

Secure Swiss Data Partner Agreement

BACKGROUND

Secure Swiss Data wishes to appoint the Partner as its non-exclusive Partner for the promotion and sale of the Products of Secure Swiss Data within the Territory, and the Partner wishes and agrees to promote and sell the Products within the Territory on the terms as set out in this agreement. Please, note that by signing this Agreement you also agree to the Non-Compete Undertaking - <https://securerwssdata.com/wp-content/uploads/2017/11/Partner-Non-Disclosure-Agreement.pdf>

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

The definitions and rules of interpretation in this clause apply in this agreement and the Background of this agreement.

1.1 Definitions:

Business Day: a day other than Saturday, Sunday or public holiday in Switzerland when banks in Zurich are open for business.

Commencement Date: the date of approval and signature of this Agreement.

Force Majeure Event: has the meaning given in the clause 15 of this Agreement.

Products: the products and services of the type and specification manufactured under the Trade Marks and listed in Schedule 1 and any other products or services developed by Secure Swiss Data or third parties to which Secure Swiss Data may permit the Partner, by express notice in writing, to distribute within the Territory.

Reserved Customers: means both *(i)* the customers specified in Schedule 3, which comprise the customer groups in respect of which Secure Swiss Data has appointed another exclusive Partner or has reserved to itself; and *(ii)* any other customer groups in respect of which Secure Swiss Data informs the Partner by written notice that it has appointed or will appoint another exclusive Partner or has reserved to itself.

Reserved Territories: means *(i)* the countries or areas specified in Schedule 3 which comprise the countries or areas in respect of which Secure Swiss Data has appointed another exclusive Partner and the country or areas which Secure Swiss Data has reserved to

itself; and **(ii)** any other countries or areas in respect of which Secure Swiss Data informs the Partner by written notice that it has appointed or will appoint another exclusive Partner or has reserved to itself.

Term: the term of this agreement, as determined in accordance with clause 12.

Territory: the country or area specified in Schedule 2.

Trade Marks: the trade mark registrations and applications listed in Schedule 4 and any further trademarks that Secure Swiss Data may, by express notice in writing, permit or procure permission for the Partner to use in the Territory in respect of the Products.

Year: the period of 12 months from the Commencement Date and each consecutive period of 12 months thereafter during the Term.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.5 A reference to a company shall include any company, corporation or another body corporate, wherever and however incorporated or established.

1.6 Words in the singular shall include the plural and vice versa.

1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.8 A reference to any party shall include that party's personal representatives, successors or permitted assigns.

1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.10 A reference to writing or written includes fax and email.

1.11 References to a document in agreed form are to that document in the form agreed by the parties and initialed by or on their behalf for identification.

1.12 Any reference to a Swiss legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than Switzerland, be deemed to include a reference to what most nearly approximates to the Swiss legal term in that jurisdiction.

1.13 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.

1.14 References to clauses and Schedules are to the clauses and Schedules of this agreement; references to paragraphs are to paragraphs of the relevant Schedule.

1.15 Where any statement is qualified by the expression so far as the Partner is aware or to the best of the Partner's knowledge (or any similar expression), that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

1.16 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.17 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. APPOINTMENT

2.1 Secure Swiss Data appoints the Partner as its non-exclusive Partner to market, promote and distribute the Products in the Territory on the terms of this agreement.

Secure Swiss Data shall be free to appoint others to market, promote and distribute the Products in the Territory whether as Partner, agent, reseller, wholesaler, franchise holder or otherwise, and also reserves to itself the right to market, distribute and sell the Products to customers in the Territory itself.

2.2 The Partner shall promote the type of product and service offered by the Supplier only from the Supplier, and shall not, for the Term or for the period of two years from the Commencement Date (whichever shall be the shorter) distribute or promote any goods or services which compete with the Products of the Supplier.

2.3 The Partner shall refrain from making active sales of the Products to customers in the Reserved Territories and to Reserved Customers. For these purposes, active sales shall be understood to mean actively approaching or soliciting customers, including, but not limited to, the following actions:

(a) visits;

- (b)** direct mail, including the sending of unsolicited emails;
- (c)** advertising in media, on the internet or other promotions, where such advertising or promotion is specifically targeted at customers in the Reserved Territories and to Reserved Customers;
- (d)** online advertisements addressed to customers in the Reserved Territories and to Reserved Customers and other efforts to be found specifically by users in the Reserved Territories and belonging to the Reserved Customers, including the use of territory based banners on third party websites and paying a search engine or online advertisement provider to have advertisements or higher search rankings displayed specifically to users in the Reserved Territories and belonging to the Reserved Customers; and
- (e)** advertising or promotion in any form, or translation of the Partner's website into a language other than an official language of any country forming part of the Territory, that the Partner would not reasonably carry out but for the likelihood that it will reach customers in the Reserved Territories and Reserved Customers.

2.4 The Partner shall not establish, or maintain any branch, sales outlet or distribution depot in the Reserved Territories for the sale of the Products.

2.5 The Partner shall not:

- (a)** pledge the Supplier's credit; or
- (b)** give any condition or warranty on the Supplier's behalf; or
- (c)** make any representation on the Supplier's behalf; or
- (d)** commit Secure Swiss Data to any contracts; or
- (e)** otherwise incur any liability for or on behalf of the Supplier.

2.6 The Partner shall not, without the Supplier's prior written consent, make any promises or guarantees about the Products beyond those contained in the promotional material supplied by the Supplier.

3. PARTNER'S UNDERTAKINGS

The Partner undertakes and agrees with Secure Swiss Data that at all times during the Term it will:

- (a)** use its best endeavors to promote the distribution and sale of the Products in the Territory;
- (b)** employ a sufficient number of suitably qualified personnel to ensure the proper fulfilment of the Partner's obligations under this agreement;
- (c)** in each year make a minimum fifty sales of any type of chargeable and commissionable product the Supplier produces;
- (d)** not resell the Products at a price exceeding the maximum resale price from time to time specified by Secure Swiss Data;
- (e)** submit written reports at regular intervals to the Supplier, showing details of sales, potential sales pipeline, outstanding customer orders and/orders placed by the Partner with Secure Swiss Data that are still outstanding, and any other information relating to the

performance of its obligations under this agreement that Secure Swiss Data may reasonably require from time to time;

- (f)** inform Secure Swiss Data immediately of any changes in ownership or Control of the Partner's business, and of any change in its organisation or method of doing business that might be expected to affect the performance of the Partner's duties in this agreement;
- (g)** use its best endeavours to develop, advertise, promote and sell the Products in the Territory and to expand the sale of the Products to all potential purchasers by all reasonable and proper means and not to do anything which may hinder or interfere with such sales;
- (h)** indemnify Secure Swiss Data on demand against each loss, liability and cost which Secure Swiss Data may incur arising out of the breach of the Partner's obligations under this agreement.

4. SUPPLY OF PRODUCTS

4.1 No later than three months after becoming a Partner and every year thereafter on the anniversary of the Partner agreement, the Partner shall notify Secure Swiss Data in writing of its forecast of sales of each type of Product for the following 12 months.

4.2 Secure Swiss Data undertakes to use its best endeavours to meet all orders for the Products sold by the Partner in accordance with the Supplier's terms of delivery to the extent the orders do not exceed the forecast for each type of Product given under clause 4.1

4.3 On giving 2 months' notice in writing to the Partner, Secure Swiss Data may vary Schedule 1 as it thinks fit to exclude one or more of the Products from this agreement if the production of such Products is permanently discontinued for any reason.

4.4 Secure Swiss Data may make changes to the specifications of the Products, provided the changes do not adversely affect the quality of the Products. Secure Swiss Data shall give notice of any changes to Product specifications to the Partner as soon as reasonably practicable.

5. SUPPLIER'S UNDERTAKINGS

Secure Swiss Data agrees that at all times during the Term it shall:

- (a)** supply the Products to the Partner for resale in the Territory;
- (b)** restrict other Partners to which it sells the Products from making active sales of the type described in clause 2.3 to customers in the Territory;
- (c)** provide any information and support that may reasonably be requested by the Partner to enable it to discharge its duties under this agreement properly and efficiently;
- (d)** approve or reject any promotional information or material submitted by the Partner within 14 days of receipt;
- (e)** make reasonable commercial efforts to supply the Products to the Partner for resale in the Territory and in accordance with Partner's forecast requirements;
- (f)** provide the Partner with information on the advertising and promotion used by Secure Swiss Data and at the cost of the Partner supply such quantities of

promotional and advertising material as the Partner shall reasonably request from time to time;

- (g)** inform the Partner within one month of receipt of the Partner's advertising and promotional programme, if it accepts the programme and the extent, if any, to which it will contribute to the costs of that programme;
- (h)** provide full training for the employees sent by the Partner, Secure Swiss Data may charge a participation fee; although the Partner shall cover all related expenses for participation in trainings required by the Supplier; and
- (i)** make available to the Partner such field sales support as Secure Swiss Data may deem necessary.

6. PRICES AND PAYMENT

6.1 The partner will earn commissions for sales and/or conversions as described in the Secure Swiss Data Partner Commission structure for the sales and/or conversion of the SSD product portfolio.

6.2 Secure Swiss Data Partner Commission structure may be changed at any time by Secure Swiss Data with or without any prior given notice to the Partner.

6.3 The Partner shall receive earned commission from Secure Swiss Data in Swiss Franc.

6.4 The Commissions can be tracked and payed out only if a customer uses the unique registration link of the partner, affiliate and/or sub-affiliate and within 90 days since the first time the link was used via the same web browser and with a device with cookies enabled.

6.5 Cookie time – 90 days – this is the maxim amount of time between the last click and the conversion, at which the partner will be credited by Secure Swiss Data for the conversion.

6.6 Payment threshold for the partner by Secure Swiss Data is CFH 200 – This is the minim amount payable to a partner at which a payout will or can be initiated.

6.7 Commissions are paid to a Partner by Secure Swiss Data by bank transfer within a period of 14 calendar days from the start of the first day of the calendar month.

6.8 The Partner is responsible for providing Secure Swiss Data with correct bank details for receiving payments from Secure Swiss Data.

6.9 Commissions and conversions are only payable after approval by Secure Swiss Data.

6.10 Affiliate and Sub-affiliates of Partner payments:

- (a)** You as a main SSD Partner, may have a partner layer underneath your (second tier)

- (b)** Secure Swiss Data allows for 3 layers of direct sales: partner, affiliate and sub-affiliate level.
- (c)** The Partner is to agree and sign their own agreement with an affiliate and/or sub-affiliate under the conditions the partner and affiliate and/or sub-affiliate agree on.
- (d)** The partner shall provide Secure Swiss Data with a copy of the agreement within a period of 14 calendar days after signing date.
- (e)** The affiliate and/or sub-affiliate must sign the Secure Swiss Data NDA and Secure Swiss Data Brand policy agreement.
- (f)** The partner is to provide Secure Swiss Data with the sub-partner's personal details necessary for the documents between the affiliate and/or sub-affiliate and Secure Swiss Data.
- (g)** The main partner is at all times liable for its affiliate and/or sub-affiliates commercial actions for promoting and/or selling SSD products and services.
- (h)** The affiliate and/or sub-affiliate of a Partner will receive access to the Secure Swiss Data affiliate system after Secure Swiss Data receive a copy of the signed agreement between the Partner and its affiliate and/or sub-affiliate.
- (i)** The affiliate and/or sub-affiliate of a Partner will receive its own affiliate ID tracking code and will receive access to the promotional assets of Secure Swiss Data.
- (j)** Secure Swiss Data pays commissions and conversions earned by a Partner's affiliate and/or sub-affiliate to the Partner solely. The Partner is responsible for the payout to its affiliates and/or sub-affiliates.

6.11 Secure Swiss Data has at all times the right to perform fraud prevention and detection checks of a Partner, Affiliate and/or Sub-affiliate.

6.12 Secure Swiss Data has on all time the right to revoke, cancel, terminate a commission and/or commissions the moment Secure Swiss Data suspects fraudulent actions and/or transactions.

6.13 The Partner shall pay for any and all expenses, costs and charges incurred by it in the performance of its obligations under this agreement, unless Secure Swiss Data has expressly agreed in advance in writing to pay such expenses, costs and charges.

6.14 The Partner, affiliate and/or sub-affiliate is under no circumstances allowed to invoice, charge and receive any kind of payment by customer for Secure Swiss Data products or services.

6.15 Violation of any article of this agreement by a Partner, affiliate and/or sub-affiliate will result in a direct revoke of access to the affiliate system.

6.16 Violation of any article of this agreement by a Partner, affiliate and/or sub-affiliate can result in cancelation and non-payment of any outstanding and/or earned commissions

by Secure Swiss Data.

6.17 A Partner, affiliate, and/or sub-affiliate is solely responsible for the collection, remittance and payments of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority [in the Territory] in respect of the purchase, sale, importation, lease or other distribution of the Products.

7. TAXES

The Partner shall not be responsible for the collection, remittance and payment of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase by the end-user and/or end-customer of Secure Swiss Data's products and/or services.

8. ADVERTISING AND PROMOTION

8.1 The Partner shall:

- (a)** be responsible for advertising and promoting the Products in the Territory (but the Partner shall not use any advertising materials or promotional literature without the Supplier's prior written consent);
- (b)** submit an annual advertising and promotion programme to Secure Swiss Data for its approval;
- (c)** display advertising materials and other signs provided by the Supplier;
- (d)** observe all directions and instructions given to it by Secure Swiss Data for promotion and advertisement of the Products; and
- (e)** not make any written statement as to the quality or manufacture of the Products without the prior written approval of the Supplier.

8.2 Secure Swiss Data shall provide the Partner with information on the advertising and promotion carried out by the Supplier. Secure Swiss Data shall supply any available promotional and advertising material that the Partner may reasonably require.

8.3 Secure Swiss Data shall make reasonable commercial efforts to participate with the Partner in fairs, exhibitions and similar events in the Territory, but shall be under no obligation to do so unless such participation is agreed by the parties in writing sufficiently in advance of each event to enable proper preparation by the parties.

8.4 The Partner shall ensure that any website that it uses for the sale of the Products complies with the quality standards and criteria that are set out in Schedule 8.

9. COMPLIANCE WITH LAWS AND POLICIES

9.1 Each party shall at its own expense comply with all laws and regulations relating to

its activities under this agreement, as they may change from time to time, and with any conditions binding on it in any applicable licenses, registrations, permits and approvals.

9.2 Mandatory Polices. The Partner shall comply with the Mandatory Polices, in each case as the Principal or the relevant industry body may update them from time to time.

9.3 Local Regulations relating to Products:

(a) The Partner warrants to Secure Swiss Data that it has informed Secure Swiss Data of all laws and regulations affecting the sale, packaging and labelling of Products which are in force within the Territory or any part of it (Local Regulations) at the date of this agreement.

(b) The Supplier, in turn, warrants to the Partner that the Products comply with the Local Regulations in force at the date of this agreement.

(c) The Partner shall give Secure Swiss Data as much advance notice as reasonably possible of any prospective changes in the Local Regulations.

(d) On receipt of notification from the Partner, Secure Swiss Data shall ensure that the Products comply with any change in the Local Regulations by the date of implementation of that change, or as soon as possible afterwards.

10. ANTI-BRIBERY COMPLIANCE

10.1 The Partner shall:

(a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption in the Territory and in Switzerland (Relevant Requirements);

(b) comply with the Supplier's anti-bribery, anti-corruption and ethics policies IT and Telecommunication Anti-Bribery Rules, in each case as Secure Swiss Data or the relevant industry body may update them from time to time (Relevant Policies).

(c) have and shall maintain in place throughout the term of this agreement its own policies and procedures to ensure compliance with the Relevant Requirements and the Relevant Policies, and will enforce them where appropriate;

(d) promptly report to Secure Swiss Data any request or demand for any undue or suspicious financial or other advantage of any kind received by the Partner in connection with the performance of this agreement;

(e) immediately notify Secure Swiss Data (in writing) if a public official in the Territory or in Switzerland becomes an officer or employee of the Partner or acquires a direct or indirect interest in the Partner, and the Partner warrants that it has no such public officials as direct or indirect owners, officers or employees at the date of this agreement.

11. CONDITIONS OF SALE

The Supplier's conditions of sale in force from time to time shall apply to all sales by Secure Swiss Data to the Partner under this agreement. The conditions of sale that apply at the Commencement Date are subject to change.

12. COMMENCEMENT, DURATION AND TERMINATION

12.1 This agreement shall take effect on the Commencement Date and shall continue in force for an initial term of 1 Year and indefinitely after that until terminated by either party giving at least one month's prior written notice to expire on or after the expiry date of the initial term.

12.2 Without affecting any other rights or remedies to which it may be entitled, either party may give notice in writing to the other terminating this agreement immediately if:

- (a)** the other party fails to pay any amount due under this agreement on the due date for payment and remains in default for more than 14 days;
- (b)** the other party commits a material breach of any term of this agreement and (if that breach is remediable) fails to remedy that breach within 30 days of that party being required in writing via email sent to the address indicated in the application form to do so;
- (c)** the other party repeatedly breaches any of the terms of this agreement in a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d)** an order is made or a resolution is passed for the winding up of the other party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or such an administrator is appointed, or a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court or a creditor to appoint a receiver or manager or which entitle a court to make a winding-up order, or the other party takes or suffers any similar or analogous action in consequence of debt, or an arrangement or composition is made by the other party with its creditors or an application to a court for protection from its creditors is made by the other party;
- (e)** the other party, being an individual, is the subject of a bankruptcy petition or order, or dies, or, by reason of illness or incapacity (mental or physical), is incapable of managing his own affairs, or becomes a patient under any mental-health legislation;
- (f)** the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (g)** there is a change of Control of the other party; or
- (h)** the other party purports to assign or otherwise transfer its rights or obligations under this agreement.

12.3 Secure Swiss Data may terminate this agreement immediately by notice in writing if the Partner is in breach of any of its compliance obligations.

12.4 Secure Swiss Data may terminate this agreement immediately by notice in writing if:

- (a)** the Partner changes its organisation or methods of business in such a way as in the opinion of Secure Swiss Data to be able less effectively to carry out its duties under this agreement;
- (b)** there is a merger or consolidation of the Partner with any other person; or

(c) there is a change of organisation, methods of Control or management of the Partner.

13. CONSEQUENCES OF TERMINATION

13.1 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination [or expiry] of this agreement shall remain in full force and effect.

13.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

13.3 The termination of this agreement shall not itself make Secure Swiss Data liable to pay any compensation to the Partner, including, compensation for loss of profits or goodwill.

13.4 All other rights and licences of the Partner under this agreement shall terminate on the termination date.

13.5 Secure Swiss Data may cancel any orders for Products placed by the Partner before termination if delivery would fall due after termination, whether or not they have been accepted by the Supplier. Secure Swiss Data shall have no liability to the Partner in respect of such cancelled orders.

14. CONFIDENTIALITY

14.1 Confidential Information means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by one party (Disclosing Party) to the other party (Receiving Party) whether before or after the date of this agreement including, without limitation, information relating to the products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs of the Disclosing Party or a member of the Disclosing Party's Group.

14.2 Each party undertakes that it shall not at any time disclose to any person any Confidential Information.

14.3 Each party may disclose the other party's confidential information to those of its employees, officers, representatives or advisers who need to know such information for the purpose of carrying out the party's obligations under this agreement (Recipient). Each party shall ensure that each Recipient complies with and as may be required by law, court order or any governmental or regulatory authority.

14.4 Before disclosure of Confidential Information to a Recipient, the Receiving Party shall ensure that the Recipient executes a confidentiality agreement in a form approved by the Disclosing Party. The Receiving Party shall ensure that the Recipient at all times complies with the confidentiality agreement.

14.5 Confidential Information shall not, however, include any information which:

- (a)** at the date of this agreement or at any time after the date of this agreement comes into the public domain other than through breach of this agreement by the Receiving Party or a Recipient;
- (b)** can be shown by the Receiving Party to the Disclosing Party's satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party; or
- (c)** subsequently comes lawfully into the possession of the Receiving Party from another.

14.6 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this agreement.

14.7 Each party shall have in place industry-standard policies, procedures, training programmes and draft confidentiality agreements so as to ensure that its employees are able to identify and label Confidential Information and deal with it in accordance with the obligations imposed. Each party will upon reasonable written notice disclose to the other on a regular basis details of its policies, procedures and standard documents relating to confidentiality.

15. FORCE MAJEURE

15.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

- (a)** acts of God, flood, storm, drought, earthquake or other natural disaster;
- (b)** epidemic or pandemic;
- (c)** terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d)** nuclear, chemical or biological contamination or sonic boom;
- (e)** any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
- (f)** collapse of buildings, breakdown of plant or machinery, fire, explosion or accident;
- (g)** any labour or trade dispute, difficulty or increased expense in obtaining workers, materials or transport, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same Group as that party);



- (h) non-performance by suppliers or subcontractors (other than by companies in the same Group as the party seeking to rely on this clause);
- (i) interruption or failure of utility service.

15.2 Provided it has complied with all relevant matters if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

15.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

15.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 3 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement;
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations; and
- (c) as soon as reasonably possible after the end of the Force Majeure Event, notify the other party that the Force Majeure Event has ended and resume performance of its obligations under this agreement.

15.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 3 weeks the party not affected by the Force Majeure Event may terminate this agreement by giving 3 weeks written notice to the Affected Party.

16. ENTIRE AGREEMENT

16.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

17. VARIATION

No amendment or variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. ASSIGNMENT AND OTHER DEALINGS

Subject to any further provisions, the Partner shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of Secure Swiss Data (such consent not to be unreasonably withheld or delayed).

19. FREEDOM TO CONTRACT

The parties declare that they each have the right, power and authority and have taken all action necessary to execute and deliver and to exercise their rights and perform their obligations under this agreement.

20. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

21. SEVERANCE

21.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

21.2 If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

22. NOTICES

22.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing and shall be:



- (a) delivered by hand/or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the email address notified by the other.

22.2 Any notice or communication shall be deemed to have been received electronically via email indicated by the Partner in the application form.

22.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24. THIRD PARTY RIGHTS

24.1 Except as expressly provided in this agreement, a person who is not a party to this agreement shall not have any rights whether statutory or otherwise to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from statute.

24.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

25. NO PARTNERSHIP OR AGENCY

25.1 Nothing in this agreement is intended to, or shall be deemed to establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

25.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

26. COUNTERPARTS

26.1 This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

26.2 Transmission of the executed signature page of a counterpart of this agreement by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.



26.3 No counterpart shall be effective until each party has executed at least one counterpart.

27. ANNOUNCEMENTS

No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

28. CONFLICT

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.

29. RIGHTS AND REMEDIES

Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

30. FURTHER ASSURANCE

At its own expense, each party shall use all reasonable endeavours to procure that any necessary third party shall promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this agreement.

31. SET-OFF

Secure Swiss Data may at any time, without notice to the Partner, set off any liability of the Partner to Secure Swiss Data against any liability of Supplier to the Partner, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. If the liabilities to be set off are expressed in different currencies, Secure Swiss Data may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Secure Swiss Data of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.

32. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Switzerland.

33. JURISDICTION

Each party irrevocably agrees that the courts of Switzerland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

34. LANGUAGE

34.1 This agreement is drafted in the English language. If this agreement is translated into any other language, the English language text shall prevail.

34.2 Any notice given under or in connection with this agreement shall be in the English language.

On acceptance you will be issued the Secure Swiss Data Partner Certificate.