

General terms and conditions NEXTBI B.V.

Article 1 Definitions

The following terms are deemed to have the meaning assigned to them for the purposes of these General Terms and Conditions.

General Terms and Conditions:	these general terms and conditions irrespective of the form in which they are disclosed.
Data Consignment:	the Data to be supplied by NextBI to a Contracting Party pursuant to an Agreement.
Data:	data including but not confined to Personal Data, addresses and characteristics.
Contracting Party:	a legal entity or natural person acting for the purposes of conducting a business, or exercising a trade or profession, with which or whom NextBI has entered into an Agreement.
Service:	all of the work and activities undertaken by NextBI which are the subject of an Agreement, including but not confined to the supply of Data and information; linking, validating, supplementing, analysing, and maintaining a Contracting Party's Data and information; creating profiles; providing access to a Dashboard and other outcomes which are intended for a Contracting Party; online web applications, including but not confined to web shops and selection tools, API connections and web services, which may or may not be supplied by third parties; processing postal return consignments and adding general and customer-specific stop codes; message handling, including postal deliveries either through third parties or otherwise.
NextBI:	NextBI B.V. having its registered office in Amstelveen (1185 XR), at Startbaan 6, the Netherlands, and registered with the Chamber of Commerce under Number 20078697.
Intellectual Property Rights:	all intellectual property and associated rights, such as database, trademark, design and trading name rights, copyright and rights to know-how.
Agreement:	an agreement between a Contracting Party and NextBI, pursuant to which the latter provides Services to the Contracting Party.
Personal Data:	any information about an identified or identifiable natural person within the meaning of the General Data Protection Regulation.
Data Subject:	a data subject is deemed to be any party to whom any relevant Personal Data pertains.

Article 2 General

- 2.1 These General Terms and Conditions shall govern all quotations, offers and Agreements involving NextBI's provision of Services and/or supply of Data to a Contracting Party, irrespective of whether or not they are presented or concluded in verbal, written, electronic or any other form.
- 2.2 In the event that any of the provisions of these General Terms and Conditions are void or nullified, their other provisions shall continue to apply in full.
- 2.3 Once these General Terms and Conditions have governed the legal relationship between NextBI and a Contracting Party, the latter shall be deemed to have consented in advance to them governing any Agreement which is or may subsequently be concluded.
- 2.4 Any derogation from these General Terms and Conditions shall only be valid provided that NextBI and the relevant Contracting Party have agreed to it in writing.
- 2.5 NextBI explicitly rejects the application of a Contracting Party's general terms and (purchase) conditions of procurement or otherwise.
- 2.6 NextBI shall be entitled to amend these General Terms and Conditions. Notice of an amendment shall be given on NextBI's website or in some other way. Should a Contracting Party decline to consent to such amendment, they shall be entitled to object the relevant Agreement in writing within fourteen (14) days after notice of it has been given.

Article 3 Conclusion of an Agreement

- 3.1 Unless explicitly stipulated otherwise in writing, all offers and quotations issued by NextBI shall be free of obligation.
- 3.2 Any proposal made by a Contracting Party shall be binding and may not be revoked. An Agreement shall come into effect by virtue of NextBI consenting to a proposal submitted by the relevant Contracting Party or NextBI acting in accordance with such proposal, depending on what occurs first.
- 3.3 NextBI shall at all times be entitled to decline a proposal (for example, should it have reasonable doubts concerning the relevant Contracting Party's creditworthiness) without this conferring any entitlement on the part of the Contracting Party to compensation from NextBI. In this respect NextBI shall not have a duty to disclose its reasons for doing so.
- 3.4 Any additional or amended arrangements and/or undertakings made or given by NextBI personnel after an Agreement has been concluded shall only be binding on NextBI, provided that competent representatives of the latter confirm them in writing or electronically.
- 3.5 Any additional or amended agreements and/or commitments made by personnel of NextBI after the conclusion of the Agreement will only be binding on NextBI if these agreements and/or commitments have been confirmed in writing or electronically by authorized representatives of NextBI.

Article 4 Provision of Services

- 4.1 NextBI shall do all in its power to provide Services in accordance with the specifications agreed to in writing.
- 4.2 NextBI shall make an effort to provide the relevant Services in accordance with the agreed specifications within the agreed term. Nevertheless, any deadlines which are specified shall serve as an indication and, as such, shall never be material, unless otherwise explicitly agreed in writing.
- 4.3 NextBI cannot guarantee that the Service (including all online services) will not malfunction. NextBI will do its utmost to remedy the malfunctions as soon as possible, with due observance of the provisions of the Agreement.
- 4.4 NextBI shall be entitled to suspend a Service temporarily or otherwise (for example, for the purposes of maintenance), and to improve and modify same in accordance with the current state of the art and market developments without the relevant Contracting Party becoming entitled to compensation or to effect cancellation.
- 4.5 NextBI is entitled to avail itself of third-party services for the purposes of providing its Services.
- 4.6 Where, according to NextBI, the execution of an Agreement involves additional work or a Contracting Party or some other person acting at the latter's behest, requests or occasions additional work (for example, because the Contracting Party provides incomplete or inaccurate information), NextBI shall be entitled to charge the Contracting Party for all additional time spent or expenditure incurred, also that of any other party as the case maybe.
- 4.7 In the event that and in so far as a Contracting Party provides Personal Data to NextBI for the purposes of a Service (for example, in relation to validation or analysis), they shall warrant that they are entitled to supply such Personal Data to NextBI and that its supply, and NextBI's processing and use of it will not contravene the applicable legislation and regulations, including the General Data Protection Regulation. Furthermore, a Contracting Party shall warrant that NextBI's use of such Data will not breach any other party's intellectual property or other rights. A Contracting Party shall indemnify NextBI completely against all potential claims made by another party in any way pursuant and/or in relation to NextBI's use of the relevant Data, unless there is any question of culpable default on the part of NextBI.

Article 5 Data Consignments

- 5.1 The provisions of this Article 5 shall apply where an Agreement stipulates that a Service consists of granting a licence for the purposes of a Data Consignment. These provisions shall apply in respect of any Data Consignment supplied by employees of NextBI, as well as any Data which a Contracting Party procures online.
- 5.2 NextBI shall do its best to ensure that a Data Consignment complies with the relevant specifications agreed to in writing and to supply it by the agreed deadline. Unless explicitly agreed to otherwise in writing, a Contracting Party shall be liable for the costs involved in

- the relevant Data Consignment. NextBI shall not be in default if the delivery period is exceeded.
- 5.3 A Contracting Party shall be deemed to know that the database rights to a Data Consignment are vested in NextBI and shall consent to same. Furthermore, a Contracting Party shall be deemed to know that a Data Consignment also consists of Data which is generated with the aid of a Service and which has been entered by other parties. In this respect NextBI cannot warrant the quantity, quality, and accuracy of a Data Consignment, or whether it is up-to-date or lawful.
- 5.4 NextBI shall only confer a non-transferable, non-exclusive licence to use a Data Consignment in accordance with the agreed purpose. A Contracting Party shall warrant that, when using a Data Consignment, they will comply with all conditions, restrictions and powers stipulated in the relevant Agreement. A Contracting Party shall not be entitled to disclose or replicate all or part of a Data Consignment other than in accordance with the agreed conditions, nor to use it in any way whatsoever for any other purpose.
- 5.5 A Contracting Party shall not use a Data Consignment in such a way that the privacy of any natural person mentioned in a Data Consignment is infringed, they fail to comply with the relevant legislation and regulations (including the regulations and self-regulatory guidelines governing direct and email marketing, and telemarketing), or the reputation of NextBI or its partners is harmed.
- 5.6 A Contracting Party shall warrant that it will always use the latest version of a Data Consignment and that, acting at NextBI's request, they shall remove any Data designated by NextBI (which is deemed to include but is not confined to any Data pertaining to a person who has submitted a complaint to NextBI) from the Data Consignment that they are using immediately, shall ensure that it remains removed, and shall cease and desist from any further use thereof.
- 5.7 NextBI may employ control data to monitor a Contracting Party's use of a Data Consignment and Service, and in particular their compliance with their obligations.
- 5.8 In the event that such control data reveals that a Contracting Party has failed to use them as agreed, it shall be deemed to constitute comprehensive evidence of their culpable default subject to any evidence to the contrary. By virtue of the award of a contract a Contracting Party shall be deemed to have consented to the addition of such control data now or in the future and that NextBI may check whether unauthorised use has occurred (or may arrange for this to be done).

Article 6 Online Services

- 6.1 The provisions of Article 6 shall apply where an Agreement stipulates that a Service consists of granting access to one (1) of its web applications or any other online services.
- 6.2 Access to any online services shall only be permitted in the case of those of a Contracting Party's staff whom NextBI has authorised in advance. Authorised staff members shall receive access with the aid of a user account and a password and/or token. A Contracting Party shall only authorise those staff who require access to the aforementioned networks pursuant to their position. An authorised member of staff shall receive access to the relevant application

of NextBI after receiving a user account and password and/or token.

- 6.3 A Contracting Party shall treat such user account, password and/or token as confidential, shall not disclose same to any other party, and shall do all that is reasonably possible in order to prevent such data from being used without authorisation.
- 6.4 A Contracting Party shall be fully responsible for every use of the Service with the aid of the online tools. NextBI shall bear absolutely no responsibility for this and, as such, a Contracting Party shall indemnify NextBI completely against all third-party expenses and claims pertaining to a loss or otherwise which has been suffered in any way due to the use of a Service with the aid of a user account issued to them.
- 6.5 In the event that a Contracting Party suspects that another party could have gained access to a user account and password, they shall report this to NextBI in writing immediately. NextBI shall at all times be entitled to modify passwords and user accounts where it is necessary to do so in the interests of the functioning of the relevant Service and the protection of the Data Consignment concerned.
- 6.6 A Contracting Party shall warrant that they have adopted appropriate measures to secure those of their equipment and systems which are used to obtain access to NextBI's secure networks. A Contracting Party shall warrant that the equipment and systems which are used to gain such access are not exposed to unnecessary risks, including external viral attacks. A Contracting Party shall configure and maintain the equipment and systems used to gain such access, so as to ensure that access remains secure.
- 6.7 NextBI shall be responsible for the security of its networks. In the event that NextBI is of the opinion that circumstances have occurred as a result of which it is impossible for it to maintain the security of its networks at the stipulated level, NextBI shall be entitled to proceed with the denial of full or partial access.

Article 7 Contracting Party's assistance

- 7.1 A Contracting Party shall assist with the execution of an Agreement in so far as it is reasonably necessary for it to do so. Amongst other things, a contracting party shall ensure the timely supply of all the information and materials required for the provision of the relevant Services in the manner stipulated by NextBI and in accordance with any technical or other specifications which it has disclosed. NextBI shall be entitled to amend the requirements and technical or other specifications during the term of an Agreement. NextBI shall notify a Contracting Party of such amendment by letter or email.
- 7.2 A Contracting Party shall warrant that the information and materials referred to in Article 7.1 are accurate and complete. They shall warrant that NextBI's use of such information and materials is in line with the agreed purposes, does not infringe any intellectual property or other rights held by any party, is not in any other way unlawful, and does not breach applicable legislation in the Netherlands.
- 7.3 A Contracting Party shall also warrant that their use of a Service occurs in accordance with the relevant Agreement and these General Terms and Conditions, is not unlawful, and does not breach applicable legislation in the Netherlands. A Contracting Party shall refrain from any action which may compromise the reputation of NextBI and its Services. A Contracting

Party shall indemnify NextBI against any claim or action for compensation filed by another party in this respect, and shall also indemnify NextBI against any costs which it incurs in connection with such claim or action.

- 7.4 A Contracting Party shall not be entitled to assign their rights or duties pursuant to an Agreement to any other party or allow the latter to avail themselves of same, unless NextBI explicitly consents to this in writing.
- 7.5 A Contracting Party shall always comply with any guidelines issued by NextBI or published on the latter's website for the use of its Services.
- 7.6 In the event that a Contracting Party relocates or its invoicing address changes, they shall be required to notify NextBI of their new registered office and/or invoicing address in writing in as timely a fashion as possible beforehand.

Article 8 Fees and payment

- 8.1 A Contracting Party shall have a duty to pay the agreed fees for the provision of the relevant Services. In so far as is not explicitly stipulated otherwise, all fees payable shall be stipulated in euros exclusive of VAT and any other levy.
- 8.2 Fees may consist of a one-off payable amount, a periodic sum payable annually or otherwise, or any amount which depends on the use of the relevant Services.
- 8.3 NextBI shall be entitled to raise its prices during the term of an Agreement. A Contracting Party shall be notified of such an increase by letter or email. A Contracting Party shall be entitled to cancel the relevant Agreement within fourteen (14) days after such notification in the event that and in so far as (i) the increase of the overall value of the Agreement amounts to 15% or more of the originally agreed value, and (ii) the substance of the Agreement does not change in any other respect, and NextBI shall not have a duty to provide compensation due to such termination. Cancellation must be effected in writing and must come into effect on the date on which the increase comes into force. Such entitlement to cancellation shall not apply where the increase of the overall value of the relevant Agreement amounts to less than 15%.
- 8.4 NextBI shall at all times be entitled to require payment in advance from a Contracting Party.
- 8.5 Payment must be effected in the manner stipulated by NextBI in the relevant invoice. Payment must be effected within fourteen (14) days after relevant invoice date, unless a different deadline for payment has been explicitly agreed to. The information contained in NextBI's administrative records shall be decisive for the purposes of determining the amount of an invoice.
- 8.6 A Contracting Party shall not be permitted to rely on suspension, setoff or a deduction.
- 8.7 In the event that a Contracting Party fails to pay an invoice by the deadline for payment, they shall be in default without the need for any further notice of default. As of the date of default, a Contracting Party shall be liable for interest on the outstanding amount equivalent to 1% per month, unless the legally stipulated monthly commercial interest rate exceeds 1% per month, in which case the legally stipulated commercial interest shall be payable until the date on which payment occurs in full. For the purposes of calculating interest payments part

of a month shall be deemed to constitute an entire month.

- 8.8 In addition to payment of the principal sum and any interest payable on it, as of the date of default a Contracting Party shall explicitly have a duty to pay all extrajudicial and any judicial expenses in addition to any costs stipulated by a court of law. The amount of any extrajudicial expenses shall amount to no less than 15% of the principal sum subject to a minimum amount of €114.00 (one hundred and fourteen euros).
- 8.9 NextBI shall be entitled to ascertain a Contracting Party's creditworthiness. Where so required at NextBI's first request, a Contracting Party shall have a duty to tender sufficient security to ensure compliance with their existing and future obligations towards NextBI. In such a case NextBI shall be entitled to provide the relevant Services or part thereof only after the requisite security has been obtained.

Article 9 Intellectual Property Rights

- 9.1 Any Intellectual Property Rights to Data Consignments, the Service(s) provided by NextBI, and any outcomes thereof shall be vested in NextBI or its licensor(s). While an Agreement is in effect, NextBI shall grant the relevant Contracting Party a non-exclusive, non-transferable, limited right to use any Data Consignment and Service within its own business for the purpose stipulated in that Agreement.

In principle, the Contracting Party only acquires the right to use the delivered goods once within 30 days after delivery, unless otherwise agreed in writing between NextBI and the Contracting Party.

- 9.2 Contracting Party will keep the delivered secret insofar as this commandment is consistent with its right of use acquired by the Contracting Party in the preceding paragraph.
- 9.3 If the Contracting Party acts in violation of its right of use acquired pursuant to Article 9 paragraph 1 or with the commandment referred to in Article 6 paragraph 2 in any way, the Contracting Party will forfeit an immediately due and payable penalty to NextBI that is not subject to mitigation of 3 x (three times) the amount of the entire assignment with a minimum of Euro 5,000 (five thousand euros), without prejudice to NextBI's right to claim the full damage suffered by it.
- 9.4 The Intellectual Property Rights to all of the materials which a Contracting Party makes available to NextBI pursuant to an Agreement shall remain vested in that Contracting Party or any other party from whom the Contracting Party has acquired the right to make those materials available to NextBI. A Contracting Party shall confer on NextBI a limited right to use such materials for the purposes of executing the relevant Agreement (this is also deemed to include but is not confined to replicating, modifying or publicly disclosing same).
- 9.5 A Contracting Party shall warrant that any materials which they supply do not infringe the rights of any third party and that they are entitled to supply such materials to NextBI. A Contracting Party shall indemnify NextBI against any claim or action for compensation filed by another party in this respect, and shall also indemnify NextBI against any costs which it incurs in connection with such claim or action.

- 9.6 A Contracting Party shall not be permitted to remove or modify any designation concerning copyrights, database rights, trademarks, trading names or any other intellectual property rights held by NextBI or its licensors.
- 9.7 All licences supplied by NextBI pursuant to an Agreement shall lapse upon the termination of that Agreement by operation of the law.

Article 10 Privacy and data protection

- 10.1 Personal Data may be incorporated into a Data Consignment or a Service.
- 10.2 A Contracting Party and NextBI shall ensure that the processing of Personal Data complies with the applicable legislation and regulations, including the General Data Protection Regulation (GDPR).
- 10.3 A client shall themselves be responsible for complying with all of their obligations, in particular, those pertaining to privacy and data protection, which they have a duty to comply with pursuant to the applicable legislation and regulations, including those governing privacy, the GDPR and/or a duty of disclosure in relation to data leaks and/or the Telecommunications Act [*Telecommunicatiewet*] (or at any rate such privacy and other legislation).
- 10.4 A Contracting Party shall not be permitted to process any Personal Data supplied to them for any purpose other than that stipulated in the relevant Agreement. A Contracting Party may only replicate Personal Data which it obtains pursuant to this Agreement after receiving NextBI's written approval, unless such replication is required for the effective execution of the Agreement.
- 10.5 A Contracting Party shall immediately contact NextBI in the event that they have failed to comply with the applicable legislation and regulations governing the protection of Personal Data or the provisions of the relevant Agreement. Furthermore, a Contracting Party shall contact NextBI immediately in writing or by electronic means should they be of the opinion that Personal Data has been transferred or disclosed to any other party contrary to the law and/or the relevant Agreement, and/or where there is any question of a breach of security measures which have or could have unfavourable or seriously unfavourable implications for the protection of that Personal Data (a data leak).
- 10.6 A Contracting Party shall always notify NextBI immediately in the event that (i) the Dutch Data Protection Authority or some other authority asks the Contracting Party to supply any Personal Data (or information concerning it), or (ii) the Contracting Party receives a request from a Data Subject concerning the processing of their Personal Data.
- 10.7 Throughout the term of an Agreement and at any rate upon its termination, a Contracting Party shall be required to destroy the relevant Personal Data in response to a written request from NextBI.
- 10.8 A Contracting Party shall adopt all appropriate technical and organisational measures to secure Personal Data against loss or any form of unlawful processing. Such measures shall guarantee an appropriate level of security given the sensitivity and nature of the Personal Data which the relevant Contracting Party processes. They shall at any rate comply with any applicable NEN standard for the specific sectors in which NextBI and the relevant

Contracting Party are active.

- 10.9 NextBI may request a written declaration from a Contracting Party in which the latter confirms that they act in accordance with the stipulated security measures. Acting at NextBI's request, a Contracting Party shall grant NextBI access to all the requisite locations and facilities in order to verify itself whether they are acting in accordance with the agreed security measures after observing a reasonable term of notice and without this constituting an obstacle to the Contracting Party's business operations.
- 10.10 Acting at a request from NextBI, a Contracting Party shall allow their Data processing facilities and compliance with the security measures to be audited by an expert designated by NextBI, who shall be neutral, professionally accredited and bound by a duty of non-disclosure. NextBI shall bear the costs of such an audit, unless it reveals that the Contracting Party has failed to comply with their obligations pursuant to the relevant Agreement (including, for the sake of clarity, these General Terms and Conditions).
- 10.11 Acting at NextBI's request, the Contracting Party shall present a comprehensive, up-to-date security policy which also covers the Data processing referred to in the Agreement with the Contracting Party.
- 10.12 A Contracting Party shall maintain procedures and adopt measures which are designed to ensure the reasonable detection of security incidents and Data leaks, to take action in response to them, and to remedy them.
- 10.13 A Contracting Party shall provide NextBI with any assistance that is required in relation to security incidents and Data leaks. Such assistance shall at any rate be designed to:
- a) remedy a breach and to investigate and prevent any future breach from occurring;
 - b) limit the impact of a breach of a Data Subject's privacy; and/or
 - c) limit any harm suffered by NextBI as a result of such breach.
- 10.14 A Contracting Party shall maintain a list of every security incident or Data breach. Such list shall at any rate contain facts and data concerning the nature of an infringement as provided for in the GDPR, as well as the text of any notice sent to a Data Subject.
- 10.15 Acting at the Controller's request, a Contracting Party shall always provide sufficient information and support in relation to any investigation conducted by the Dutch Data Protection Authority.
- 10.16 A Contracting Party shall not process Personal Data outside the European Economic Area (EEA) or a country which has an appropriate protection regime without NextBI's prior written consent.

Article 11 Processing of Personal Data

- 11.1 A Contracting Party's use of NextBI's online or other Services may result in the storage of Personal Data. Such data may comprise the details of customers which our web applications automatically store or which are required for the execution of contracts or an Agreement, on the one hand, or, on the other, information which is stored by or on behalf of a customer for – amongst other things but not confined to – data analysis, matching and enhancement.

- 11.2 Customer details may consist of contact information, a telephone number and an email address, amongst other things. With regard to any Personal Data which is included in customer details, NextBI is deemed to be the controller within the meaning of Regulation (EU) 2016/679 of the European Parliament AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data.
- 11.3 With regard to the Personal Data which is processed by or on behalf of a customer, NextBI is deemed to be the customer's processor within the meaning of the GDPR and the relevant customer as the controller. Article 28(1) of the GDPR requires that an agreement be concluded between a controller and processor, which regulates the processor's processing of Personal Data for the controller. Such an agreement is set out in the DPA annex, which constitutes an integral part of these General Terms and Conditions, and as such, an Agreement.
- 11.4 NextBI shall ensure that there is appropriate security against the loss, theft, and unauthorised access to or modification of Personal Data. The measures and facilities which NextBI adopts and provides for shall be reasonable given the methods that are customary at the time and the sensitivity of the Data which is stored. NextBI shall allow a customer to inspect its security policy – at their request and in so far as is reasonable – governing the storage and processing of Personal Data.

Article 12 Non-disclosure

- 12.1 NextBI and Contracting Party undertake not to disclose any Data and information which they receive from each other and any information which they ought to know is of a confidential nature, unless a legal duty requires the disclosure of such Data. The party receiving such confidential information shall use it solely for the purpose for which it is provided.
- 12.2 NextBI and Contracting Party shall also impose the duty stipulated in Article 12.1 on their staff and any other parties whom they engage for the purposes of executing the Agreement.

Article 13 Warranties and liability

- 13.1 NextBI shall always make an effort to provide its Services in accordance with the agreed functional specifications to the exclusion of any explicit or tacit guarantees, commitments or indemnifications of any nature whatsoever, including (but not confined to) the exclusion of guarantees of entitlement to proprietary or other rights, appropriate quality or suitability for a specific purpose.
- 13.2 NextBI shall not be liable for any loss suffered by a Contracting Party, unless such loss is occasioned by a wilful act or omission, or gross negligence on the part of NextBI, in which case the latter shall only be liable for any direct loss.
- 13.3 NextBI's overall liability shall never amount to more than the total fee payable by the relevant Contracting Party for the Service concerned. In the case of an Agreement with a term in excess of one (1) year the fee shall be set at the total fees payable for the current year at such time as the default occurs. Under no circumstances shall the compensation

exceed €2,000.00 in the case of each occurrence. In this respect, a series of occurrences shall be deemed to constitute a single one.

- 13.4 'Direct loss' is only deemed to refer to:
- the costs which the relevant Contracting Party reasonably needs to incur to halt or remedy NextBI's default, so as to ensure that its performance complies with the relevant Agreement;
 - any reasonable expenses incurred to keep the relevant Contracting Party's former system in service for a longer period of time less any savings;
 - any reasonable costs incurred for the purposes of avoiding or limiting such loss and determining its scope and cause.
- 13.5 Any liability on the part of NextBI for an indirect loss, which is deemed to include but is not confined to, consequential loss, or loss of earnings or turnover, shall be precluded.
- 13.6 Under no circumstances shall NextBI be liable for a loss on the part of a Contracting Party which has been occasioned by some other party who may or may not already avail themselves of the relevant Service.
- 13.7 Any entitlement to compensation pursuant to this article shall lapse in the event that a legal claim to enforce it is not filed by or on behalf of the relevant Contracting Party within six (6) months after the time when the loss occurs.
- 13.8 Subject to any other right vested in NextBI, a Contracting Party shall indemnify NextBI in full against any loss, penalty or expenditure (of any nature whatsoever pursuant to:
- (i) a third-party claim or demand; and/or
 - (ii) any sanction (including a fine, suspension of activities or coercive penalty) imposed by a regulatory authority or court of law in relation to an action of the Contracting party or any other party engaged by them which is in breach of the Agreement concerned, these General Terms and Conditions, and/or the relevant legislation and regulations.
- 13.9 In the event that a Contracting Party acts in breach of Articles 5.5 to 5.7 or Article 10, they shall automatically forfeit to NextBI by operation of the law a contractual penalty amounting to €5,000.00 (five thousand euros) in the case of each breach and every day or part of one that such non-compliance persists, which shall not be susceptible of mitigation or setoff but shall be subject to NextBI's entitlement to compensation for any loss which it may suffer or has suffered and any other right vested in it.

Article 14 Suspension

- 14.1 Subject to any right vested in it and without having a duty to provide compensation, NextBI shall be entitled to suspend the execution of an Agreement in full or in part in the event that the relevant Contracting party fails to comply with their obligations pursuant to the Agreement, should NextBI suspect that the Contracting Party is acting in breach of Article 5 or 10, or has grounds to fear that the Contracting Party is unable to fulfil their financial obligations. A duty to pay any fees shall continue to apply in full during the period of suspension.
- 14.2 NextBI shall terminate such suspension as soon as the relevant Contracting Party complies

with the Agreement concerned and/or tenders sufficient security for the purposes of complying with their obligations. NextBI shall be entitled to charge a reasonable fee for terminating such suspension.

Article 15 Term of an Agreement

- 15.1 Unless explicitly agreed otherwise, an Agreement shall be entered into for an initial term of one (1) year. After the expiry of this period, the right to use the Data Consignment lapses.
- 15.2 Subject to any other rights, either NextBI and Contracting Party shall be entitled to cancel all or part of an Agreement with immediate effect in the absence of judicial intervention and without any notice of default in the event that the other party:
- applies for a moratorium on payments or is granted one;
 - is declared bankrupt or files for bankruptcy;
 - is declared subject to a debt rescheduling procedure;
 - has their business operations suspended or a company which they operate is liquidated.
- 15.3 Subject to any other rights which it has and without having a duty to provide compensation, NextBI shall be entitled to cancel an Agreement with immediate effect or to rescind it extrajudicially in the event that:
- the relevant Contracting Party fails to comply with their obligations;
 - the relevant Contracting Party culpably fails to comply with an obligation pursuant to the Agreement in some other way and fails to remedy such non-compliance within a reasonable period of time after being properly notified in writing that they are in default;
 - a situation of *force majeure* lasts for fourteen (14) days or longer;
 - NextBI can no longer reasonably comply with its obligations pursuant to the Agreement due to the amendment of the relevant legislation or regulations, or a ruling handed down by a judicial tribunal or regulatory authority;
 - the Contracting Party's shares and/or assets and liabilities are transferred to any other party;
 - NextBI is no longer able to comply with its obligations due to the involvement of any of its suppliers or in the event that it is no longer willing or able to offer the relevant Service for some other reason.
- 15.4 Under no circumstances shall the cancellation or recession of an Agreement discharge the relevant Contracting Party from any financial obligation in relation to Services provided by NextBI. Any amount for which NextBI has issued an invoice in connection with what it has done or supplied for the purposes of executing an Agreement, shall fall due immediately at the time of termination.
- 15.5 Immediately after the termination of an Agreement the relevant Contracting Party shall return anything which NextBI has made available to the Contracting Party for the purposes of the relevant Agreement and the Contracting Party shall cease to avail itself of the Service in question.

15.6 Those provisions which are designed to remain in effect after this agreement is terminated by virtue of their nature shall continue to apply in full following such termination.

Article 16 Final provisions

16.1 Without the relevant Contracting Party's prior consent (in writing or otherwise), NextBI shall be entitled to assign all or part of its rights and obligations pursuant to an Agreement to any of its subsidiaries or group companies, to another party (for example, in the event that its business is transferred) or to outsource them to a contractor. An Agreement shall be governed by and construed in accordance with the law of the Netherlands.

16.2 Any dispute which may arise pursuant to an Agreement shall be brought before a competent court of law in Amsterdam, the Netherlands.

NextBI B.V. is registered with the Chamber of Commerce under Number: 20078697

ANNEX

NEXTBI B.V. – DATA PROCESSING AGREEMENT

Version 1.4 – June 2022

THE PARTIES

This Data Processing Agreement (hereinafter ‘DPA’) shall govern all forms of the processing of Personal Data which NextBI B.V., having its registered office at Startbaan 6 in Amstelveen (1185 XR), and registered with the Chamber of Commerce under Number 20078697 (hereinafter: the ‘Processor’) carries out for the benefit of the other Contracting Party to whom it provides Services (hereinafter: the ‘Controller’).

WHEREAS:

- I. this DPA has been entered into for the purpose of the Processor providing a Service to the Controller as part of the execution of an Agreement or multiple agreements that have been concluded; such Agreement or agreements is or are jointly referred to as the ‘**Master Agreement**’;
- II. the Controller may offer Personal Data to the Processor or may enter it in or upload it to the latter’s online Services;
- III. when executing the Master Agreement, the Processor shall process Personal Data within the meaning of **Article 4(1) of the GDPR**, for which the Controller is and shall remain responsible; such data may include Personal Data within the meaning of the General Data Protection Regulation (EU 2016/679), hereinafter the ‘**GDPR**’;
- IV. the Processor is hereby deemed to be a processor within the meaning of **Article 4(8) of the GDPR**;
- V. the Controller is hereby deemed to be a controller within the meaning of **Article 4(7) of the GDPR**;
- VI. the Processor is willing to comply with their obligations in relation to security and other aspects in so far as it lies within their power to do so;
- VII. the GDPR imposes a duty on the Controller to ensure that the Processor provides appropriate guarantees in relation to the technical and organisational security measures governing the processing which is to occur;
- VIII. furthermore, the GDPR also imposes a duty on the Controller to oversee compliance with those measures;
- IX. having regard to the provisions of Article 28(3) of the GDPR, wish to set out the conditions governing processing of such Personal Data in this Agreement.

AGREEMENT:

1 Scope of application

- 1.1 This Agreement, hereinafter referred to as the **Processing Agreement**, applies insofar as one or more processing operations that are included in **Appendix 1** take place during the provision of the Services under the Master Agreement.
- 1.2 The types of processing stipulated in **Annex 1** which occur for the purposes of providing the Services are hereinafter referred to as the '**Types of Processing**'. The personal data which is processed in this respect is hereinafter referred to as the '**Personal Data**'.
- 1.3 All of the terms used in this Agreement bear the meaning assigned to them in the GDPR.
- 1.4 In the event that more or different Personal Data is processed at the behest of the Controller or where processing occurs differently from what is stipulated in this article, this Agreement shall also govern such other processing as far as possible.
- 1.5 The Processor himself shall be responsible (or partly so) for the processing of specific end user data. In particular, this concerns the end user's contact details and other data which the Processor requires in order to execute the Master Agreement.
- 1.6 The following annex shall constitute part of this Agreement.
Annex 1. The Types of Processing, Personal Data and retention periods.

2 Purposes of processing

- 2.1 The Processor undertakes to process Personal Data at the Controller's behest subject to the conditions of this DPA. Processing shall only occur pursuant to this DPA for the purpose of conducting analyses, to match the Controller's database files with that of the Processor in an online environment or otherwise, to enhance them with relevant marketing and other information and/or to maintain them.
- 2.2 The Personal Data which the Processor is to process pursuant to this DPA and the categories Data Subjects from which it has been derived are set out in Annex 1. The Processor shall not process Personal Data for any purpose other than that stipulated by the Controller. The Controller shall notify the Processor of the purposes of the processing in so far as this is not already mentioned in this DPA.
- 2.3 The Controller warrants that a register will be maintained of the Types of Processing governed by this DPA.
The Controller shall indemnify the Processor against any claims filed or actions brought in relation to a failure to comply with the duty to maintain a register or to do so properly.

3 Processor's obligations

- 3.1 With regard to the Types of Processing referred to in Article 2, the Processor shall ensure that any conditions stipulated pursuant to the GDPR in relation to the processing of Personal Data by the Processor are complied with.
- 3.2 The Processor shall inform the Controller at the latter's request and within a reasonable period of time about any measures which it has adopted in relation to its obligations pursuant to this DPA.
- 3.3 The obligations which are imposed on the Processor pursuant to this Agreement shall apply in the case of any party that processes the Personal Data under the Processor's authority.
- 3.4 Under no circumstances shall the processing of Personal Data entail that the Processor's databases will be enhanced with Data sourced from the Controller's data sets.

4 Division of responsibilities

- 4.1 The Processor shall carry out any permitted processing within a semi-computerised environment.
- 4.2 The Controller has and will maintain full control over any Personal Data. Where the Controller does not process Personal Data themselves using the Processor's systems, the Processor shall only process it in accordance with the Controller's written instructions. The Master Agreement shall serve as a generic set of instructions in this respect.
- 4.3 Processing shall occur solely pursuant to the Master Agreement. The Processor shall not process Personal Data other than as provided for in the Master Agreement. In particular, the Processor shall not process Personal Data for their own purposes.
- 4.4 The Controller warrants that any Personal Data stipulated in 'Category B: Controller's Business Associates (Data Subjects)' in Annex 1 may be supplied and that the Processor may process it as part of its assignment.
- 4.5 The Controller warrants that there are legal grounds, such as but not confined to those stipulated in the GDPR, for the purposes set out in Article 2.
- 4.6 The Controller warrants that the substance and use of, and an assignment to process Personal Data within the meaning of this DPA is not unlawful and does not infringe any third-party right.

5 Security measures

- 5.1 The Processor shall adopt all technical and organisational measures which are demanded of them pursuant to the GDPR and especially **Article 32 thereof**.¹

¹¹ Concerning transparent information, communication and additional rules governing the rights of Data Subjects.

- 5.2 The Processor shall ensure that those of its staff who are involved in the Types of Processing for the Processor are bound by a duty of non-disclosure in relation to Personal Data.

6 Data leaks

- 6.1 The Processor shall notify the Controller of every 'Personal Data breach' within the meaning of **Article 4(12) of the GDPR**.² Such a breach is hereinafter referred to as a '**Data Leak**'.
- 6.2 The Processor shall ensure the timely provision to the Controller of all of the information that it possess which is required to comply with the obligations stipulated in **Article 33 of the GDPR**.³ Moreover, the Processor shall supply the relevant information as soon as possible in a generally accepted format as it determines.
- 6.3 The Processor shall not notify the Controller of a Data Leak where it is immediately apparent that it does not pose a risk to the rights and freedoms of a natural person. Where there is any doubt in this respect, the Processor shall notify the Controller of the Data Leak, so as to enable them to come to their own conclusion concerning any report of a Data Leak. The Processor shall document all breaches, even those which need not be reported to the Controller, and shall supply the latter with that documentation once every quarter.
- 6.4 It shall only be up to the Controller to stipulate whether a Data Leak discovered at the Processor's is to be reported to the Dutch Data Protection Authority and/or the relevant Data Subjects.

7 Engagement of sub processors

- 7.1 The Processor may make use of sub processors. The Processor shall not be entitled to engage a sub processor for the purposes of processing without the Controller's prior written consent. The Controller's consent may also involve a specific type of third party. By signing this document the Controller consents to the engagement of (a) sub processor(s) as stipulated in Annex II.
- 7.2 In the event that the Controller gives their consent, the Processor shall ensure that the relevant third party concludes an agreement pursuant to which they at least comply with the same legal and any additional obligations which the Processor has pursuant to this DPA.
- 7.3 Where the consent pertains to a specific type of third party, the Processor shall notify the Controller of the sub processors that it has engaged. In this case the Controller may object to the addition or replacement of the Processor's sub processors.

8 Duty of non-disclosure

- 8.1 The Processor shall treat Personal Data in confidence. The Processor shall ensure that Personal Data is not directly or indirectly placed at the disposal of any other party. 'Other

² 'Personal Data breach' means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

³ Reporting a Personal Data breach to a regulatory authority.

party' is also deemed to refer to the Processor's staff in so far as they do not need to have access to any Personal Data. This stipulation shall not apply where this DPA stipulates otherwise and/or in so far as a provision of the law or a judgment renders any disclosure mandatory.

- 8.2 A Processor shall notify the Controller of every request for the inspection, supply, any other form of retrieval or disclosure of Personal Data in breach of the duty of non-disclosure stipulated in this article.

9 Retention periods and erasure

- 9.1 The Controller shall be responsible for determining Personal Data retention periods. In so far as the Controller themselves controls Personal Data (for example, in the case of online services), they shall erase it themselves in a timely matter.

- 9.2 The Processor shall erase the relevant Personal Data within thirty (30) days after the termination of the Master Agreement or, acting at the Controller's discretion, shall transfer same to the latter, unless that Personal Data must be kept longer pursuant to any legal or other obligation on the part of the Processor or in the event that the Controller asks for the Personal Data to be kept longer and the Processor and Controller reach agreement on the costs and other conditions for a longer retention period subject to the Controller's responsibility to observe any legally stipulated retention periods. A possible transfer to the Controller shall be effected at the latter's expense.

- 9.3 Acting at the Controller's request, the Processor shall declare that the erasure referred to in the foregoing clause has occurred. The Controller may arrange for an audit to be conducted at their own expense to ascertain whether this has indeed occurred. **Article 10** of this DPA shall govern such audit. As far as is necessary, the Processor shall notify all of the sub-processors who were involved in processing the relevant Personal Data of the termination of the Master Agreement and shall instruct them to act as stipulated herein.

- 9.4 Unless the parties agree otherwise, the Controller shall themselves be responsible for backing up any Personal Data.

10 Data Subjects' rights

- 10.1 Where the Controller themselves has access to the Personal Data, they shall deal with all requests from Data Subjects in relation to that Personal Data. The Processor shall immediately forward any requests which it receives to the Controller.

- 10.2 Only in so far as what is stipulated in the foregoing clause is not possible shall the Processor provide every timely assistance to the Controller in order to:
- (i) arrange for the Data Subjects to gain access to their relevant Personal Data after the Controller has given their approval and at the latter's behest;
 - (ii) erase or rectify such Personal Data;

- (iii) show that such Personal Data has been erased or rectified where incorrect (or, in the event that the Controller disagrees that the relevant Personal Data is incorrect, record the fact that the Data Subject considers that Personal Data to be incorrect);
- (iv) provide the relevant Personal Data in a structured, generally accepted and machine-readable format to the Controller or a third party designated by the latter; and
- (v) afford the Controller some other opportunity to comply with their obligations under the GDPR or any other applicable legislation governing the processing of Personal Data.

10.3 The Processor may charge the Controller a reasonable fee for the assistance referred to in the **foregoing clause**.

11 Liability

11.1 Amongst other things, the Controller shall bear responsibility – and pursuant to this is completely liable – for the processing (and its stipulated aim), use and substance of the relevant Personal Data, its supply to any other party, the period during which it is retained, the method of processing it, and the equipment used for this purpose.

11.2 The Processor shall be liable in relation to the Controller as provided for in the Master Agreement.

12 Audits

12.1 The Controller shall be entitled to arrange for compliance with the provisions of this agreement to be audited once a year at their own expense by an independent registered accountant or computer scientist.

12.2 The Processor shall provide the Controller with all of the information which is required to show that the obligations stipulated in **Article 28 of the GDPR** have been complied with. In the event that any other party whom the Controller has engaged issues instructions which, in the Processor's opinion, contravene the GDPR, the Processor shall notify the Controller of this immediately.

12.3 The Controller's audit shall confine itself to those of the Processor's systems which are used for the Types of Processing. The Controller shall treat any information found in the course of an audit in confidence, shall only use it to audit the Processor's compliance with their obligations pursuant to this agreement, and shall erase that information or parts of it as soon as possible. The Controller shall warrant that any other party who is engaged will give this undertaking as well.

13 Other provisions

13.1 Any derogation from this agreement shall only be valid provided that the parties have agreed to it in writing.

- 13.2 The parties shall amend this agreement to accord with any amendment or addendum to the relevant regulations, any additional instructions issued by the relevant authorities and the evolving understanding of the application of the GDPR (for example but not confined to case law or reports), the introduction of standard provisions and/or other occurrences or insights which require such an amendment.
- 13.3 This agreement shall remain in effect for as long as the Master Agreement does. The provisions of this agreement shall continue to apply for as long as is necessary to execute this agreement and in so far as they are designed to survive the termination of this agreement. The latter category of provisions includes, amongst others but not confined to them, those pertaining to non-disclosure and disputes.
- 13.4 This agreement shall be solely governed by and construed in accordance with the law of the Netherlands.
- 13.5 The parties shall only bring any of their disputes in relation to this agreement before the District Court of Amsterdam.

Annex 1 – Personal Data Specifications and Data Subjects

Personal Data which the parties expect to process

Acting at the behest of the Controller pursuant to the Master Agreement, the Processor shall process the following Personal Data from the Controller and those of the latter's business associates that are still to be determined (Data Subjects).

Category A. Controller (Service procurer)

- Company name
- Invoice address
- General email address
- General telephone number
- URL
- Contact person's initials and first name
- (prefix or suffix)
- Last name
- Position and/or area of responsibility
- (direct email address)
- (direct telephone number)

Category B. Controller's business associates (Data Subjects)

- Company name
- PO Box and/or registered office
- General email address
- General telephone number
- URL
- Contact person's or persons' initials and first name(s)
- (prefix or suffix)
- Last name
- Position and/or area of responsibility

The Controller warrants that only that Personal Data will be supplied which is necessary for the Processor.

Annex 2 – Sub processors and categories of sub processors

Sub processor:

Inovacio B.V.
Startbaan 6
1185 XR AMSTELVEEN

Category:

Hosting