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SaaS Terms and Conditions

1. Definitions

1.1   Except to the extent expressly provided otherwise in the SaaS Terms and Conditions:

"Agreement" means the main SaaS agreement including Schedules, to which these Terms and Conditions (as defined below) apply;

"Affiliate" means any company wholly or partly (>50% ownership) (i) which owns or controls, or (ii) is wholly or partly owned or controlled by the same parent company as the respective Party, or (iii) any subsidiary or affiliate of the respective Party respectively, whether directly or indirectly;

" Allowed Users" has the meaning given in clause 3.2 to these SaaS Terms and Conditions;

"**Business Day**" means any weekday other than a bank or public holiday in Denmark;

"**Business Hours**" means the hours of 09:00 to 17:00 Danish time on a Business Day;

"**Charges**" has the meaning as set out in the Agreement;

"**Clause**" means a clause to these SaaS Terms and Conditions;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or un-registrable, registered or unregistered, including any application or right of application for such rights, including all renewals and extensions of such rights or applications, whether vested, contingent or future and whether existing (and these "intellectual property rights" include copy- right and related rights, database rights, , rights in inventions, inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, tests, reports, component lists, manuals, instructions, drawings, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models and rights in designs and information relating to the Service Provider and User (whether in written or in any other form and whether confidential or not));

"**SaaS Terms and Conditions**" means these SaaS Terms and Conditions, and any Schedules and amendments hereto;

"**Schedule**" means any schedule attached to the Agreement;

"**Services**" has the meaning as set out in the Agreement and includes for the avoidance of doubt also Services delivered through an application as further set out in Clause 4.1;

"**SLA**" means the SaaS Service Level Agreement at https://lautec.com/it-systems/ ;

"**Term**" means either the first term with the start date and duration specified in the Agreement or any following extension terms. These SaaS Terms and Conditions as updated from time to time will automatically apply upon the beginning of each new Term;

"**User**" means the user identified in the Agreement as "User"; and

"**User Data**" has the meaning given to that term in Clause 5.2.

2. **Service Delivery**

2.1   Subject to payment, the Service Provider shall provide the Services as further described in the Agreement and in accordance with the applicable SLA. The Service Provider shall discharge its obligations under the Agreement in a good and workmanlike manner with reasonable skill, care, and diligence including good industry practice and in accordance with its own established internal procedures as applicable.

2.2   The Service Provider shall procure that it's personnel is trained and suitable for the performance of the Services.

2.3   The User acknowledges that the Services may not be entirely free from errors and bugs or security vulnerabilities, however, the Service Provider will use commercially reasonable efforts in accordance with good industry practise and the SLA obligations to remediate any such errors, bugs or security vulnerabilities identified in the Services.

2.4   The Service Provider is entitled to suspend Services provided under the Agreement temporarily if the User is in breach of its payment obligations for such Services. User shall be given 30 day written notice to remedy such payment obligation before suspension of Services takes place. In any other situations, the Service Provider is entitled to suspend any Services provided under the Agreement temporarily only if (i) the User is in non-compliance of its obligations, (ii) and such non-compliance will or may likely affect any of the Service Provider's systems or the Service Provider's other customer's use of the Services, or (iii) on a reasonable basis if it is considered necessary in order to prevent unauthorized access to data or breach of law.

3. **General User obligations**

3.1   The User must use the Services only for the intended purposes and as otherwise set out in the Agreement and these SaaS Terms and Conditions.

3.2   The User may give it's Affiliates, employees, customers, clients, agents or consultants (together "Allowed Users") access to the Services, when such agents and third-party consultants are working for the User. The User shall remain fully liable for Allowed User's correct use of the Services and further ensure that each of the Allowed Users have accepted these SaaS Terms and Conditions. When the Allowed Used have accepted these SaaS Terms and Conditions the reference to the "User" shall be interpreted as a reference to the "Allowed User" in respect of any obligations and requirements on the User (except for clause 7).

4. **Application**

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4.1   Some of the Services can be accessed to through an application to be downloaded by the User or the Allowed User. For this purpose the following shall apply:

4.2   Subject to payment, the Service Provider grants the User a limited (from the start of the Term until the end of the Term), worldwide, non-exclusive, licence to use the application for the purposes as set out in the Agreement and these SaaS Terms and Conditions.

4.3   The User:

(a)   must not sell, resell, rent, lease, loan, supply, publish, distribute or redistribute the application;

(b)   must not alter, edit, or adapt the application or the underlying software; and

(c)   must not decompile, de-obfuscate or reverse engineer, or attempt to decompile, de-obfuscate or reverse engineer the application or the underlying software.

4.4   The User shall be responsible for the safekeeping of user credentials and passwords for the application supplied under these SaaS Terms and Conditions and shall use all reasonable endeavours (including all reasonable security measures) to ensure that access to user accounts is restricted to persons authorised to use them under these SaaS Terms and Conditions.

5. Intellectual Property Rights

5.1   The Service Provider shall retain all Intellectual Property Rights in respect of the Services and any future amendments, features, or functionalities to such Services.

5.2   As between the User and the Service Provider, the User shall retain all Intellectual Property Rights to any of its own data used in combination with the Services (or by any person authorised by the User to use the Services) ("**User Data**").

5.3   Nothing in these SaaS Terms and Conditions shall have the effect of transferring any Intellectual Property Rights from the User to the Service Provider or vice versa owned by the respective Parties prior to signature date of the Agreement.

6. Charges

6.1   The User shall pay the Charges as further set out in the Agreement.

6.2   All Charges are, unless the context requires otherwise, stated exclusive of any applicable value added taxes but inclusive of all other taxes subject to clause 7.4. Any applicable value added taxes are payable by the User and all other taxes are payable by the Service Provider subject to Clause 7.4.

6.3   An invoice for the Charges shall be issued at the beginning of each Term in accordance with Clauses 6 and 7.

6.4   The Service Provider reserves the right to adjust the Charges for future Terms. The Service Provider will inform the User of any changes in the Charges by written notice no later than 90 days before said changes will go into effect.

6.5   In the event that the Agreement is terminated by the User under Clause 11.2, no refunds will be given to the User.

6.6   The existing License system updates, improvements and new functionality will not incur additional charges to the User except in cases where new functionality is separately offered to the User as an additional option.

7. Payments

7.1   The Service Provider shall issue invoices for the Charges to the User on or after the invoicing dates set out in Clause 6.3 and Clause 9.7 in the SLA. Invoices will be issued electronically via email.

7.2   Unless the User has notified the Service Provider that it disputes the contents of any given invoice, the User shall pay the Charges to the Service Provider within the period specified in the invoice.

7.3   If the User does not pay any amount properly due to the Service Provider under these SaaS Terms and Conditions, the Service Provider may charge the User interest on the overdue amount at the rate of 5% per annum during the relevant period (which interest will accrue daily until the date of actual payment and be compounded at the end of each named calendar month).

7.4   In the event that the User is required by relevant tax law or regulation to deduct any withholding tax ("**WHT**") in relation to any Charges payable to the Service Provider pursuant to these SaaS Terms and Conditions, and the Service Provider is not at the payment time expected to be able to obtain a full or partial credit relief in its Danish tax return for such WHT, the User shall pay to the Service Provider a grossed-up amount which, after the deduction of any such WHT, is equal to the Charges in these SaaS Terms and Conditions. By way of example, if the net Charges in these SaaS Terms and Conditions is USD 1,000 and the WHT is 20%, the Service Provider shall invoice an amount of 1,000/(100%-20%) = USD 1,250.

7.5   The Service Provider shall assist the User in obtaining a WHT exemption, in reducing the rate of any such WHT or in applying for tax payment on deemed profit basis, including but not limited to providing the necessary power of attorneys for such purposes.

7.6   In the event a grossed-up amount is paid by the User and the Service Provider subsequently receives a WHT refund or tax credit by the relevant authority, the Service Provider shall return such refund to the User.

8. Indemnification

8.1   The Service Provider shall indemnify, defend, and hold the User harmless from and against any liabilities, costs, fees, and damages (including reasonable attorney's fees)

arising from or connected with any claims or action against the User by a third party alleging the Services infringe the third party's Intellectual Property Rights. This indemnification is conditional upon the User's immediate notification of the claim and provided that the Service Provider – upon its request – can take over the legal proceedings on behalf of the User.

8.2   If the Services are used in breach of the intended use or in combination with other third-party products or services, which leads to a third-party claim that the Services infringe the third party's Intellectual Property Rights, the User shall indemnify, defend and hold the Service Provider harmless from and against any liabilities, costs, fees and damages (including reasonable attorney's fees) arising from or connected with such third-party claim.

8.3   If the Services are held to infringe a third party's Intellectual Property Rights pursuant to clause 8.1 above, the Service Provider will, at the Service Provider's sole option and expense either (i) procure the User's right to continue using the Services, (ii) replace the Services or part hereof with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function, or (iii) modify the Services or part hereof to make it non-infringing. In the event options (i) - (iii) are unavailable, Service Provider shall refund any pre-paid Charges for the remaining period and terminate the Agreement with immediate effect. These remediation efforts constitute in addition to the indemnification itself, the Service Provider's sole liability for third-party Intellectual Property Rights infringements.

9.   Limitations and exclusions of liability

9.1   Nothing in these SaaS Terms and Conditions will:

(a)   limit or exclude any liability for fraud or fraudulent misrepresentation;

(b)   limit any liability for damages resulting from an intentional or negligent violation by Service Provider of its contractual obligations;

(c)   limit any liabilities in any way that is not permitted under applicable law;

(d)   limit the liability under Clause 8; or

(e)   exclude any liabilities that may not be excluded under applicable law.

9.2   Subject to Clause 9.1, the Service Provider shall not be liable to the User in respect of any:

(a)   loss of profits or anticipated savings.

(b)   loss of revenue or income.

(c)   loss of use or production.

(d)   loss of business, contracts, or opportunities.

(e)   loss or corruption of any data, database or software.

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(f)   indirect or consequential loss or damage.

9.3   Subject to Clause 9.1, the Service Provider's liability under these SaaS Terms and Conditions shall be limited to the lowest amount of either (i) 200,000 EUR or (ii) 12 months payment of the Charges calculated from the point in time, which gave rise to the claim.

9.4   The Service Provider shall not be liable for any defects or errors in software or services provided by third-party suppliers, which are used in or as part of Services (e.g. Google Chrome, Microsoft Edge, Microsoft Azure etc.).

10. Force Majeure

10.1   Neither Party shall be liable towards the other Party for non-performance or delayed delivery caused by events outside of such Party's control, including but not limited to fire, war, civil unrest, government intervention, legislative or similar restrictions, natural disasters, export or import bans, cyber-attacks, lack of labour or raw materials, strikes, and lockouts (save for strikes and lockouts caused by the Service Provider), ("Force Majeure").

10.2   In case of any Force Majeure event, the Service Provider shall be entitled to postpone delivery of the affected Services until such circumstance has ceased.

11. Termination

11.1   The Service Provider may only terminate the Agreement under Clauses 11.3 and 11.4. Notwithstanding the above, the Service Provider may terminate these SaaS Terms and Conditions for convenience by giving notice of termination to the User with 6 full calendar months' notice and only with effect from after the Term at the time of the notice provided by the Service Provider.

11.2   The User may without incurring liability, at any time terminate the Agreement for convenience, by giving written notice of termination to the Service Provider. The termination is effective from after the last day of the Term.

11.3   Either Party may terminate the Agreement immediately by giving written notice of termination to the other Party if:

(a)   the other Party commits any material breach of the Agreement, and such breach is not remediable; or

(a)   the other Party commits a breach of the Agreement and the other Party fails to remedy the breach within a period of 60 days following the written request from the other Party for the breach to be remedied;

11.4   Either Party may terminate the Agreement immediately by giving written notice of termination to the other Party if:

(a)   the other Party:

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(iv)   is dissolved;

(ii)   ceases to conduct all (or substantially all) of its business;

(iii)   is or becomes unable to pay its debts as they fall due;

(iv)   is or becomes insolvent or is declared insolvent;

(b)   an administrator, administrative receiver, liquidator, receiver, trustee, or similar is appointed over any of the assets of the other Party; or

(c)   an order is made for the winding up of the other Party, or the other Party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other Party under these SaaS Terms and Conditions).

12. Effects of termination

12.1   Upon the termination of the Agreement, all provisions, which from a natural perspective, are meant to survive shall survive and continue to have effect, including for the avoidance of doubt: Clauses 1, 3, 5, 7, 8, 9, 12, 13, 14 and 15.

12.2   Subject to Clause 12.3, upon the termination effective date or expiry date all Services shall cease and the termination shall have effect "ex nunc", meaning that User will not be entitled to repayment of any Charges for Services already delivered under the Agreement.

12.3   If the User terminates the Agreement due to Clause 11.3, the Service Provider shall refund the User the Charges multiplied by the percentage of the Term unfulfilled. The User will not be refunded development fees (if any).

13. Confidentiality

13.1   The Parties shall not, apart from what is required by applicable law or by any court or other authority of competent jurisdiction, make use of, except for the purposes contemplated by these SaaS Terms and Conditions, disclose to any third party or publish any Confidential Information received by one Party from or in respect of the other Party under or in connection with these SaaS Terms and Conditions. For the purpose of these SaaS Terms and Conditions, "Confidential Information" means a Party's commercial and operational information and knowhow and any other information not generally known or reasonably ascertainable.

13.2   Notwithstanding Clause 13.1, the User is entitled to disclose Confidential Information to its Representatives (meaning means employees, directors, officers, agents, partners, members, managers, investment committee members, designated liaison officers and professional advisers of the User) and Affiliates who need to know the Confidential Information, provided that such Representatives and Affiliates:

(a)   are made aware of the confidential nature of the Confidential Information disclose to them; and

(b)   are subject to non-disclosure obligations no less strict than those set out in these SaaS Terms and Conditions or are already subject to such obligations by applicable law.

13.3   The Parties shall ensure that their employees also observe this Clause 13.

13.4   The provisions of this Clause 13 apply during the Term and shall survive for a period of two (2) years from the termination of these SaaS Terms and Conditions.

14. General

14.1   No breach of any provision of these SaaS Terms and Conditions shall be waived except with the express written consent of the Party not in breach.

14.2   If any provision of these SaaS Terms and Conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of these SaaS Terms and Conditions will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the Parties, in which case the entirety of the relevant provision will be deemed to be deleted).

14.3   Neither Party may without the prior written consent of the other Party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these SaaS Terms and Conditions.

14.4   These SaaS Terms and Conditions is made for the benefit of the Parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the Parties to terminate, rescind, or agree any amendment, waiver, variation, or settlement under or relating to these SaaS Terms and Conditions are not subject to the consent of any third party.

14.5   The Agreement shall constitute the entire agreement between the Parties in relation to the subject matter of these SaaS Terms and Conditions, and shall supersede all previous agreements, arrangements, and understandings between the Parties in respect of that subject matter.

14.6   The Agreement shall be governed by and construed in accordance with Danish law, without regard to conflicts of law provisions.

14.7   Any dispute or claim arising out of or in connection with the Agreement shall be settled by arbitration in accordance with the Rules of Procedure of the Danish Institute of Arbitration (Voldgiftsinstituttet) as applicable and adopted by the Danish Institute of Arbitration at the time when such arbitration proceedings are commenced. The arbitral tribunal shall consist of three arbitrators. Each Party shall appoint one arbitrator and the Institute shall appoint a third arbitrator who shall be the chairman of the arbitration tribunal. The place of arbitration shall be Copenhagen, Denmark. The language of the arbitration shall be English.

15. Interpretation

15.1   The Clause headings do not affect the interpretation of these SaaS Terms and Conditions.

15.2   In these SaaS Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

The formatting of text (italics, bold, underlining, and colour) are intended for reference purposes only and do not affect the interpretation of these SaaS Terms and Conditions.