, to enable PolderValley to defend or settle such suit.
- 13.2** The above provision shall not apply to, and PolderValley shall have no liability or obligation for, any infringement arising from the following: (i) any modification, servicing or addition made to the SaaS product by anyone other than PolderValley; (ii) the use of such a SaaS product as a part of or in combination with any devices, parts or products not provided by PolderValley if the SaaS product would not have been infringing but for such combination; (iii) the use of other than a current unaltered release of the SaaS product available from PolderValley; or (iv) use of any Third Party Products. This exclusion applies to the extent that the infringement would have been avoided but for such modification, combination, compliance with specifications, use of other than the current release.
- 13.3** In the event the use of any SaaS product granted by PolderValley is challenged by a third party, or in the event PolderValley wishes to minimize its potential liability hereunder, PolderValley may, at its sole option and expense and without any cost or harm to Customer: (i) procure for Customer the right to use such SaaS product; (ii) substitute a functionally equivalent, non-infringing unit of the SaaS product; (iii) modify such SaaS product so that it no longer infringes but remains functionally equivalent.

## **Article 14 Limitation of Liability**

- 14.1** In no event shall PolderValley be liable for any loss, claim, or damage relating to Customer's use or possession of the SaaS product. Customer shall have the sole responsibility for adequate protection of its data and/or equipment used in connection with the SaaS product. In addition, PolderValley's total liability fee to Customer under this Agreement shall be

limited to one hundred percent (100%) of the fees (exclusive of VAT) paid by Customer to PolderValley during the last twelve (12) months under this Agreement or to a PolderValley Partner in respect thereof.

**14.2** Subject to the remainder of this paragraph, Customer releases PolderValley from all obligations, liability, claims or demands in excess of the limitation. This limitation shall survive and apply even if any limited warranty or remedy hereunder is found to have failed of its essential purpose.

**14.3** This limitation of liability shall not apply if the damages are caused by, or relate to, gross negligence or wilful misconduct by or on behalf of PolderValley.

## **Article 15 Data protection**

**15.1** Parties shall comply with the data protection laws with respect to the processing of the personal data of Customer. The data processing agreement in the Appendix applies.

## **Article 16 General Provisions**

### **16.1 Injunctive Relief**

Customer acknowledges that, due to the nature of the SaaS product and the inherent difficulty of adequately protecting the proprietary rights of PolderValley in the SaaS product, a breach of this Agreement will cause PolderValley irreparable harm for which money damages would be inadequate. Therefore, Customer agrees that PolderValley is entitled to seek injunctive relief to protect its rights under this Agreement, in addition to any and all remedies available at law.

### **16.2 Export Law Compliance**

Customer will be responsible for compliance with any local export or other law and any other applicable export control rules, regulations, directives or laws with respect to its use or disposition of the SaaS product and any related technical data and will not export or re-export the SaaS product or any related technical data contrary to such applicable laws and/or regulations.

### **16.3 Waiver**

The failure of either Party to require performance by the other Party of any provision hereof shall not constitute a waiver of the provision itself nor the right to require performance thereunder.

### **16.4 Assignment**

Customer shall not assign or transfer this Agreement or delegate any of its rights, duties or obligations hereunder without the prior written consent of PolderValley, which consent shall not unreasonably be withheld.

### **16.5 Customer Reference**

Customer agrees (i) that PolderValley may identify Customer as a recipient of Service and use Customer's name and logo in sales presentations, and with prior Customer approval in marketing materials and press releases, and (ii) with prior Customer approval to develop a brief customer profile for use by Provider for promotional purposes on any websites owned and/or controlled by PolderValley.

#### **16.6 Notices**

All notices, consents, waivers and other communications under this Agreement must be in writing and will be deemed to have been duly given when (i) delivered by hand (with written confirmation of receipt); (ii) sent by a facsimile (with written confirmation of receipt), provided that a copy is also promptly mailed by registered mail, return receipt requested; or (iii) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), or by registered or certified mail, return receipt requested, in each case to the appropriate addresses and facsimile numbers as a Party may designate by notice to the other Party.

#### **16.7 Controlling Law and Dispute Resolution**

This Agreement shall be governed by, and construed in accordance with, the substantive laws of The Netherlands excluding its conflict of law provisions. Any dispute, claim or controversy arising out of or in connection with the Agreement that cannot be settled amicably by the Parties shall be settled by the competent Dutch court of Overijssel, location Almelo, the Netherlands.

#### **16.8 Severability**

In the event that any provision of this Agreement shall be unenforceable or invalid, such unenforceability shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or court decisions, provided, however, if the provision rendered unenforceable or invalid shall substantially destroy or impair the bargain represented in this Agreement, the Agreement shall be deemed to be terminated.

#### **16.9 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the use of the SaaS product and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to this agreement made by Customer will be binding unless in writing and signed by PolderValley.

#### **16.10 Amendments**

Only PolderValley is authorized to make a change to the service, a change in (the performance of) the agreement or a change in the performance of the processing agreement. A change to the service is understood to mean a substantial change. PolderValley shall inform the Customer of the change as soon as possible and the Customer has the right to object within 4 weeks. Contrary to the foregoing, PolderValley may, implement improvements for example with regard to adequate security of the service. The Customer cannot object to this. PolderValley shall inform the Customer of the change as soon as possible.

## Appendix: Data Processing Agreement (DPA)

This appendix forms an addition to the SaaS-agreement (the agreement) as agreed upon by PolderValley B.V., in the role of Processor, and Customer, in the role of Controller. This appendix supersedes any arrangements previously made between the Parties with regard to the Processing of Personal Data.

The agreement between Processor and Controller applies to the Processing operation performed by Processor on the basis of the underlying assignment issued by Controller. The agreement refers to the specific service that provides the use of SelfGuide hosted by Processor.

The agreement and this corresponding appendix bind both parties at the time of signing and confirms the mutual rights and obligations of both parties.

When a term is capitalized it refers to the meaning of the definition set out in Article 4 of the GDPR.

### Article 1 Parties roles

Processor shall be regarded as Processor because of the performance of the underlying assignment and in respect of the Personal Data that Processor will process. The Controller shall be regarded as Controller.

### Article 2 Purpose limitation

**2.1** The Controller assigns and instructs the Processor to process the Personal Data on behalf of the Controller.

**2.2** Processor shall process Controller data only in accordance with Controllers documented instructions as set forth in this Data Processing Agreement (hereafter DPA). Processor shall only process the Personal Data of Controller to the extent that the Processing is necessary for the performance of the agreement, never for its own benefit, for the benefit of Third Parties and/or for advertising and/or other purposes, as the case may be, unless a provision of EU law or Member State law applicable to the Processor obliges the Processor to process. In that case, the Processor shall notify the Controller in writing of this provision prior to Processing, unless such legislation prohibits such notification for important reasons of public interest.

### Article 3 Subject matter, terms, Personal Data processed and categories of data subjects

**3.1** The different categories of Personal Data processed by Processor are:

- Personal identifiable information (e.g. name, surname, e-mail)
- Personally identifiable information obtained through the use of 'the recorder' contained within the product.

The different categories of data subjects are:

- Employees, associates

**3.2** Controller will not process any other data then personally identifiable information in the software. Personally identifiable information obtained through the recorder, must be blurred by using the censor functionality offered by the product. Processor does not carry

any liability concerning sensitive data. This non-liability does extend to security incidents or other incidents involving sensitive data.

#### **Article 4 Processor personnel**

**4.1** Processor shall take reasonable steps to ensure the reliability of any employee, agent, contractor, Sub-processor or any Third Party who may have access to the Personal Data of the Controller. Processor will ensure that access to the Personal Data is strictly limited to those individuals whose access is relevant for the purposes of the agreement or who need access to comply with Applicable Laws in the context of that individual's duties to the contracted Processor. Processor will ensure that all fore mentioned individuals are subject to confidential obligations of professional or statutory nature.

#### **Article 5 Technical and organizational measures**

**5.1** The Processor will take appropriate technical and organizational measures to ensure a level of security appropriate to the risk, so that the Processing meets the requirements of the GDPR and other applicable laws and regulations concerning the Processing of Personal Data and the protection of the rights of data subjects is guaranteed.

**5.2** In assessing the appropriate level of security, the Processor shall take into account the state of the art, the newest developments, the cost of implementation, as well as the nature, scope, context and purposes of Processing, and the various risks to the rights and freedoms of individuals in terms of probability and seriousness, especially as a result of the destruction, loss, alteration or unauthorized disclosure of or access to data transmitted, stored or otherwise processed, whether accidentally or unlawfully.

#### **Article 6 Audits**

**6.1** Controller has the right to carry out inspections or to have them carried out by an auditor appointed on a case-by-case basis. The auditor shall assess the Processor's compliance with this DPA in its business operations by means of random checks, of which the Processor will be notified in advance.

**6.2** Processor shall allow the Controller to verify compliance with its obligations as provided by article 28 GDPR. The Processor undertakes to give the Controller the necessary information on request and, in particular, to demonstrate the implementation of the technical and organizational measures.

**6.3** Evidence of the implementation of such measures, which may not only concern the activities under this DPA, may also be provided by

- current auditor's certificates, reports or excerpts from reports provided by independent bodies (e.g. auditor, data protection officer, IT security department, data protection auditor).
- a suitable certification by IT security or data protection auditing.

**6.4** Processor may charge a reasonable fee to the Controller for enabling inspections.

#### **Article 7 Personal Data Breach**

**7.1** Without unreasonable delay and within 24 hours upon discovering a Personal Data Breach, the Processor shall inform the Controller. The Processor shall inform the Controller via the contact person. The Processor warrants that the information provided, to the best of the Processor's knowledge at that time, is complete, correct, and accurate.

**7.2** If it is not possible for the Processor to provide all information from the data breaches form published by the data protection authority simultaneously, the information may be provided to the Controller in stages without unreasonable delay.

**7.3** The Processor has adequate policies and procedures in place to ensure that it can:

- (i) Detect Personal Data Breaches at the earliest possible stage.
- (ii) Inform the Controller of any Personal Data Breach in accordance with article 6.1.
- (iii) Respond adequately and promptly to any Personal Data Breach.
- (iv) Prevent or limit any further unauthorized disclosure, alteration and provision or otherwise unlawful Processing and prevent its recurrence.

**7.4** The Processor will refrain from reporting Personal Data Breaches to the Supervisory Authority and/or the affected data subjects, unless expressly requested to do so in writing by the Controller.

## **Article 8 Data subjects rights**

**8.1** Processor undertakes to provide full cooperation and assistance, as it may be reasonably possible, in order to assist the Controller in responding to data subjects' requests for the exercising of their rights.

**8.2** In particular, Processor undertakes to (i) immediately communicate to the Controller any request received by data subjects concerning the exercising of their rights and, if feasible and appropriate, to (ii) enable the Controller to design and deploy all the technical and organizational measures necessary to answer the data subjects' requests.

**8.3** Notwithstanding the fact that the Controller bears the responsibility to respond to the data subjects' requests, the Processor can accept to be tasked with the fulfilment of some specific requests, provided that such tasks do not require disproportionate efforts from the Processor and that the Controller provides detailed instructions in writing.

**8.4** Processor may charge a reasonable fee to the Controller for providing cooperation and assistance in responding to data subject's requests for exercising of their rights.

## **Article 9 Assistance to the Controller**

**9.1** The Processor shall provide the Controller with all necessary assistance and cooperation in enforcing the obligations of the Parties under the GDPR and other applicable laws and regulations concerning the Processing of Personal Data. To the extent that such assistance relates to the Processing of Personal Data for the purpose of the performance of the agreement, the Processor shall in any event provide the Controller with such assistance relating to:

- (i) The security of Personal Data.
- (ii) Performing checks and audits.
- (iii) Performing DPIAs.
- (iv) Prior consultation with the Supervisory Authority.
- (v) Responding to requests from the Supervisory Authority or another government body.
- (vi) Responding to requests from data subjects.
- (vii) Reporting Personal Data Breaches.

- 9.2** Processor may charge the Controller a reasonable fee for support services which are not included in the description of the services and which are not attributable to the Processor's misconduct, mistakes or infringements.

#### **Article 10 Transfer of Personal Data**

- 10.1** Both parties mutually acknowledge and agree that the data processing activities under this agreement will not take place outside of the European Economic Area.

#### **Article 11 Sub-processors**

- 11.1** Processor may engage or replace a Sub-processor for the performance of Processor's Processing of Personal Data under the DPA.
- 11.2** The Processor shall inform, in writing, the Controller in the event of changing Sub-processors no later than one (1) month prior to intended changes regarding the addition, replacement or removal of Sub-processors whereby the Controller shall be given the opportunity to object to these changes in writing within one (1) month after the Controller has been informed by the Processor of the intended change.
- 11.3** The Controller is entitled to terminate the agreement if they can't come to an agreement on the change of a Sub-processor.
- 11.4** Processor shall enter into a written agreement with each Sub-processor containing data protection obligations that provide, at minimum, the same level of protection for Controller data as set in this DPA, to the extent applicable to the nature of the service provided by such Sub-processor.
- 11.5** The Sub-processors engaged by the Processor in the performance of the DPA are:
- Microsoft
  - Mail gun Technologies, Inc.
  - Amazon Web Services EMEA SARL

The Controller has given the Processor general permission to engage these Sub-processors

#### **Article 12 Cooperation with Supervisory Authorities**

- 12.1** The Controller and the Processor shall cooperate, on request, with the Supervisory Authority. The Controller shall be informed immediately of any inspections and measures executed by the Supervisory Authority, insofar as they relate to the activities under this DPA.

#### **Article 13 Retention period of Personal Data**

- 13.1** Processor does not store Personal Data that are processed longer than is necessary for the aforementioned purposes of data Processing or on the basis of laws and regulations (with due observance of the retention periods resting on us).

#### **Article 14 Liability**

- 14.1** Each party to this DPA commits to indemnify the other party for damages or expenses resulting from its own culpable infringement of this DPA, including any culpable infringement committed by its legal Representative, subcontractors, employees or any other agents. Furthermore, each party commits to indemnify the other party against any claim exerted by Third Parties due to, or in connection with, any culpable infringement by the respectively other party.
- 14.2** Article 82 GDPR stays unaffected.
- 14.3** Each Party is obliged to inform the other Party without undue delay of any (possible) liability claim or the (possible) imposition of a fine by the Supervisory Authority, both in connection

with the DPA. Each Party is obliged in all reasonableness to provide the other Party with information and/or support for the purpose of putting up a defence against a (possible) liability claim or fine as referred to in the previous sentence. The Party providing information and/or support is entitled to charge any reasonable costs in this respect to the other Party; the Parties shall inform each other as much as possible in advance of these costs.

#### **Article 15 Duration and termination**

**15.1** The duration of the DPA is equal to the duration of the agreement. The DPA cannot be terminated separately from the agreement. Upon termination of the agreement, the DPA ends by operation of law and vice versa.

#### **Article 16 Deletion and return of Personal Data**

**16.1** Processor shall not create copies or duplicates of the data without the Controllers knowledge and Consent, except for backup copies, insofar as they are necessary for ensuring that data is processed correctly, and where the retention of such data is required by law.

**16.2** After conclusion of the provision of services, Processor shall, at the Controllers choice, either delete in a data-protection compliant manner or return to the Controller, all the Personal Data collected and processed under this DPA, unless any applicable legal provision requires further storage of the Personal Data.

**16.3** In any case Processor may retain beyond termination of the contract all the information necessary to demonstrate the compliance of the Processing activities carried out.

**16.4** The documentation referred to under point (3) above, shall be stored by Processor in accordance with the applicable retention periods, statutory or otherwise determined. Processor may hand the documentation over to the Controller upon termination of the agreement. In such case, Processor is relieved from any obligation to keep such documentation.

#### **Article 17 Applicable law and dispute resolution**

**17.1** The DPA and its performance are governed by Dutch law.

**17.2** All disputes arising between the Parties in connection with the DPA shall be submitted to the competent court in the place where the Controller has its registered office.

#### **Article 18 Data Protection Officer**

**18.1** Processor is not required to appoint a Data Protection Officer  
Mr Klijndijk, organizational unit PolderValley, +31 88 122 5540, info@poldervalley.com is designated as the contact person on behalf of the Processor.