

SaaS Agreement
Current Research Information System

between

Delft University of Technology

and

SAAS AGREEMENT

Current Research Information System Software

Between:

The legal entity in accordance with public law as defined in Article 1.8, paragraph 2, of the Higher Education and Scientific Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek, WHW), Delft University of Technology (TU Delft), having its registered office in Delft at Stevinweg 1, represented pursuant to Article 9.2, paragraph 3 of the WHW by Dr. N.J.P.M. Bos, Member of the Executive Board / Vice President Operations, who is duly mandated to sign this Agreement on behalf of TU Delft.

hereinafter "Customer"

And

Service Provider, having its registered offices and principal place of business in XXXXXXXX, listed in the trade register under number XXXXXXXX, legally represented in this matter by Mrs./Mr. XXXXXXXX, XXXXXXXX, who is authorised to sign this Agreement on behalf of the company, hereinafter "Service Provider"

Commencement Date: February 1st, 2027

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Considering that:

- A. Customer is a leading Dutch technical university with approximately 26.500 students.
- B. Service Provider is in the business of providing Current Research Information System (hereinafter: CRIS).
- C. Customer published an EU public procurement on TenderNed, named: 'European Public Procurement Procedure (Open Procedure) Current Research Information System. This concerns an EU public procurement according to the open procedure. The description of the procurement in this publication is as follows: 'The objective of the public procurement procedure is to award the contract by concluding an agreement with one (1) service provider for the provision, implementation, migration of the data from the current software to the new software, maintenance and support of Current Research Information System Software'.
- D. Service Provider on date XXXXX in the context of the 'European Public Procurement Procedure 'Current Research Information System' submitted its electronic tender.
- E. Customer desires to award the assignment in the context of this procurement 'Current Research Information System' to Service Provider and to establish a contractual relationship with Service Provider to provide certain Services, including Implementation (including migration of the data from the current software to the new software), Configuration, Hosting, Maintenance, Licensing and Interfacing. Furthermore, Service Provider shall deliver certain Deliverables as described herein. Service Provider expressed its willingness to accept this assignment and agrees to perform the Services and deliver the Deliverables under the terms and conditions of this Agreement.
- F. Parties have concluded a Data Processing Agreement dated;

Have agreed as follows:

1. Definitions

In this Agreement the following terms shall have the following meanings ascribed to them:

- 1.1 **Acceptance Procedure** means the procedure for determining whether Service Provider has complied with its delivery obligations pursuant to this Agreement. The Acceptance Procedure, more explicit the Acceptance Test, will be defined with Service Provider directly after the final awarding of the contract.
- 1.2 **Acceptance Test** means the test by which Customer assesses whether the Current research information system Software meets its delivery obligations to this Agreement.
- 1.3 **Change** means any addition, modification or removal of anything that could have an effect on the Services including changes to the architecture, processes, tools, metrics and Documentation, as well as changes to the Services or components of the Services.
- 1.4 **Commencement Date** means the date upon which this Agreement enters into effect.
- 1.5 **Confidential Information** means any and all information which is confidential in nature in whatever form whether disclosed orally or in writing and whether eye readable, machine readable or in any other form including, without limitations know-how, algorithms, methodologies, specifications, technical literature, information of a commercial, financial, cost, pricing or marketing nature, exchanged and/or disclosed by one party to the other or that has come into the possession of the other party prior to and/or during the Term.
- 1.6 **Configuration** means preparing and creating the Current research information system Software that is fit for the specific use of Customer, and/or modifications within the Current research information system Software created by using the tooling delivered together with the Current research information system Software, explicitly without changing the source code.
- 1.7 **Customer Requirements** means the set of requirements identified by Customer as being necessary for the Services, including but not limited to any Software, Hardware or other Deliverable or Service to comply with in order to meet Customer's business objectives.
- 1.8 **Customer Software** means software that is maintained and operated by or on behalf of Customer and to which the Current research information system Software needs to be interoperable and integrated.
- 1.9 **Datacenters** means the Hardware provided, hosted and operated by Customer, on Customer premises for the provision of Services under this Agreement.
- 1.10 **Deliverable** means any product, electronic or physical, either resulting from the Services or being a tangible part thereof and which is to be delivered by Service Provider to Customer.
- 1.11 **Detailed Specifications** means a document setting forth a detailed analysis, evaluation and determination of the technical and functional requirements of the Services including performance criteria and Service Levels to be provided by Service Provider under this Agreement.
- 1.12 **Developing** means analyzing general Customer Requirements, setting and executing the product strategy, including all relevant architectures and standards and defining the source code of the Current research information system Software.
- 1.13 **Documentation** means the written description of the Services and the Deliverables which are composed in such a way that they can enable an average skilled person to understand the

manner in which the Services and Deliverables have been made and to maintain, develop and operate the Services and Deliverables.

- 1.14 **Due Diligence** means the definitive examination by or on behalf of Service Provider of all available information pertaining to this Agreement and/or any orders placed thereunder, prior to the conclusion of this Agreement.
- 1.15 **Effective Date** means the date upon which the successful completion of the relevant Acceptance Test of a Service or Deliverable has taken place.
- 1.16 **Error** means any shortcoming, omission, bug, nonconformities, as well as a failure to meet either any Detailed Specifications, the Customer Requirements or Service Level Requirements upon which these were based, including any Customer requirements relating to performance, stability, Documentation, compatibility, architecture, security, legal and regulatory compliance, user experience and (specific) purpose for usage.
- 1.17 **Hardware** means any hardware concerned with providing the Services, including, without limitation, Third Party-owned hardware, Service Provider-owned hardware and hardware required for interoperability.
- 1.18 **Hosting** means the activities needed for providing the continued operation of the software as described in European Public Procurement Procedure (Open Procedure) 'Current Research Information System' against the Service Level Requirements.
- 1.19 **Implementation** means all activities needed for the implementation, including Configuration, of the Current Research Information System Software, the Service Provider Software, Third Party Software and the Hardware, in order to meet the Service Level Requirements and the Customer Requirements.
- 1.20 **Incident** means any interruption to, failure of or a degradation or reduction in, the Service in question and/or its performance or functionality, as defined by ITIL.
- 1.21 **ITIL** means the International standards for practices and procedures for IT service management.
- 1.22 **Current Research Information System** means the software and all its modules as provided by Service Provider to meet the Customer Requirements and as defined in the public procurement procedure
- 1.23 **Metadata/TU Delft Data:** Means any data belonging to or used by Customer, including Personal Data, student works, as well as (logical) relations between (separate) pieces of Metadata.
- 1.24 **Maintenance** means all activities, including but not limited to adaptive, corrective, preventive and perfective maintenance activities required for Service Provider's proper continued provision of the Services.
- 1.25 **Parties** means both Customer and Service Provider.
- 1.26 **Personal Data** means the Data of natural persons, and having the meaning assigned to them in the applicable data protection law.
- 1.25 **Price** means level of remuneration due to Service Provider from Customer under this Agreement.
- 1.27 **Request for Change (RFC)** means a request by a Technical Contact for the addition, modification or removal of an authorised, planned or supported Service or Service component and its associated documentation.
- 1.28 **Service Desk** means the service desk of Service Provider which is accessible between 8.00-18:00 CET on Working Days and supports technical helpdesk support where administrators can report Incidents, present problems and ask questions. The helpdesk can at least be via reached email and telephone.

- 1.29 **Service Level** means a metric indicative of Service Provider's performance in providing the Services which is measured over a certain period of time.
- 1.30 **Service Level Requirement** means the Service Level agreed for the Services. The SLA is an inseparable part of the Agreement.
- 1.31 **Service Level Report** means a digital report on the maintenance of the agreed Service Levels made available every month during the term of the agreement by Service Provider.
- 1.32 **Service Provider Software** means software provided by Service Provider, of which the intellectual property rights are owned by Service Provider.
- 1.33 **Service Request** means a request by Customer to the Service Desk reporting an Incident or a service request as a result of an Incident detected by Service Provider. The Service Desk shall issue a service ticket, as defined by ITIL, in response to a Service Request marked with the date and time the Incident was reported to Service Desk, and with the date and time that the Service is restored.
- 1.34 **Services** means the services provided by Service Provider described in any of the Statements of Work or individual Statement of Works that are part of this Agreement.
- 1.35 **Software** means all software used by Service Provider to provide the Services, consisting of the Current research information system Software, the Service Provider Software and Third Party Software.
- 1.36 **Statement of Work** means the specification of Services or Deliverables and the conditions for their provision as pertaining to Deliverables and Services as specified in the European Public Procurement Procedure (Open Procedure) 'Current Research Information System', chapter 5 (Statement of Requirements) and 6 (Statement of Preferences).
- 1.37 **Technical Contact** means Customer nominated representatives that are authorised to engage with the Service Desk
- 1.38 **Term** means the period of time starting on the Commencement Date, and concluding either by lapse, termination or dissolution of this Agreement.
- 1.39 **Termination for Convenience** means the termination by Customer for any reason, other than for cause or force majeure.
- 1.40 **Third Party** means any party other than the Parties.
- 1.41 **Third Party Software** means any software used by Service Provider in performing the Services, other than the Current research information system Software and the Service Provider Software.
- 1.42 **Working Day** means Monday through Friday, excluding public holidays in the Netherlands.

2. Objectives and Scope of this Agreement

- 2.1. This Agreement is applicable to the provision of any Services by Service Provider that are available or contemplated during the Term.
- 2.2. This Agreement sets forth the general rights and responsibilities between Parties. Attached to this Agreement and incorporated herein by reference are the Schedules enumerated in Clause 2.11.
- 2.3. All obligations of Service Provider are result oriented obligations, unless explicitly stipulated otherwise in writing.
- 2.4. The objectives of this Agreement are that Service Provider shall perform the Services, meaning amongst others that Service Provider shall perform the Implementation/migration, Configuration, Hosting, Maintenance and have an interface in place with respect to the Software and the Customer Software, which will be used by Customer.

- 2.5. Service Provider shares Customer's focus on quality, integrity, teamwork, innovation, competitive and reasonable pricing, scalability and continuous and measurable improvement. Both Parties will strive to eliminate ambiguities and omissions from the spoken and written terms of the relationship by communicating expectations with clarity and purpose. Service Provider has ample experience with Developing, Configuring, Implementing, Hosting and Maintaining the Software for other customers. Service Provider states that the Software is proven technology and stable.
- 2.6. The Parties will each designate a person or persons authorized to represent the Parties in signing and executing this Agreement.
- 2.7. Service Provider understands Customer from an organizational point of view, and the objectives of this Agreement. Service Provider shall support Customer to manage this Agreement.
- 2.8. Service Provider shall have all the qualities necessary to perform its obligations under this Agreement and to fulfil other specific requirements of Customer in line with the Services in the European Public Procurement Procedure (Open Procedure) 'Current Research Information System', chapter 5 (Statement of Requirements) and 6 (Statement of Preferences).
- 2.9. Service Provider is ultimately responsible for the execution of this Agreement regardless of the (manner of execution of the) rights and obligations of Customer as set out in this Agreement, unless and to the extent of any non performance by Service Provider is due to non performance by Customer.
- 2.10. The documents that have been published on TenderNed with reference number XXXXXX shall apply to this Agreement. Expressions of Parties (either in writing or verbally), other than those as described in the documents as published on TenderNed, shall not apply to this Agreement.
- 2.11. This Agreement sets out the rights and responsibilities of the Parties. In the case of any inconsistency or conflict between this Agreement and its Schedules, the following documents shall prevail in the following order:

This Agreement, and then the Documents as set out below:

1. Data Processing Agreement;
 2. Information Notice(s);
 3. Service Level Requirements (SLA);
 4. European Public Procurement Procedure (Open Procedure) documents 'Current Research Information System' published via the TenderNed platform, dated XXXXXXXXXX and attachments of the tender document;
 5. General Purchasing Conditions for Services Delft University of Technology, version October 2018.
 6. Tenderer's document and attachment of the tender d.d. XXXXXXXX
 7. Product specific-terms;
 8. Pricelist.
- 2.12. Parties will enter into consultation during the implementation phase after which the Service Level Requirements will be made final within 1 month after signing and will form part of the Agreement.

3. Term and termination of this Agreement

3.1. The Agreement will enter into force on the Commencement Date, starting with the implementation and migration. The commencement date of the contract is effective February 1st, 2027.

The implementation and migration must be successfully completed on July 1st 2027, as of the term of the license will begin. The Agreement, in particular and hereinafter the license, will continue in force for three (3) years and will end by operation of law after the lapse, termination or dissolution of this period. Customer has the right, but explicitly not the obligation to extend this Agreement. This Agreement (license) may be extended for a maximum of five (5) extensions of one (1) year. Hence, the maximum Term can be eight (8) years.

Contract start dates:

- a. February 1st, 2027: commencement date of the contract and start implementation and migration;
 - b. July 1st, 2027: deadline implementation and migration for the core features first phase; integrations, core features and modules;
 - c. July 1st, 2027: The term of the license will begin;
 - d. December 31st, 2027: deadline implementation and migration second phase for all other.
- 3.1.1. The portal functionality included in this Agreement, as described in the Tender's Document and the Service Provider's Proposal (the "Portal Module"), shall form part of the Services during the initial term of the Agreement.
 - 3.1.2. Upon each extension of the Agreement, the Customer shall have the unilateral right, at its sole discretion, to determine whether the Portal Module: a. shall continue under the applicable terms and conditions; or b. shall be discontinued without affecting the continuation of the remaining Services under the Agreement.
 - 3.1.3. The Service Provider shall specify a separate and itemised price for the Portal Module in the Price List. Such price shall serve as the basis for the continuation of the Portal Module during any extension term.
 - 3.1.4. If the Customer elects not to continue the Portal Module, the Agreement shall remain in full force and effect with respect to all other Services. In such event, the Contract Price shall be reduced by the fees attributable to the Portal Module as set out in the Price List.
 - 3.1.5. The discontinuation of the Portal Module by the Customer shall not constitute a partial termination, breach, or default under the Agreement and shall not entitle the Service Provider to any additional fees, damages, compensation, or other remedy.

3.2. The Parties will have the right to terminate this Agreement with immediate effect, without being liable for any damages or compensation and without any additional information being required, by means of a registered letter, if:

- The other party applies for, or is granted a suspension of payment ('surseance van betaling');
- Petition in the other party's bankruptcy is filed or the other party is declared bankrupt;
- The other party ceases its activities and/or enters into liquidation, regardless of whether such liquidation is at that party's request; and/or
- The other party breaches the fulfillment of one or more of its obligations under this Agreement and fails to correct that breach within a reasonable period after notice of such default.

3.3. Without prior written approval of Customer, it is forbidden for Service Provider to either (i) provide the Services and/or (ii) fully or partly relocate the Personal Data outside the EU/EEA.

Customer will have the right to terminate this Agreement with immediate effect, without being liable

for any damages or compensation and without any additional information being required, by means of a registered letter, (i) if the full or partial relocation, after Commencement Date, of Service Provider's provision of the Services outside the EA/EEA (or to a computer center outside the EA/EEA) takes place or is communicated in writing by Service Provider to Customer, without prior written approval of Customer, (ii) if the full or partial relocation, after Commencement Date, of the Personal Data outside the EA/EEA (or to a computer center outside the EA/EEA) takes place or is communicated in writing by Service Provider to Customer, without prior written approval of Customer, and/or (iii) if the Data Processing Agreement terminates or is dissolved for any reason. In case of termination of this Agreement pursuant to this Clause 3.3, Service Provider will cease processing Personal Data forthwith and will return such Personal Data as soon as possible to Customer.

3.4. If this Agreement is terminated pursuant to 3.1, such termination will not have any consequences for Service(s) already performed by Service Provider that have been properly performed.

3.5. Obligations that are intended by their nature to continue after the lapse, dissolution or termination of this Agreement will continue to exist after the lapse, dissolution or termination of this Agreement. These obligations include, among other things, Intellectual Property, Guarantees, Liability, Insurance, Confidentiality, Privacy and Continuity. Clause 31 will survive this Agreement.

4. Customer Obligations

4.1. Through the Technical Contacts Customer shall:

- escalate Service Requests and Requests for Change to Service Provider whenever necessary as indicated in the Service Level Requirements;
- inform Service Provider of any deficiencies in respect of the Service Levels as soon as reasonably possible after becoming aware of any deficiency;
- insofar as practical, adhere to the Service Request and Requests for Change logging procedures;

4.2. Customer shall notify Service Provider of any changes to the contact details of Customer Technical Contacts.

5. Service Provider Obligations

5.1. Service Provider acknowledges that the Services are very important for Customer's business. Service Provider shall perform and execute the Services in accordance with the Service Level Requirements.

5.2. Service Provider guarantees that it will perform the Services timely and in an excellent manner. Service Provider will perform all its obligations under this Agreement with a proactive attitude.

5.3. Service Provider guarantees that the Services are fit for the purpose for which Customer desires to use them, meaning that the Services are in accordance with the Customer Requirements and written objectives of Customer. Service Provider agrees that it has fully and completely investigated such purpose.

5.4. Service Provider guarantees that the proposed solution complies with all mandatory performance requirements. Service Provider accepts that any inability to meet one or more mandatory performance requirements during the implementation or performance of the

Agreement shall constitute a breach of contract. In such event, the legal consequences and remedies set out in this Agreement shall apply.

- 5.5. Service Provider guarantees that support throughout the Implementation will be deployed by personnel with demonstrated relevant experience and a stable implementation team. Changes in the composition of the implementation team leading to delays are the responsibility of Service Provider. Service Provider is ultimately responsible during all phases of the project, even if the implementation is outsourced by Service Provider to a Third Party.
- 5.6. Service Provider will give Customer timely, prudent, complete and accurate advice about the choices that Customer has to make about the selection of all elements of the Services. In ensuring so, Service Provider will ensure that the Services will remain fit for Customer's purpose.
- 5.7. Service Provider will ensure that the Services are fit for internal interoperability as well as interoperability with Customer's currently available computing facilities, as well as the Customer Software. If Customer informs Service Provider that it intends to change its IT and telecom environment, during the Term, and Service Provider informs Customer that such change would affect aforementioned interoperability, then Service Provider will advise Customer about the consequences of such change and whether Customer should execute such change.
- 5.8. Service Provider will ensure that the Services meet and continue to meet throughout the Term all requirements set out in this Agreement, the Service Level Requirements, and Appendix 1 of the Call for Tender (Requirements), which forms an integral part of this Agreement. Service Provider guarantees that all mandatory requirements included in Appendix 1 (Requirements) of the Call for Tender shall be complied with throughout the Term.

Service Provider further guarantees that adequate business continuity measures are in place to ensure continuity of the Services in the event that Service Provider is no longer able to provide the Services for any reason, including insolvency, bankruptcy, discontinuation of the Services or other circumstances beyond Customer's control. Such measures shall include either a source code escrow arrangement, access to essential technical documentation, a transferable continuity solution, or an equivalent mechanism that enables Customer to maintain or transition the Services with minimal disruption. Upon Customer's request, Service Provider shall provide reasonable evidence of the existence and effectiveness of such continuity arrangements.

Compliance with Appendix 1 (Requirements) of the Call for Tender shall be considered a material obligation under this Agreement.

- 5.9. Service Provider has an explicit advisory obligation and an explicit warning obligation with respect to all aspects of the Services. These obligations concern inter alia the choices that Customer has to make about the selection of all elements of the Services, and any Changes to the Customer Software.
- 5.10. Service Provider will execute all activities and provide all Deliverables to Customer which are required for the proper fulfilment of its obligations under this Agreement and further in accordance with all applicable Service Level Requirements.
- 5.11. Service Provider agrees that in performing the Services it will make sure that as much as possible technical neutral advice is given. This applies to inter alia: advice about the choice

that Customer has to make about the selection of all elements interfacing with the Services, and advice about achieving interoperability.

- 5.12. Service Provider shall under no condition and for no reason whatsoever (either by act or omission), except in the case of prior written approval by Customer, interrupt, suspend and/or interfere and/or discontinue Customer's continued use and full access of the Services and the TU Delft Data (not even in the event of any dispute) during the Term, until this Agreement either has lawfully lapsed, or is lawfully dissolved or terminated by mutual consent. Service Provider has no right whatsoever to ever hold a lien or execute any (other) retention right on or to seize the TU Delft Data during or after the Term.
- 5.13. Customer has full access to, the Metadata, the Personal Data, and the Services at all times and for any reasons. Service Provider guarantees that the Services do not contain any access control mechanisms that can in any matter affect the proper licensed use of the Services. Service Provider grants to Customer during the Term a worldwide, non-exclusive, irrevocable (for the Term) licence to use the Software, Deliverables, interfaces and Documentation in accordance with the Documentation and Customer Requirements, which allows Customer to access and use the Services, Deliverables, Documentation and interfaces during the Term.
- 5.14. Upon the first request of Customer, Service Provider shall immediately return free of charge all Metadata (complete, accurate and up-to-date) to Customer, either during or after the Term.
- 5.15. Service Provider guarantees that it shall at all times keep save and secure, and separate from Third Party data and protect the integrity of the TU Delft Data.
- 5.16. Service Provider will be responsible for Maintenance of the Software. Service Provider will perform the Maintenance timely and in a good manner.
- 5.17. Notwithstanding the other sections of this clause, Service Provider shall at all times have available qualified personnel in numbers, qualifications and experience to fulfil its obligations under this Agreement.
- 5.18. Service Provider will make available upon request by Customer the TU Delft Data at any time during the Term. At the end of the Term Service Provider provides Customer with the Metadata within 30 days in a downloadable format.
- 5.19. Service Provider will have in place and maintain throughout the Term appropriate technical and organizational measures to protect the security and integrity of the Services and the TU Delft Data in accordance with Service Provider's then current security requirements against destruction, loss, alteration, unauthorized disclosure of, or access to, TU Delft Data transmitted, stored or otherwise processed by Service Provider as part of providing the Services. Service Provider guarantees that the security of TU Delft Data provides equal or better protection than Customer's current security policy as provided by Customer to Service Provider from time to time.
- 5.20. Service Provider shall not, without the prior written permission of Customer, disable or materially change the functionality and/or features of the Services and of the Current research information system Software as provided under this Agreement as of the Commencement Date, nor shall Service Provider disable, not longer keep available or accessible, or materially change the functionality added to the Services and to the Current research information system Software after the Commencement Date.
- 5.21. Service Provider shall diligently process requests by Customer about expansion of the functionality or increase of the number of licenses due to paragraph 2.6.3 of the tender document of the Current research information system Software. Service Provider shall inform Customer in a timely manner of any financial, technical or operational consequences of such

an expansion of the Current research information system Software. Customer shall not be responsible for any financial, technical or operational consequences unless it accepts such consequences in writing.

- 5.22. Service Provider shall apply all contemporary best practices in the provision of the Services, maintaining the Services compatible with the reasonable development of Customer's needs and requirements. Customer shall not be indebted for any amounts as a result of updates to the Services and/or the Current research information system Software carried out by Service Provider in following best practices.
- 5.23. Service Provider will develop and deliver an interface via REST API, between the Services as applicable and all relevant Service Provider Software, including but not limited to the Software, required for the proper functioning of the Services. Service Provider must keep the integration with the Data Warehouse and Institutional Repository of the Customer ,
- 5.24. If during the Term Customer needs a substantial change to an individual Statement of Work, for instance Change or adaptation in the Customer Requirements, Customer may request a Request for Change.

6. Implementation

- 6.1. The Implementation shall take place in accordance with the time schedule and (predetermined financial and other) conditions as included in the tender document and it's attachments d.d XXXXXX and Service Provider's implementation plan as subscribed in tenderer's registration d.d XXXXXX. The Implementation shall take place with optimal deployment of the Parties' necessary personnel. Service Provider shall provide Customer with timely, written and complete information about the specific requirements with regard to Customer's equipment/ICT infrastructure. If, in the opinion of the Service Provider, Implementation requires modification of Customer's equipment/ICT infrastructure, Customer shall not do so until it has been informed of this in writing by the Service Provider and Customer has agreed to it in writing.
- 6.2. The Implementation shall include an instruction, not being a training course, to familiarise Customer and its personnel with the use of the Services. The instruction will be provided by Service Provider in consultation with the Customer.
- 6.3. Parties are entitled to carry out several tests as part of the Implementation, on the basis of which Parties can establish that the Services work properly and meets the requirements as described in this Agreement and its Schedules. Whether or not this right is exercised shall not affect the provisions elsewhere in this Agreement, in particular testing procedures, Acceptance Procedure and Guarantees.
- 6.4. Service Provider shall inform Customer in writing as soon as the Implementation has been completed. Customer shall promptly confirm receipt of this notification to Service Provider in writing. The notification shall not affect the provisions of this Agreement regarding Acceptance Procedure and Guarantees.

7. Acceptance Procedure

- 7.1. After the notification of completion of the Implementation as referred to in Clause 6.4, the Parties shall proceed to perform the Acceptance Test with regard to the delivered, installed and implemented Services. This Acceptance Test will be performed in the OTAP-environment which is made available to Customer by the Service Provider for this purpose.

- 7.2. The Acceptance Test, including test plan, acceptance plan and acceptance criteria shall be defined with Service Provider and needs to be approved by Customer before it can be executed. The Acceptance Procedure shall take place in accordance with the time schedule and (predetermined financial and other) conditions as included in the tender document and its attachments d.d XXXX and Service Provider's implementation plan as subscribed in tenderer's document and attachments d.d XXXXX.
- 7.3. The Acceptance Procedure shall take place with optimal deployment of Service Provider's necessary personnel, if needed.
- 7.4. Within five (5) business days after the Acceptance Test has taken place, Customer shall send the Service Provider a dated and legally signed report of the Acceptance Test. In this report Customer will indicate whether or not it accepts the Services and will record any Errors.
- 7.5. Minor Errors, to which are included Errors, which by their nature and/or number do not reasonably prevent putting them into operation, shall not be a reason for withholding acceptance, without prejudice to Service Provider's obligation to remedy such Errors free of charge as referred to in the next paragraph of this article of this SaaS Agreement.
- 7.6. The Parties shall mutually agree on the time period(s) within which Service Provider shall remedy the Errors set forth in the report at its own expense. If the Parties do not agree on the term within an Error shall be remedied (or if the agreed term is exceeded) Customer shall decide in all fairness by prescribing and setting a maximum term acceptable to it. Customer is authorized to regard this deadline (whether or not by means of a notice of default) as a final deadline, on the basis of which the Service Provider will be in default if it is exceeded. If the Service Provider is in default, Customer is entitled to terminate this SaaS Agreement - conditionally or partially, if applicable - with immediate effect outside of court, without any warning or notice of default being required. In that case, the Service Provider will be liable for the damage incurred or to be incurred by Customer.
- 7.7. If Service Provider fails to comply with its obligation to repair the Errors in a timely manner, Customer shall be entitled, without prejudice to the provisions of the previous paragraph and its further rights, to rectify the reasonable costs, after prior written notification, at the Service Provider's expense. Service Provider is obliged to cooperate in this and must provide the information required for rectification on request.
- 7.8. If Customer has not accepted the Services during the first performance of the Acceptance Test, the Acceptance Test shall be repeated no later than ten (10) business days after the Errors found have been remedied, unless the Parties agree on another term. The provisions of this Article shall apply accordingly.
- 7.9. If the Services are again not accepted by Customer after the second (or subsequent) Acceptance Test, Customer will (always) be entitled to terminate this SaaS Agreement - conditionally or partially, if applicable - extrajudicially, without any demand or notice of default being required. In that case, the Service Provider will be liable for the damage incurred or to be incurred by Customer.
- 7.10. Upon written notification by Customer to Service Provider that the Acceptance Procedure has been fully and successfully completed, the obligation of Service Provider, which is the subject of the relevant Acceptance Procedure, is deemed accepted by Customer.

8. Development future requests

- 8.1. During the term of the Agreement, Customer has the option to request Service Provider to further develop the Current Research Information System for the functionalities that Customers deems necessary for optimal use of the system.

Service Provider will make all necessary efforts to provide a quotation within 14 days based on the Prices submitted at Schedule Pricesheet, after which Customer may decide to commission the additional Services.

9. Compliance with Customer's legal obligations

- 9.1. Service Provider shall perform the Services in compliance with the legal obligations, resting upon Service Provider and/or Customer. Service Provider shall perform the Service in such a manner, that Customer can meet its legal requirements at all times. Whenever necessary, Service Provider will timely update the Software, and timely adjust the Services, in order to comply with this Clause 9.1.
- 9.2. Customer may execute an audit of the measures undertaken by Service Provider to ensure Service Provider's compliance with this Clause 9.

10. Due Diligence

- 10.1. Service Provider agrees that it has been given sufficient opportunity to perform a detailed Due Diligence into all the aspects that are relevant to Customer as referred to in this Agreement including the Services, the Software, Deliverables, Hardware, and TU Delft Data to ensure that Service Provider has been able to ascertain the full scope of its obligations and any risks arising from and related to the conclusion and performance of this Agreement. Service Provider further represents that it has been able to ascertain the full scope of its obligations and any risks arising from and related to the performance of this Agreement.
- 10.2. Service Provider acknowledges that during the Due Diligence it has requested all information and asked all questions (including on financial, legal and IT matters) and obtained full and all relevant and satisfying answers thereto that it deemed necessary for concluding this Agreement and fulfilling all its obligations thereunder.
- 10.3. Service Provider shall be deemed to have taken all data and information from:
 - All relevant public trade registers such as, but not limited to, the Chamber of Commerce (Kamer van Koophandel);
 - The public registers related to intellectual property rights and all data and information that could be known upon inspection and/or investigation of those registers;
 - Any further investigation that Service Provider could or should have performed in response to the outcome to the Due Diligence and Due Diligence reports; and
 - All mail correspondence between Parties and data and information apparent from correspondence or documents sent or made available to Service Provider and/or its consultants by and/or on behalf of Customer and/or its consultants.
- 10.4. Service Provider guarantees that all Prices, which are agreed upon at the Commencement Date between the Parties, are correct and cover all activities to be performed by Service Provider to perform the Services. In the event Service Provider has to perform any activities which do not fall under the description of the Services, but which are necessary to perform the Services, Service Provider shall not charge Customer for such extra activities (as being out of scope or extra work), unless Service Provider demonstrates that Service Provider could not have known, in executing the Due Diligence, that such extra activities were necessary to properly perform the Services. In this latter case, considering the unforeseeable character of

the extra activities to be performed, the Parties shall negotiate in good faith to agree on an acceptable and fair level of Prices.

11. Service Level, management report, reporting of incidents and security/privacy reports

- 11.1. The Service Level Report, including post mortem reports on huge outages and P1 notifications, will be completed by Service Provider and forwarded to Customer no later than 15 (fifteen) Working Days after the end of every month. In the event that Customer does not agree with the contents of the Service Level Report, Customer may instruct Service Provider to verify the Service Level Report and to present all the underlying data on which the Service Level Report was based after which Customer and Service Provider will examine the data so that Customer may determine the correct Service Level Report.
- 11.2. Service Provider provides the following management reports:
- Weekly reports or available through an online support ticket system with open active support cases and reports about open dormant cases (issues waiting on fix).
 - Monthly Management reports (quantitatively) on adoption and usage numbers of a Customer Success Manager.
 - Ongoing updates on events impacting the availability of (part of) the CRIS and Research Portal.
- 11.3. Incidents (other than data breaches, which will be governed by the Data Processing Agreement) affecting Customer will be reported to Customer within 24 hours (in any event no later than 48 hours) after detection. This report contains information about cause, consequence and actions taken to the extent that such information is available at the time.

12. Relation to Third Party contractors and subcontractors

- 12.1. Service Provider may involve Third Parties in the execution of activities and provision of Services under this Agreement after the prior written permission of Customer. This permission will not be withheld on unreasonable grounds. Customer may require Service Provider and such Third Party to provide additional security for the valid and continued performance of the obligations under this Agreement.
- 12.2. Customer's request or permission to involve a Third Party in the execution of the obligations of Service Provider in no way frees Service Provider from its responsibility and liabilities under this Agreement. Service Provider shall always remain responsible and liable for the fulfilment of all Services under this Agreement. Service Provider shall indemnify Customer against any consequences in the field of civil and/or fiscal liability (such as but limited to the payment of social security, income taxes etc.) resulting from the involvement of a Third Party.

13. Intellectual Property

- 13.1. Nothing in this Agreement is intended to transfer the ownership of or title to any (intellectual) property rights, trade secrets, business secrets and/or know-how from Customer to Service Provider and vice-versa unless explicitly agreed in writing.
- 13.2. Parties are fully obliged to respect and protect the (intellectual) property rights of the other party including but not limited to patents, copyrights, database rights, trademarks, registered

designs, as well as trade secrets, business secrets and know-how regardless of the manner in which such trade secrets, business secrets and know-how are kept and documented.

- 13.3. Service Provider shall not infringe the (intellectual) property rights of Customer, and will provide the Services in a manner that respects and protects the (intellectual) property rights and know-how of Customer.
- 13.4. Service Provider will take all measures at its own expense required to prevent any interruption, loss or damage to Customer as a result of infringement of such Third Party's intellectual property rights and to limit the additional costs to be made and/or loss to be sustained by Customer. Service Provider shall be liable to pay in full all damages suffered by Customer, including any legal and non-legal expenses, in and out of court, such expenses not limited to any fees charged by external experts in addition to the costs assessed in court, relating to the claim of a Third Party.

14. Metadata/TU Delft Data

- 14.1. All intellectual property rights, that can be exercised now or in the future -regardless of place and time - including but not limited to all copyrights, including document protection, and database rights related to TU Delft Data/Metadata (or any of its components) will vest exclusively in Customer. Service Provider will obtain merely the rights of use that are expressly granted under this Agreement. Service Provider may not otherwise use, copy, modify, make public, sell, lease, sub-license, alienate, take outside its own company or distribute the Metadata/TU Delft Data, unless explicitly stated in the individual licence assigned to Metadata/TU Delft Data. Service Provider shall always strictly comply with the usage restrictions agreed between the Parties.

15. Data Integrity and data security software

- 15.1. Service Provider shall design, perform and maintain the Services and shall execute all Statements of Work in such a manner that the integrity of the Services, including all TU Delft Data involved and the Software and Deliverables remains secure. Service Provider shall, as may be expected from a diligent Service Provider, carry out all activities to protect the security of the complete IT and telecom/datacom environment of Customer.
- 15.2. Service Provider shall apply the Software patches and working practices required to protect the integrity of the Services including the TU Delft Data and the security of the Software.
- 15.3. Service Provider shall proactively inform Customer about all possibly relevant developments related to the integrity of TU Delft Data and security of the Services and shall be liable for any and all consequences of its failure to comply with this Clause 15 in accordance with Clause 21 Liability.

16. Maintenance on Software

- 16.1. Service Provider will at all times during the Term, as part of the Services, perform timely (new) Maintenance on the Software in order to provide the Services. Maintenance, including updates and upgrades on the Software are made available to Customer free of charge.

- 16.2. Service Provider agrees that it will continue the Maintenance after the lapse, termination or dissolution of this Agreement under commercially reasonable terms, if Customer so requests. Service Provider will already ensure during the Term the proper execution of this Clause 16.

17. Hardware

- 17.1. Service Provider is responsible for the design, selection, determination and Implementation, Maintenance, adequate security in accordance with the then applicable law and regulations, safety and market standards and replacement of the Hardware in order to perform its part of the Services. Service Provider has had adequate possibilities and information (during the European procurement procedure and Due Diligence) to make adequate decisions on this subject.

18. Prices

- 18.1. The Service Provider will provide the services at the license price and rates as listed in the "Price Sheet" Appendix
- 18.2. It is not possible to charge other prices or rates to TU Delft. This will include and cover costs of insurance, travel and accommodation, costs of Third Parties commissioned by Service Provider, etc.
- 18.3. The Service Provider may adjust the license price, Portal Module price, and rates once per year in line with applicable indexation. The earliest date for indexation by the Service Provider is July 1st, 2028.
- 18.4. The Inflation rate HICP Euro area is used for indexing the rates:
https://www.ecb.europa.eu/stats/macroeconomic_and_sectoral/hicp/html/index.en.html
 The April figures current contract year determine the indexation percentage. The indexation proposal must be submitted before May 1st of the applicable calendaryear
- 18.5. The maximum indexation percentage is 3.5%. If the result of the Inflation rate HICP Euro area is higher than 3.5%, no more than 3.5% will be indexed .
- 18.6. Interim rate changes are permitted only in cases involving legal or other government measures, as well as measures taken by insurers. Indexation proposals and interim rate changes can only be implemented after consultation with and written approval from TU Delft.
- 18.7. The service provider is responsible for adjusting the price sheets in the event of indexation or interim rate changes.
- 18.8. If Service Provider fails to submit a price change proposal or does not do so on time the entitlement to change the price will elapse for that period.

19. Payment

- 19.1. All Prices due to Service Provider by Customer for the Services shall be invoiced and paid according to:
- The costs for the Implementation and migration can be invoiced in three parts:
 - * 40% of the total costs of the Implementation and migration at the start of the work as an advance payment;
 - * 40% of the total costs after completion (after approval Customer);

* 20% of the total costs after completion, after any problems/issues resolved (after approval Customer) in accordance with the Acceptance Procedure Clause 6. (See article 3.1 for dates)

- The right of use for the Services (Price component 1) can be invoiced annually and will be paid in advance before the start of each year. Service Provider must send an invoice for the following year no later than one (1) month before the end of the current year.
- Costs related to further development of the Current Research Information System software at request of Customer can be invoiced on subsequent calculations, after approval of Customer, afterwards.

For advance payments more than € 25.000,- made by Customer, Service Provider should be able to provide a bank guarantee. The bank guarantee must be issued by a bank with at least an A-rating. The costs of a bank guarantee are payable by Service Provider.

- 19.2. Customer uses a digital purchasing system. Service Provider can receive the purchase order in the following ways:
 - via (a yet to be determined individual email address) with a purchase order as an attachment in PDF format, or
 - via the Customer suppliers' portal with the added option of generating an invoice directly from the purchase order (the portal's PO-Flip functionality), or
 - via a direct connection on the network which links to the Customer suppliers' portal. The costs for realising and using the connection on the network are on the account of Service Provider.
- 19.3. Service Provider must submit invoices via the Peppol network (XML). (<https://peppolautoriteit.nl/>) Customer is registered on the Peppol network under number: NL001569569B01 (VAT number). The costs for realising and using the connection on the network are on the account of Service Provider.
- 19.4. The electronic invoice must always include the following details:
 - the purchase order reference;
 - attachment(s) to the invoice are, if relevant, an authorized signed work order (the name must be clearly readable) be compliant with requirements specified by the tax authority – please visit <http://www.belastingdienst.nl> (subsequently: 'other subjects' under the 'business' tab);
- 19.5. The term of payment is 30 days from date of receipt of invoice.
- 19.6. Customer will not process invoices that do not meet the described conditions.

20. Guarantees

- 20.1. Service Provider guarantees that the Services are fit for the purpose for which Customer desires to use the Services, meaning that the Services are in accordance with the written requirements and objectives of Customer communicated before the Commencement Date and during the Term.
- 20.2. Service Provider will conduct a test for correctness, accuracy and completeness of the results of any Change before providing them to Customer. Service Provider guarantees to provide the Services in accordance with general professional standards. Service Provider further

guarantees that the Services and its results shall meet the requirements set in the terms of this Agreement.

- 20.3. Service Provider shall make reasonable efforts that during the Term each part of the Services shall:
- meet the requirements set in the terms of this Agreement;
 - when performing at peak load, if agreed upon between the Parties, meet all specifications as will be agreed upon between the Parties;
 - be suitable for use in co-operation (interoperable) amongst all elements of the Services;
 - be suitable for use in co-operation (interoperable) with the TU Delft Data;
 - not contain any other security measures or functions or elements that do not belong to the Services.
- 20.4. To the extent the Software, Hardware, and Documentation provided are developed by Third Parties, Service Provider passes on the benefit of all transferable guarantees it receives from such Third Parties to Customer. Service Provider will use all reasonable efforts to obtain guarantees from Third Parties equivalent to those provided by it to Customer.
- 20.5. In the event that Customer determines that the Software and Hardware provided by Service Provider and/or Documentation do not comply with this Clause 20 at any time during the guarantee period, Customer will notify Service Provider in writing (which includes email) or, in urgent events, by telephone, of such non-compliance. During the guarantee period Customer is entitled to invoke the guarantee provisions as set out in this Clause 20, in respect of which Customer merely has to show that any of the above mentioned elements does not contain the guaranteed properties. In the event Service Provider claims that Customer may not invoke the guarantee provisions, because a certain defect does not belong to the guaranteed properties, then the burden of proof rests upon Service Provider.
- 20.6. Service Provider guarantees that at the time of signing of this Agreement, there is no actual or potential litigation, arbitrated matter or other dispute to which it is a party that would reasonably be expected to actually or potentially adversely affect its ability to fulfil any obligation under this Agreement.

21. Liability

- 21.1. The party who negligently fails to fulfil its obligation(s) shall be liable to the other party for the compensation of any and all damage, sustained or to be sustained by the other party as further specified in this Clause 21.
- 21.2. The total aggregate liability for damage of Service Provider per year under or in connection with this Agreement, whether based on an action or claim, in contract, warranty, negligence or otherwise, has a minimum cover of € 1.000.000.-- per event for the first year after Commencement Date and each consecutive year. The total aggregate liability for damage caused by Customer under or in connection with this Agreement, whether based on an action or claim, in contract, warranty, negligence or otherwise, is limited to 100.000 EUR. Except as set forth in section 21.3 below, neither party shall be responsible to the other party for indirect or consequential damages or profit loss under this Agreement.
- 21.3. The limitations of liability of either party shall not apply to:
- Claims by Third Parties on the account of death or injury; and/or
 - Willful misconduct or gross negligence on the part of the malperforming party and/or its employees.

- 21.4. Furthermore the limitation of liability for Service Provider shall not apply to breach of intellectual (property) rights of Third Parties or any fines imposed on Customer by a competent authority resulting from the use of the Services. In any of these events, there is no limit to the amount of this compensation recoverable/payable.
- 21.5. Each party shall seek to limit the damage as much as possible, whether resulting from its own failure or the failure of the other party, in accordance with article 6:101 Dutch Civil Code.
- 21.6. If any infringement or misappropriation claim arises from: (a) the Customer Content; (b) Customer's or User's misuse of the Service; or (c) Customer's or User's use of the Service in combination with any products, services, or technology not provided by the Provider. Customer will indemnify and defend Service Provider from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of any claim by a third party alleging: (z) the Customer Content infringes or misappropriates the intellectual property rights of that third party; or (y) use of the Service by Customer or any User in violation of this Agreement or the Acceptable Use Policy.

22. Force Majeure

- 22.1. If either party is unable to fulfil, or is in breach of fulfilment of, its obligation(s) under this Agreement during a period of more than 15 (fifteen) days as a result of an event of force majeure, as defined in article 6:75 Dutch Civil Code, the other party will have the right to terminate this Agreement with respect to the affected Services(s) by means of a registered letter, with immediate effect and without any additional intervention being required, and without liable for any damage. An event of force majeure in any event does not include: a lack of personnel (or skilled personnel), strikes, sickness of personnel, late provision or unsuitability of Software or Hardware.
- 22.2. In the event Service Provider is unable to fulfil, or is in breach of fulfilment of, its obligation(s) under this Agreement during a period of more than 15 (fifteen) days as result of an event of force majeure, Customer will at its own discretion, in addition to its rights pursuant to Clause 22.1, have the right to terminate this Agreement in total by means of a registered letter with immediate effect and without any additional intervention being required and without being liable for any damage, unless the non-performance by Service Provider as referred to under this Clause 22 does not justify termination of this entire Agreement.

23. Insurance

- 23.1. Service Provider has insured the liability risk by securing commercial general liability (business liability) and professional liability (liability for services) and will maintain those insurances during the Term. Such insurance(s) shall include full coverage for all fines of regulatory authorities. The availability or lack of coverage under an insurance policy does not affect any liability of Service Provider.
- 23.2. Service Provider agrees that during the Term it will fully and timely pay all insurance premiums, which premiums will be deemed included in the Price. Service Provider shall undertake no action to jeopardize its insurance and shall keep Customer informed of relevant changes.

- 23.3. The general liability insurance will provide coverage for an acceptable amount of insured limit according to the standards of Service Provider's business, with a minimum of 1 million EUR in the aggregate per year.

24. Exit (assistance)

- 24.1. If this Agreement ends for any reason whatsoever, Service Provider will, at Customer's request, for a period of a minimum of 6 (six) months and a maximum of 18 (eighteen) months, (proactively) assist Customer in the transfer to software similar to the Current Research Information System. In the context of this assistance, Service Provider will provide Customer with the Detailed Specifications and Documentation in order to enable the Third Party or Customer to implement such similar software.
- 24.2. At Customer's first request, Service Provider shall provide Customer with an offer for the continued provision of Services after the Term for such time as Customer may require for the completion of the exit. The offer provided to Customer shall be based on the pro rata Price of the (relevant part of the) Services as will be provided.
- 24.3. In no event will Customer owe Service Provider any compensation or damages (whether or not in the form of a lump sum) for the transfer of Services to Customer or a Third Party.
- 24.4. Service Provider will make available to Customer, at no cost, for a maximum of 60 days following the end of the Term (whether as a result of expiration, dissolution or termination) for download the Metadata in a format defined by Customer, along with attachments in their native format. After such 60 day period, Service Provider shall have no obligation to maintain or provide any Metadata and shall thereafter remove all TU Delft Data in its systems or otherwise in its possession or under its control.

25. Transfer or Change of Control

- 25.1. Service Provider will not be entitled without Customer's prior expressed written consent to transfer or assign their rights and/or obligations under this Agreement to a Third Party. If the parties having an interest in Service Provider change, either directly or indirectly, from those at the Commencement Date or of those to which Customer agreed at any time, Service Provider will inform Customer accordingly. If those new interested parties are persons, organizations or companies that Customer cannot be reasonably be expected to continue this Agreement after that change in the interested parties, Customer will have the right to terminate this Agreement with immediate effect and without judicial intervention being required and without being liable for any payment or damage. This Clause 25.1 applies to any transfer or change in control concluded by, amongst others, sale, merger, acquisition, assignment, take-over or any other method of transfer. A termination on the grounds of this Clause 25.1 by Customer will be deemed to be a Termination for Convenience, unless it cannot be reasonably expected from Customer to continue this Agreement after such transfer and/or assignment.
- 25.2. Service Provider shall, upon Customer's written approval, which approval will not be Withheld on unreasonable grounds by Customer, have the right to assign or grant any security interest, or encumbrance over, any of its rights to receive due payment under this Agreement to a Third Party (being a financial institution), or its right, title or interest in any Hardware, to a Third Party (being a financial institution) under the condition that such grant

or assignment shall may not cause an interference with Customer's enjoyment of its rights under this Agreement.

- 25.3. In case of change of control in Service Provider, Customer does have the right to terminate this Agreement, if it has a legitimate reason to do so.

26. Confidentiality

- 26.1. For the purposes of this Clause 26, the party disclosing Confidential Information will be referred to as 'Disclosing Party' while the party receiving Confidential Information will be referred to as 'Recipient'. Recipient will keep confidential and protect Confidential Information belonging to Disclosing Party and/or information belonging to Third Parties, as may have been or may yet be disclosed to Disclosing Party under an obligation of confidentiality, that Recipient has come and/or comes into contact with or that has come and/or comes into the possession of Recipient after the Commencement Date.
- 26.2. Recipient will use the Confidential Information solely and exclusively for the purpose of the execution of this Agreement. Recipient may disclose such Confidential Information to its employees, but only if such employees need to know such information in connection with this Agreement. Prior to providing such employees with Confidential Information, Recipient will inform such employees of the existence of the obligations of confidentiality and direct such employees to treat the information confidential and use it solely for the purposes of this Agreement. Recipient shall at all times remain responsible for the performance of the obligations of confidentiality. Recipient shall direct its employees not to disclose that any Confidential Information has been made available to it.
- 26.3. Disclosure of all or part of the Confidential Information shall be allowed if and insofar as the Recipient is required to make such disclosure by applicable law and regulations, as well as by judicial or governmental orders, provided that (i) the Recipient shall first notify Disclosing Party in writing of such requirement immediately upon becoming aware thereof and otherwise as far in advance of making such disclosure as practicable so as to allow Disclosing Party the opportunity to obtain a protective order in respect of the information to be disclosed or otherwise avoid the requirement of disclosure, and (ii) in any event, such disclosure shall not exceed that which is required.
- 26.4. Recipient will protect Confidential Information by means of the most current (cyber) security protocols, with measures and procedures in keeping with best current industry practices. Insofar as required, Recipient will enact all security protocols necessary for the segregation and protection of the confidentiality of Confidential Information.
- 26.5. Recipient will use the Confidential Information solely and exclusively for the purpose of the execution of this Agreement.
- 26.6. The following will not be deemed to be Confidential Information under this Agreement:
- information that is or becomes part of the public domain other than as a result of any breach of this Agreement; and/or
 - information of which Recipient can prove by documentary evidence was already lawfully in its possession at the time of disclosure and obtained from a source not in breach of an obligation of confidentiality.
- 26.7. Recipient will inform Disclosing Party as soon as Recipient becomes aware that Confidential Information may have been disclosed in breach of this Agreement and that it will provide Disclosing Party with all assistance required to prevent breaches of confidentiality.

- 26.8. Should the enforcement of this Clause 26 require Disclosing Party to initiate legal action, Disclosing Party shall be entitled to recover all costs, including the reasonable legal costs, from Recipient.
- 26.9. Upon lapse, termination or dissolution of this Agreement Recipient will return all Confidential Information to Disclosing Party, or insofar as it is impossible to return such Confidential Information, will destroy such Confidential Information and certify in writing that the Confidential Information has been destroyed.

27. Privacy

- 27.1. Parties agree that they will at all times observe the applicable statutory provisions concerning privacy. A Data Processing Agreement is attached as Schedule **Data Processing Agreement**.
- 27.2. Service Provider is not allowed to terminate the Data Processing Agreement during the Term.
- 27.3. Parties will cooperate closely and promptly to amend the Data Processing Agreement, should such an amendment become necessary due to changes in the statutory obligations of Customer.
- 27.4. Service Provider shall fully and timely cooperate with the process of acquiring of any privacy related permit or document, at the request of Customer. It is at the sole discretion of Customer whether such privacy related permit or document is necessary.

28. Documentation

- 28.1. Service Provider will keep the Documentation up to date and complete at all times in the English language, unless agreed otherwise. Service Provider will provide Customer with copies of the Documentation (or the most recent version of the Documentation) immediately upon modification of the Documentation. The Documentation must provide a correct, complete description of the Functionality, Services, Hardware, Datacenters and Software as well as all the relevant procedures for their proper use.

29. Security

- 29.1. Service Provider shall safeguard the security of the Services, TU Delft Data in such a way that it provides equal or better protection than Service Provider's security policy. The security policy set forth in Annex B processor Agreement and will work together with Customer to keep the security policy up to date.
- 29.2. Service Provider will have in place and maintain throughout the Term appropriate technical and organizational measures to protect the Personal Data processed under this Agreement against destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed in the sense of the General Data Protection Regulation (a "Data Breach"). The measures shall provide a level of security which could be considered as appropriate considering the technical standards and the kind of Personal Data processed. Service Provider shall cooperate fully with the preparation and execution of a data protection impact assessment as well as with regular updates of the assessment and, if and when necessary, will adjust its technical and organizational measures free of charge in accordance with the findings of the assessment.

- 29.3. In addition to Service Provider's obligations set out in Clause 29.1, Customer may stipulate further requirements with regard to the security (of the results) of the Services to be agreed upon by the Parties through change management.
- 29.4. An approval by Customer of security measures to be taken by Service Provider does not limit the independent responsibility of Service Provider for the security and integrity of the Service. Service Provider shall continuously maintain state of the art security measures and shall ensure that all known security risks are addressed in its procedures and the Services.
- 29.5. Service Provider shall maintain security in such a manner that continuity of the Services is safeguarded as much as possible. Service Provider shall take all measures required to protect Customer and its affiliates and, amongst others, the Software, Hardware, and Databases from unauthorised access, corruption and contamination and unauthorised disclosure due to infection by viruses, hacking and other forms of cybercrime and cyber terrorism or espionage. Service Provider shall implement and maintain policies and procedures and timely and sufficient instruction for its employees to maintain security.
- 29.6. The personnel of a party involved in the performance of activities at a site of the other party must observe the safety measures and procedures of that other party.
- 29.7. In view of the nature and confidentiality of the Services, Customer may stipulate requirements with regard to the reliability of the Personnel to be engaged by Service Provider. If security interests so justify, Customer may demand of Service Provider that it does not engage certain personnel and/or auxiliary persons in the performance of the Services.

30. Continuity

- 30.1. The Services will be designed to safeguard their proper and timely continuation in the event of a temporary interruption, for instance due to a disaster (which scenario will be referred to below as Fallback), or in the event of a permanent interruption, for instance upon termination of the cooperation between the Parties (which scenario will be referred to below as 'Migration'). Service Provider will be primarily responsible for drawing up and performing the fallback and Migration scenario if applicable. These scenarios must ensure adequate continuity of the Services. Customer may stipulate general requirements with regard to the fallback and Migration scenario and demand guarantees that the fallback and Migration scenarios can at all times be performed by Service Provider. The costs involved in any fallback and Migration scenario (and its performance) are already covered by the agreed Prices. Service Provider will verify at least every 6 (six) months the Fallback and Migration scenarios functions directly and adequately.
- 30.2. Service Provider makes absolutely sure that the continuity of Customer's business (activities) shall not be jeopardized in any manner whatsoever during the Term as a result of negligence on the part of Service Provider. Notwithstanding this provision Service Provider will inform Customer in a timely manner if any circumstances occur or may give rise to such a risk.
- 30.3. The Parties have an ongoing obligation to inform each other in a timely manner about any developments that are taking place or about to take place within their respective organizations and that are or may be relevant to the performance of this Agreement.

31. Miscellaneous

- 31.1. Service Provider's general terms and conditions of provision and payment or any other general or specific obligations are excluded.

- 31.2. Oral statements, undertakings or agreements will not be binding on the Parties unless they have been confirmed in writing and signed by a designated or otherwise competent representative of each party.
- 31.3. The headings of clauses in this Agreement are for convenience only.
- 31.4. Failure by either of the Parties to demand compliance with any provision within a period specified in this Agreement will not affect its right to demand compliance after all, unless the party in question has expressly accepted such non-compliance in writing.
- 31.5. The Parties shall bear their respective tax liabilities in connection with the subject of this Agreement. Additionally, any third-party sub-contractor commissioned by either party (whether from the list of preferred suppliers or not) shall bear its own tax liability in its capacity as sub-contractor, independent contractor, or consultancy in connection with the rendering of any Services under this Agreement.

32. Disputes and applicable law

- 32.1 Any dispute concerning the conclusion, interpretation or performance of this Agreement, which may arise therefrom, as well as any other dispute concerning or in connection with this Agreement, whether legal or factual, none excepted, shall be settled by the competent court in the district of The Hague.
- 32.2 A dispute is present if either Party so states with a brief but complete statement of the points in dispute and the reasons why.
- 32.3 This Agreement is governed by Dutch law.

Delft University of Technology (TU Delft)

Dr. N.J.P.M. Bos,
Member of the Executive Board /
Vice President Operations

.....
(signature)

Service Provider XXXX

Mrs/Mr.....

.....
(signature)