Data processing agreement

between

the Customer according to the Service Agreement

("Client")

and

Zeit AG, Allee 1B, 6210 Sursee

("Zeit AG")

Hereinafter collectively referred to as the **"Parties"** or individually as a **"Party"**

Preamble

A   The Client is a Swiss company and does not employ any personnel abroad whose data would be affected by processing by Zeit AG.

B   In addition to the software and hardware for time management and access systems, the Client procures services from Zeit AG under the terms specified in the contractual framework between the Parties, including all components **("Service Agreement").**

C   This Data Processing Agreement ("**Agreement**") is, according to Section 8.5 of the General Terms and Conditions, an integral part of the Service Agreement and defines the data protection obligations of the Parties. It applies to all activities carried out in connection with the Service Agreement through which Zeit AG gains access to the Client's personal data.

1. Definitions

Within the scope of this Agreement, the following terms shall have the meanings set out below:

1.1 "Controller" means the natural or legal person who has control over certain personal data and alone or jointly with others determines the purposes and means of processing such personal data (within the business relationship between the Parties, this refers to the Client);

1.2 "Client's Personal Data" means all personal data controlled by the Client that is processed by Zeit AG on behalf of the Client under or in connection with the Service Agreement (within the business relationship between the Parties, this refers exclusively to the Client's employee data);

1.3 "Data Protection Regulations" means all legal provisions applicable to the contractual relationship between the Parties concerning the Client's personal data, in particular the Swiss Federal Act on Data Protection ("**FADP**") and the related ordinance;

1.4 "Data Subject" means a natural person who can be identified, directly or indirectly, in particular by reference to an identifier (e.g., name, ID number, online identifier), location data, or one or more specific characteristics;

1.5 "GDPR" means the EU General Data Protection Regulation 2016/679 (as amended from time to time);

1.6 "Data Breach" means a breach of data security or integrity which, whether accidental or unlawful, leads to the unauthorized destruction, loss, alteration, or unauthorized disclosure or access to the Client's personal data;

1.7 "Processing" means any operation or set of operations performed on the Client's personal data, whether or not by automated means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction

1.8 "Processor" means the natural or legal person who processes personal data on behalf of the Controller (within the business relationship between the Parties, this refers to Zeit AG);

1.9 "Sub-processor" means a natural or legal person (excluding employees of the Processor) engaged by the Processor (in this context, Zeit AG) to process the Client's personal data on behalf of the Processor in connection with the Service Agreement.

2. Scope: Relationship of this Agreement to the Service Agreement

2.1 The Parties acknowledge that the GDPR does not apply to the contractual relationship between the Parties. Notwithstanding this, the Parties agree, in reference to the GDPR but also taking into account the requirements of the Swiss Federal Act on Data Protection (FADP), on a set of obligations for both Parties which shall apply in the context of any processing of the Client's personal data by Zeit AG. This, however, does not result in the direct or indirect applicability of the GDPR to this contractual relationship.

2.2 The scope, nature, and purpose of the processing of the Client's personal data by Zeit AG are conclusively determined by the provision of services under the Service Agreement.

2.3 Annex A of this Agreement contains information on the type of personal data of the Client and its processing by Zeit AG.

2.4 This Agreement shall enter into force immediately upon signature by both Parties. The term of

this Agreement shall last until the end of the term of the Service Agreement or until such time as this Agreement is replaced by a new or amended agreement by the Parties. Upon expiration of the Service Agreement, this Agreement shall automatically terminate.

2.5   Subject to Sections 3.6.2 and 3.6.3, the Client may request the correction, deletion, blocking, or provision of its personal data both during the term and after termination of the Service Agreement. The Client hereby confirms and acknowledges that if it instructs Zeit AG to delete or block its personal data, or upon termination of the Service Agreement, the provision of the Client's personal data by Zeit AG will be made impossible.

2.6   This Agreement also applies to the review or maintenance of automated processes or data processing systems carried out remotely by Zeit AG, if it cannot be excluded that such tasks may result in access to the Client's personal data.

3.   Obligations of Zeit AG

3.1   Data Processing

3.1.1   Zeit AG acknowledges that the Client is the Controller with respect to the personal data processed by Zeit AG in the course of providing the services, and that the purpose of such processing is specified in the Service Agreement. The Client therefore remains the entity responsible for the processing of its personal data.

3.1.2   Zeit AG may collect, process, or use the Client's personal data only within the scope of the Service Agreement and in accordance with the provisions of this Agreement and the lawful instructions issued by the Client, unless processing is required by law. In such cases, Zeit AG shall inform the Client to the extent permitted under applicable law of this legal obligation before carrying out the respective processing of the personal data.

3.1.3   The Client may issue instructions to Zeit AG regarding the processing of its personal data. Such instructions may only specify or restrict processing under this Agreement, without substantially impeding or preventing the provision of services by Zeit AG under the Service Agreement. Any expansion of the scope of processing must be regulated through an amendment to this Agreement and requires Zeit AG's consent.

3.1.4   Zeit AG undertakes to implement technical and organizational measures that ensure the confidentiality of the personal data provided by the Client. It also ensures that employees and other persons potentially engaged by Zeit AG who are involved in processing the Client's personal data are prohibited from processing the data contrary to the instructions received. Furthermore, it ensures that all persons authorized to process the Client's personal data have provided a written commitment to confidentiality. The confidentiality obligation continues even after termination of the Service Agreement.

3.2   Security – Technical and Organizational Measures

3.2.1   Taking into account the state of the art, implementation costs, the nature, scope, and purposes of processing, as well as the varying likelihood and severity of the risks associated with processing for the rights of natural persons, Zeit AG implements appropriate technical and organizational measures regarding the Client's personal data to ensure a level of protection appropriate to the risk.

3.2.2   Zeit AG provides the Client with a summary of the technical and organizational measures, which is attached to this Agreement as Annex B. The Client confirms for itself and for any persons

potentially affected by the processing of the Client's personal data that the technical and organizational measures listed in <u>Annex B</u> meet the requirements of the applicable data protection regulations, taking into account the nature of the processing. The Client acknowledges that technical and organizational measures are subject to technological progress and further development. Accordingly, Zeit AG is permitted to implement alternative appropriate measures, provided that they ensure equivalent or better security of the Client's personal data.

3.2.3   Zeit AG ensures that access to the Client's personal data is limited to those employees who need to know or access such data to perform their duties under the Service Agreement.

3.3   Data Protection Officer

Contact details of Zeit AG's external Data Protection Officer:

Swiss Infosec AG
Meienriesliweg 15
6210 Sursee
Tel. 041 984 12 12
Email: datenschutz@zeitag.ch

Any changes regarding the Data Protection Officer will be communicated in writing by Zeit AG to the Client.

3.4   Data Breach

3.4.1   If Zeit AG or its sub-processors (if any) become aware of a data breach concerning the Client's personal data, Zeit AG shall notify the Client without undue delay. Zeit AG shall provide the Client with sufficient information to enable the Client to fulfill any obligations arising from the reported data breach.

3.4.2   In such a case, Zeit AG shall cooperate with the Client and take into account the Client's reasonable and appropriate recommendations when implementing suitable measures to assist in the investigation, mitigation, and remediation of a data breach.

3.5   Rights of Data Subjects

Zeit AG shall (i) notify the Client without undue delay if it receives a request from a Data Subject under applicable law regarding the Client's personal data; (ii) assist the Client in responding to such a request; and (iii) ensure that it does not respond to the request without prior consultation with the Client, unless required by law applicable to Zeit AG. In such a case, Zeit AG shall inform the Client to the extent permitted under applicable law about this legal obligation before responding to the request.

3.6   Deletion or Return of the Client's Personal Data

3.6.1   After processing has been carried out in accordance with the contract, and at the latest upon termination of this Agreement, and subject to Sections 3.6.2 and 3.6.3, Zeit AG shall immediately delete all of the Client's personal data and ensure the deletion of all copies of such personal data.

3.6.2   Subject to Section 3.6.3, the Client may at any time during the term of this Agreement, as well as upon termination of this Agreement, request in writing that Zeit AG (i) return to the Client a complete copy of all of the Client's personal data in a commonly used machine-readable format, and (ii) delete or ensure the deletion of all other copies of the Client's personal data processed by Zeit AG. Zeit AG shall comply with such a written request within 30 days of receipt.

3.6.3   Zeit AG is entitled to make backup copies of the Client's personal data as necessary for proper processing, and may copy and retain the Client's personal data as required to fulfill Zeit AG's legal retention obligations.

4.   Additional Compensation

Although Zeit AG will not refuse a lawful instruction from the Client under Section 3.1.3, the Client acknowledges and accepts that certain instructions may result in additional compensation claims for Zeit AG, in particular instructions to assist in granting the rights of data subjects pursuant to Section 3.5, the provision or deletion of the Client's personal data pursuant to Section 3.6, or the support of the Client during audits and inspections pursuant to Section 6.1. Zeit AG shall inform the Client of the associated costs or rates before executing the respective instruction. The Client may at any time, and without limiting Zeit AG's entitlement to additional compensation, waive the right to prior notification, e.g., in urgent cases.

5.   Obligations of the Client

5.1   The Client issues instructions to enable Zeit AG to process the Client's personal data, and in particular to transfer the Client's personal data to any country outside Switzerland, to the extent reasonably necessary for the provision of the services and in accordance with this Agreement, in particular ensuring an adequate level of data protection.

5.2   The Client is responsible for complying with the data protection regulations applicable to the results and services provided or requested under the Service Agreement, in particular for the lawfulness of the transfer of the Client's personal data to Zeit AG and for the lawfulness of processing. The Client must inform Zeit AG if specific data protection provisions or policies impose particular obligations regarding the handling of the Client's personal data in individual cases.

5.3   The Client ensures that it is entitled to process the data passed on to Zeit AG and thus authorized to issue a corresponding data processing instruction. The Client complies with data protection regulations and has, if necessary, obtained the consent of the data subjects.

5.4   The Client guarantees that it provides Zeit AG only with those personal data, or grants access only to those data, which are required for the provision of services under the Service Agreement. Records that cannot be separated for technical reasons must be anonymized.

5.5   The Client fulfills its information and disclosure obligations, if any, towards the data subjects also in relation to the processing carried out by Zeit AG and any sub-processors.

5.6   The Client must inform Zeit AG in a timely manner of any changes to data protection regulations that affect Zeit AG's contractual obligations, and may request any necessary adjustments to this Agreement.

6.   Audit Rights

6.1   Subject to Sections 6.2 and 6.3, upon request, Zeit AG shall provide the Client with all information necessary to demonstrate compliance with this Agreement and shall enable and cooperate in audits or inspections carried out by the Client or by a qualified auditor appointed by the Client and bound by confidentiality, in relation to the processing of the Client's personal data by Zeit AG.

6.2   The Client's rights to information and audits under Section 6.1 arise only to the extent that the

Service Agreement does not already grant the Client sufficient rights to information and audits.

6.3   The Client conducting an audit shall notify Zeit AG in advance and in writing of any intended audit or inspection under Section 6.1, and shall make all reasonable efforts to avoid causing damage or disruption to Zeit AG's premises, equipment (including hardware), personnel, and business (including software and data). Zeit AG is not obliged to grant access for the purposes of such an audit or inspection:

a)   to any private individual, unless they provide sufficient proof of their identity and authority to act on behalf of the Client;

b)   outside of Zeit AG's normal business hours; or

c)   for more than one audit or inspection in a calendar year, except for additional audits or inspections:

(i)   where there is an objectively reasonable concern that Zeit AG is not complying with its obligations under this Agreement; or

(ii)   where the Client is required to carry out the audit or inspection under data protection regulations or by judicial or regulatory order,

provided that the Client conducting the audit has stated its concerns or the relevant legal, judicial, or regulatory requirement in its notification to Zeit AG.

7.   Sub-Processing Arrangements

7.1   The Client authorizes Zeit AG to engage sub-processors in accordance with this Section 7 and any restrictions set out in the Service Agreement.

7.2   Zeit AG shall inform the Client in advance of the engagement of any sub-processor for the processing of the Client's personal data. The Client may object to the sub-processor in writing, but such objection may only be based on objective, data protection-related reasons. If the sub-processor is rejected, Zeit AG may either engage an alternative sub-processor, carry out the processing itself, or, if the Client's objection was unjustified, terminate the Service Agreement for cause.

7.3   Zeit AG may continue to use sub-processors already engaged at the time of this Agreement without requiring additional consent from the Client, provided that Zeit AG can fulfill the obligations set out in Section 7.4 for each case as soon as possible.

7.4   Zeit AG must ensure that, with respect to each sub-processor, the relationship between Zeit AG and the sub-processor is governed by a written contract that imposes substantially the same obligations on the sub-processor as those set out in this Agreement for Zeit AG.

8.   Written Form Requirement

8.1   All instructions from the Client to Zeit AG that are relevant for the processing of the Client's personal data must be given in writing. Oral instructions must be confirmed in writing (by letter or email) by the Client without undue delay.

8.2   Any amendments or supplements to this Agreement and its components require a written

agreement and an explicit statement that the change or supplement constitutes an amendment to this Agreement. This also applies to the waiver of this written form requirement.

8.3   Should any provision of this Agreement be or become invalid or unenforceable, the validity of the remaining provisions of the Agreement shall not be affected. The Parties shall replace the invalid provision with a valid provision that most closely reflects the intended economic purpose of the invalid or unenforceable provision. The same applies to any gaps in the Agreement.

9.   Governing Law and Jurisdiction

This Agreement is governed exclusively by Swiss law, excluding its conflict of law rules. The exclusive place of jurisdiction is at the registered office of Zeit AG.

10.   Final Provisions

10.1   In the event of any conflict or inconsistency between this Agreement and the Service Agreement, this Agreement shall prevail.

10.2   Likewise, this Agreement – unless the Parties expressly agree otherwise – shall take precedence over any other existing or future agreements between the Parties regarding data protection and data security.

Annex A − Processing of Personal Data by Zeit AG

Personal Data	Category of Data Subjects	Purpose of Processing	Use of Sub-processors
Mandatory basic personnel data (name, first name, date of birth, language)	Employees	Error analysis, testing, storage during error analysis/testing	Currently none; possible upon agreement with the Client
Optional basic personnel data (login, gender, nationality/residence permit, home address, phone number, email, website, Outlook calendar, notes)	Employees	Error analysis, testing, storage during error analysis/testing	Currently none; possible upon agreement with the Client
Mandatory employment data (employee number, cost center, entry and exit dates, length of service, type of remuneration, daily schedules, timestamps, absences, vacation balances, overtime balances, presence status)	Employees	Error analysis, testing, storage during error analysis/testing	Currently none; possible upon agreement with the Client
Optional employment data (badge number, department number, training relationship, salary number, project bookings, expense bookings, cost center bookings, notes, permissions)	Employees	Error analysis, testing, storage during error analysis/testing	Currently none; possible upon agreement with the Client

Annex B – Technical and Organizational Measures

Access Control

Technical Measures	Organizational Measures
Automatic access control system	Management of user permissions
Chip card / transponder systems	Creation of user profiles

Login / Authentication Control

Technical Measures	Organizational Measures
Login with username + password	Central password assignment
Active antivirus software (servers & clients)	"Secure Password" policy
Firewall	
Use of VPN for remote access	
Automatic desktop lock	

Access Rights Control

Technical Measures	Organizational Measures
Paper Shredder (min. level 3, cross cut)	Use of authorization concepts
Permission management system (Active Directory)	Minimum number of administrators
	Management of user rights by administrators

Availability Control

Technical Measures	Organizational Measures
Fire and smoke detection systems	Storage of backup media in a secure location outside the server room
Air-conditioned server room with fire alarm	
UPS	

Data Protection Management

Technical Measures	Organizational Measures
	External Data Protection Advisor: Swiss Infosec AG Meienriesliweg 15 6210 Sursee Tel. 041 984 12 12 Email: datenschutz@zeitag.ch

Incident Response Management

Technical Measures	Organizational Measures
Use of firewall and regular updates	Active monitoring of ICT infrastructure at ICT partner
Use of spam filter and regular updates	Active monitoring of ICT infrastructure at ICT partner
Use of antivirus software and regular updates	Active monitoring of ICT infrastructure at ICT partner

This list is not exhaustive. Changes may be made at any time, provided that equivalent or better security is ensured.