

# GDPR 27 REPRESENTATION AGREEMENT

This GDPR 27 Representation Agreement (this “**Agreement**”) is entered into by and between [YOUR COMPANY NAME], a [TYPE OF ENTITY], with offices located at [ADDRESS, COUNTRY] (the “**Company**”), and GDPR27 B.V. located at [ADDRESS, COUNTRY] (the “**Designee**”, and together with the Company, the “**Parties**”, and each a “**Party**”).

## RECITALS

**WHEREAS**, the Company determines or interprets how to specifically comply with article 27 of the GDPR;

**WHEREAS**, the Company Processes certain Personal Data of Data Subjects in the European Union (the “**EU**”), as provided in Appendix 1 attached hereto and incorporated into this Agreement by reference;

**WHEREAS**, the Designee is established in The Netherlands, which is one of the Member States of the EU where Data Subjects, whose Personal Data the Company Processes are, or will be located; and

**WHEREAS**, the Company desires to designate the Designee as a Representative of the Company in the European Union to act on its behalf with regard to its obligations under Article 27 of the GDPR and the Designee is willing to accept such designation in accordance with the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

- 1. Definitions.** Capitalized words and phrases not defined herein shall have the same definitions as in the General Data Protection Regulation (2016/679) of the European Parliament and of the Council (the “**GDPR**”).
- 2. Designation as Representative.**
  - 2.1.** The Company hereby designates the Designee, and the Designee hereby accepts such designation, as the Representative for the Company pursuant to Article 27 of the GDPR.
  - 2.2.** The Designee agrees to be addressed, in addition to or instead of the Company, by Supervisory Authorities and Data Subjects, on all issues related to Processing by the Company, for the purposes of ensuring the Company’s compliance with the GDPR.

**3. Responsibilities of the Designee.** The Designee shall:

- 3.1. Receive, relay, and, after consultation with the Company, respond as directed by the Company to any communications from Supervisory Authorities or Data Subjects on all issues related to the Processing of Personal Data by the Company.
- 3.2. Immediately notify the Company using the most efficient method of notice available to it if it receives any communications from Data Subjects or Supervisory Authorities, as described in Section 3.1. In any case, such notification shall be provided to the Company no later than seventy-two (72) hours from the moment the communication is received by the Designee.
- 3.3. Fully and promptly cooperate with Supervisory Authorities, on the Company's behalf, as directed by the Company, as necessary to enable the Company to comply with its obligations under the GDPR.
- 3.4. Make the Record available to Supervisory Authorities at their request.
- 3.5. Keep the contact details required for cooperation with the Data Subjects and Supervisory Authorities (the "**Public Contact Information**"), accurate and up-to-date at all times. Should the contact details change, the Designee will notify the Company without undue delay.
- 3.6. Appoint a natural person who will communicate with the Data Subjects and Supervisory Authorities in either English or Dutch.

**4. Designee's Public Contact Information.** The Designee's Public Contact Information in the EU shall be as follows:

**GDPR27.eu/questions**

Company grants permission to Designee to use the name of the Company on this webpage of Designee for the following purpose: Data Subject has to select the Company to which the question or complaint refers to.

**5. Obligations of the Company.** The Company shall:

- 5.1. Provide all the information required under Section 3.1 to the Designee on or before the Effective Date of this Agreement and keep such information accurate and up-to-date at all times.

- 5.2. Communicate in the Company's Privacy Statement to the Data Subjects that GDPR27 is the representative within the EU and that all questions or complaints should be addressed to Designee's Public Contact Information: [GDPR27.eu/questions](https://GDPR27.eu/questions)
- 5.3. At all times, provide all the information necessary for the Designee to fulfill its obligations as provided under this Agreement.
- 5.4. Reimburse the Designee for all expenses incurred in carrying out its obligations and responsibilities under this Agreement.
- 5.5. Maintain a record of Processing activities as required pursuant to Article 30(1) or Article 30(2), as applicable (the "**Record**"). The Record shall contain all of the following information:
  - (a) the name and contact details of the Company, in its role as Controller, and, if applicable, the Joint Controller and the Controller's Data Protection Officer;
  - (b) the purposes of the Processing;
  - (c) a description of the categories of Data Subjects and of the categories of Personal Data;
  - (d) the categories of recipients to whom the Personal Data have been or will be disclosed, including recipients in Third Countries or International Organisations;
  - (e) transfers of Personal Data to a Third Country or an International Organisation, including the identification of that Third Country or International Organisation and, in the case of transfers referred to in the second subparagraph of Article 49(1) of the GDPR, the documentation of suitable safeguards;
  - (f) where possible, the envisaged time limits for erasure of the different categories of data; and
  - (g) where possible, a general description of the technical and organisational security measures referred to in Article 32(1) of the GDPR.

## **6. Fees, invoicing and payments.**

- 6.1. In consideration of the Designee's performance of its obligations hereunder, the Company agrees to pay the Designee the following fees:
  - Annual Fee for representation: EUR 975,-
  - Hourly Consultancy rate based on actual effort: EUR 135,-
  - Hourly Administration rate based on actual effort: EUR 80,-
- 6.2. The first payment of the Annual Fee is part of the application process and therefore will take place prior to the formation of a Contract. Invoices for the Annual Fee for Renewal Periods will be sent approximately 30 days before the Expiry Date.

- 6.3. Invoices regarding to Consultancy and Administration effort will be sent on a monthly basis.
- 6.4. Payment of all invoices is due within 30 days of invoice date. All prices are in Euro (€) and are exclusive of VAT.
- 6.5. Where the payment of the invoice is not made within 30 days, that shall be considered a reason to terminate this Agreement, and the termination shall be deemed backdated in line with the invoiced period.
- 7. Notices.** All notices, demands, or requests given by the Parties shall be transmitted by e-mail to the address that the Parties have designated in this Section 7:
- 7.1. To the Company at [EMAIL ADDRESS COMPANY]
- 7.2. To the Designee at [EMAIL ADDRESS DESIGNEE]
- 8. Language of Correspondence.** All correspondence is to take place in English. The Designee is under no obligation to translate the contents of Data Requests or Regulatory Actions unless otherwise agreed with the Company, as additional fees may apply to such translation.
- 9. Term and Termination.**
- 9.1. The term of this Agreement shall take effect on [signature date] (the “Effective Date”) and shall continue for a period of one year (the “Term”).
- 9.2. Thereafter, this Agreement shall be automatically renewed on an annual basis, unless one Party gives written notice of termination to the other Party not less than sixty (60) days prior to the termination of the then current term.
- 10. Representations and Warranties; Disclaimer.**
- 10.1. Each Party represents and warrants to the other Party that:
- (a) it has all right, title, and authority to enter into this Agreement;
  - (b) its execution of this Agreement and its performance of its obligations hereunder do not constitute a breach of any contract, agreement, or understanding, oral or written, to which it is a Party or by which it is bound; and
- 10.2. The Designee further represents, warrants, and covenants to the Company that:
- (a) the Designee is legally established in The Netherlands; and

- (b) the Designee shall perform the responsibilities described in Section 3, in accordance with the terms of this Agreement, and applicable law, including but not limited to the GDPR and the laws of the EU Member State in which the Designee is established.

10.3. The Company further represents, warrants, and covenants to the Designee that it has all necessary right, title, and authority to designate the Designee as its Representative and to bestow upon it the mandates of this Agreement.

## 11. Indemnification.

11.1. Each Party agrees to defend, indemnify, and hold the other Party and its officers, directors, employees, agents, subsidiaries, and affiliates harmless from and against any and all claims, losses, liabilities, damages, judgments, awards, expenses, actions, lawsuits, and costs, including, without limitation, reasonable attorneys' fees, directly arising out of or relating to third-party claims based on either Party's actual:

- (a) grossly negligent acts or omissions, or fraud in connection with this Agreement; infringement of a third party's intellectual property rights; or
- (b) violation of any statute, law, ordinance, or regulation, resulting from the Company's failure to comply with this Agreement; and
- (c) provided in each case that each Party complies with the indemnification procedures of Section 11.2 below.

The Parties agree that "gross negligence" is defined as conduct that is indicative of intentional wrongdoing or evinces a reckless indifference to the rights of others.

11.2. **Indemnification Procedures.** With respect to a Party's obligation to indemnify (the "**Indemnifying Party**") the other Party (the "**Indemnified Party**") shall:

- (a) provide the Indemnifying Party with prompt written notice of any such claim, action, or demand for which indemnity is sought;
- (b) allow the Indemnifying Party to control the defense and related settlement negotiations, provided, however, that the Indemnified Party shall have the right to participate in such defense with counsel of its own choosing at its own expense;
- (c) provide the Indemnifying Party, at the Indemnifying Party's request, with reasonable assistance in the defense of such claim, action or demand, so long as the Indemnifying Party reimburses the Indemnified Party for the Indemnified Party's reasonable out-of-pocket expenses associated therewith; and
- (d) not settle a claim without the Indemnified Party's written consent, which consent shall not unreasonably be withheld. The Indemnifying Party shall not be relieved of its indemnification obligations herein for the Indemnified Party's failure to comply

with such requirements, except to the extent that the Indemnifying Party has been prejudiced by the Indemnified Party's actions or inactions.

**12. Limitation of liability.** Except for the indemnification obligations of the parties in section 11 and the breach of confidentiality obligations of the parties as outlined herein, regardless of the legal or equitable theory on which claims are brought, whether under contract, negligence, strict liability, or other theory, each party's aggregate liability, or other theory, each party's aggregate liability with respect to any and all claims arising in connection with this agreement will be limited to the total amount of any pre-paid fees paid by The Company to The Designee under this agreement during the twelve (12) months immediately preceding the breach, violation, act, or omission giving rise to the liability.

**13. Receipt of Confidential Information.**

**13.1. Definition.** In the course of performing duties under this Agreement, the Designee may obtain Confidential Information (as defined below) from the Company. "**Confidential Information**" means any and all technical and non-technical proprietary information provided by the Company to the Designee, whether disclosed orally or in writing, Personal Data, and includes all other information regarding:

- (a) the terms of this Agreement; and
- (b) any information which is marked or designated as confidential or proprietary at or prior to disclosure or which would appear to a reasonably prudent person to be confidential and/or proprietary in nature.

Confidential Information does not include information or data that the Designee can show by credible evidence:

- (a) was in the public domain at the time it was communicated to the Designee;
- (b) entered the public domain subsequent to the time it was communicated to the Designee through no fault of the Designee;
- (c) was in the Designee's possession, not in violation of any obligation of confidentiality, at the time it was communicated to the Designee;
- (d) was disclosed to the Designee not in any violation of any obligation of confidentiality; or
- (e) was independently developed by the Designee without use of or reference to the Confidential Information of the Company.

**13.2. Restrictions on Use and Disclosure.** The Designee agrees to hold the Confidential Information of the Company in confidence, using the same degree (but no less than a reasonable degree) of care and protection that it uses to protect its own proprietary information, both during and after the Term of this Agreement. The Designee agrees not to use or disclose the Confidential Information for any purpose other than as

necessary to fulfill its obligations or exercise its rights under this Agreement and agrees to take all reasonable steps to ensure that Confidential Information is not used, disclosed, or distributed by its employees or agents in violation of the terms of this Agreement. Notwithstanding anything contained herein to the contrary, the Designee may disclose Confidential Information pursuant to an order of a court of competent jurisdiction or as otherwise required by applicable law. Under such circumstances the Designee will, if reasonably possible under the circumstances, provide the Company with advance notice of such disclosure in order to afford the Company an opportunity to take legal action to prevent or limit the scope of such disclosure, and will cooperate with the Company in connection therewith.

**13.3. Destruction of Confidential Information.** Upon termination of this Agreement or otherwise at the Company's written request the Designee shall destroy all Confidential Information (including all copies thereof) in the Designee's possession, custody and control.

#### **14. Miscellaneous.**

**14.1. Governing Law.** This Agreement shall be exclusively governed by Dutch law and construed in accordance with the GDPR. In the event of any dispute, the Parties agree to seek an amicable solution prior to taking matters before the competent jurisdiction.

**14.2. No Waiver.** Any waiver or the failure of either Party to this Agreement to object to or take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation breach, or of any future violation, breach or wrongful conduct.

**14.3. Severability.** It is intended by the Parties that all provisions of this Agreement be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement, and any such unenforceable term or provision shall be modified to the minimum extent necessary to make the term or provision enforceable.

**14.4. Amendment.** Notwithstanding any provisions in any other agreement between the Parties regarding modifications or amendments, no modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be binding upon either Party, unless made in writing and signed by a duly authorized representative of each Party.

**14.5. Survival.** Sections 11, 12, 13, 14.4 and this "Survival" provision and any other provisions that by their nature ought to survive this Agreement shall survive termination of this Agreement regardless of the manner in which this Agreement was terminated.

IN WITNESS WHEREOF, the Parties have hereunto set their hands as of the dates indicate below.

**COMPANY****DESIGNEE**

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**Name**

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**Name**

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**Title**

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**Title**

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**Company Name**

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**GDPR27 B.V.**

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**Date**

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**Date**

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**Signature**

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**Signature**



## Appendix 1

Details Regarding Processing of Personal Data of Data Subjects in the European Union

### Short description of the processing

[redacted].

### Data of citizens of what EU-countries processed

[redacted], [redacted], [redacted].

### Purposes of the processing

[redacted], [redacted], [redacted].

### Categories of Data Subjects

[redacted], [redacted], [redacted].

### Categories of Personal Data

[redacted], [redacted], [redacted].

### Recipients of the Personal Data

[redacted], [redacted], [redacted].

### Processors involved

[redacted], [redacted], [redacted].

### Countries to which data will be transferred to

[redacted], [redacted], [redacted].

### Technical and organisational security measures or certifications

[redacted].

### Data Protection Officer + mail address

[redacted].

### Joint Controller + website

[redacted].