



**Agreement
for the Provision of Managed Services and/or
Managed Staff**

between

CLARANOVA SE

and

ProcessFlows (UK) Limited

THIS MANAGED SERVICES AND MANAGED STAFF AGREEMENT is made on 3rd March 2020

BETWEEN

- 1) **PROCESSFLOWS (UK) LIMITED**, a company registered in England and Wales under company number 02120661, whose registered office is at Gateway House, Tollgate, Chandlers Ford, Hampshire SO53 3TG (the “**Company**”), and
- 2) **CLARANOVA SE**, a company registered in France, included in Trade and Companies Register with number B 329 764 625, Activity Code 7010Z and Intracommunity VAT No. FR 05 329 764 625, whose registered office is at Vision Défense - 89-91, boulevard National F-92257 La Garenne-Colombes Cedex, France (the “**Customer**”),

Each a “**Party**” or together, the “**Parties**”

WHEREAS:

- A. The Company is a supplier of software, solutions and services and Managed Staff services; and
- B. The Customer wishes to purchase the Services and/or the Managed Staff services (at the Customer’s option, either at the start of this Agreement term or during the course of the Agreement) from the Company.
- C. The Company agrees to supply and provide such Services and/or Managed Staff services, subject to the terms of this Agreement and upon the signature of the Company.

IT IS AGREED AS FOLLOWS:

The Company and the Customer (and any Affiliated Company to either Party, where applicable) will contract with each other for the provision and payment of the Services on the terms and conditions of this Agreement, as set out herein.

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

In this Agreement the following words shall have the meanings as defined unless the context otherwise requires:

'Additional Fees'	means any additional charges which shall be calculated in accordance with the Additional Fee Rate and payable in respect of any Additional Services
'Additional Fee Rate'	means any Fees agreed from time to time in writing between the parties for any Additional Services
'Additional Services'	means additional services not included within the definition of Services and as may be requested by the Customer from time to time
"Affiliated Company"	means in relation to either Party, a company or other entity which is a holding company or a subsidiary, or a subsidiary of any such holding company, of that Party
'Agent'	means an employee of the Company engaged in performing the Services for the Customer
'Agreement'	means these terms and conditions and any Schedule(s)
'Business Hours'	means Monday to Friday (excluding UK bank and public holidays) between the hours of 08:00 and 17:00 UK time, as confirmed in the Schedule(s).
'Call Charges'	means the cost for outgoing telephone calls as per the Company's Call Charge Rate Card.
'Commencement Date'	This Agreement is entered into on the date of the last signature of the Parties. The Commencement date of the Services is defined within the Schedule(s).
'Company'	means ProcessFlows (UK) Limited
'Confidential Information'	means all financial, business and technical or other data (including information falling within the ambit of Data Protection Law) and all other non-public information (whether written, oral or in electronic form or other media) concerning the business and affairs of a Party that the other Party obtains, receives or has access to as a result of the discussions leading up to or the entering into or the performance of this Agreement
'Customer'	means the legal person who has requested the Services and as stated above
'Customer Data'	means customer's information whether of a business and/or personal nature, accessed by the Company and its agents
'Data Protection Law'	means the Data Protection Act 1998, the General Data Protection Regulation and any other subsequent UK bill or enactment protecting the rights and privacy of individuals and relating to Customer Data;
'Fees'	means the agreed fee rates contained within the Schedule(s) and as may be agreed from time to time
'Intellectual Property Rights'	means any and all patent, registered or unregistered design, copyright, database right, design right, topography right, trade mark, service mark, any application to register any of these rights, trade secrets, right in any unpatented know-how, right of confidence and

	any other intellectual or industrial property right of any nature whatsoever in any part of the world
'Managed Staff'	means individual named resource working exclusively for the Customer or shared proportionately with another customer of the Company
'Out of hours'	means all hours outside of Business Hours
'Requirements'	means the requirements of the Customer as detailed in <u>Schedule 1</u> and as specified from time to time by the Customer.
'Services'	means the services to be provided by the Company as set out in the Schedule(s)
'Resource'	means a dedicated Managed Staff
'Term'	means the duration of this Agreement

2. THE SERVICES AND THE ADDITIONAL SERVICES

- 2.1. In consideration of the payment by the Customer of the Fee and Additional Fees, the Company shall provide to the Customer during the Term:
 - a) the Services as defined in the Schedule(s);
 - b) Managed Staff as specified in the Schedule(s); and
 - c) any Additional Services.
- 2.2. Managed Staff are those Agents and Resources employed by the Company on behalf of the Customer to perform tasks as specified by the Customer and working either full time on the Customer's tasks or part time in conjunction with another customer or the Company.
- 2.3. Where Managed Staff are working part time, only the proportion of the time in which they are engaged or available for the Customer will be charged as a Fee to the Customer.
- 2.4. The Customer shall only be required to pay Additional Fees in respect of the Additional Services if such Additional Services have been agreed in writing between the Parties.

3. WARRANTY

- 3.1. The Company warrants that in respect of the provision of the Services, the Company will:
 - a) perform the Services with reasonable skill and care and will exercise the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking under the same or similar circumstances, and in accordance with recognised industry standards and best practice and the terms of this Agreement
 - b) comply with all applicable statutory, legal requirements and regulations as at the date of the performance of the Services
 - c) comply with the detailed description of the Services specified in the Schedule(s)
 - d) adopt any reasonable directions or instructions given from time to time on behalf of the Customer; and any security, health and safety or other policies and regulations that apply from time to time.
 - e) it has obtained all permissions and consents required to enter into this Agreement and to provide the Services;
 - f) it shall, during the term of this Agreement, have the sole discretion to select the resource

to provide the Services and shall procure that such resource possess the requisite degree of skill, qualification and experience required to fulfil and the obligations under this Agreement

- g) it will at all times use reasonable endeavours to offer continuity of service but shall not be responsible for service interruption or loss of service.

3.2. The Company warrants that in respect of the provision of Managed Staff, the Company will:

- a) employ and manage the Managed Staff with reasonable skill and care.
- b) exercise the degree of skill, diligence, prudence and foresight in employing the Managed Staff which would reasonably and ordinarily be expected.
- c) comply with all applicable statutory, legal requirements and regulations in connection with the employment of the Managed Staff
- d) comply with the detailed description of the Requirements as specified in **Schedule 1** and from time to time by the Customer.
- e) adopt any reasonable directions or instructions given from time to time by the Customer; and any security, health and safety or other policies and regulations that apply from time to time.

4. BREACH OF WARRANTY

4.1. Without prejudice to any other remedy, if any of the Services or Managed Staff or Additional Services provided by the Company are at any time in breach of any of the warranties specified above, the Customer may require the Company to promptly:

- a) Remedy the breach or perform those Services again at the Company's cost
- b) Perform any Additional Services to make good the default at the Company's cost

4.2. The Customer shall always provide the Company with a reasonable opportunity to remedy such failure or deficiency within seven (7) days' from receipt by the Company of notification of such failure or deficiency.

5. FEES

5.1. The Company will charge the Customer the Fees for the provision of the Services and any Managed Staff as defined in the Schedule(s).

5.2. Fees shall be the total amount of the gross salary paid to each Managed Staff including any National Insurance, Pension Contribution and other direct employment cost and inclusive of a margin of 22.5%.

5.3. All Fees will be invoiced monthly in arrears in Euros, including Call Charges and Additional Fees (where applicable), on the last working day of the current month.

The Company will use the current Sterling to Euro Exchange Rate at the date of any invoice raised should items of the invoice be raised in UK Pound Sterlings.

5.4. Payment of the Fees based on the raised invoices are due to the Company within 30 days of the date of invoice and are subject to VAT at the applicable rate payable in addition by the Customer.

5.5. In the event of Additional Fees becoming due under this Agreement, these will be agreed in

writing from time to time.

Additional Fees shall be the amount charged to the Customer for any additional charges incurred by the Company on behalf of the services provided to the Customer including, but not limited to, the provision of data storage via third parties, web hosting, travel expenses for business trips of Managed Staff, IT equipment (but not those already provided and in situ) provided that such costs have been specifically agreed in advance by both parties.

- 5.6. The Company reserves the right to charge interest on any overdue undisputed Fees at a minimum of 3% per annum above Bank of England base rate, such interest payments to run from the date of payment to receipt of payment in full or judgment, whichever is the sooner.
- 5.7. Unless otherwise agreed by the Company, the Fees in respect of the Services shall not increase during the Term.
- 5.8. The Fees in respect of the provision of Managed Staff may be increased in accordance with Bulgarian Labour Laws and with the prior consent of the Customer, and where all Managed Staff will receive an automatic pay increase annually, such increase not to exceed 3% per annum and added to the Fees in respect of the Managed Staff.
- 5.9. The Company shall be entitled to recover its reasonable costs and expenses (including external collection agent's charges) in the event that the Company has to enforce the terms of this Agreement.

6. LIABILITY

- 6.1 The Company shall not be responsible for any consequential loss or loss of profits or failure to make a potential saving caused directly by the negligence of the Company, the Managed Staff, or the Services or Additional Services provided throughout the term of this Agreement.
- 6.2 Nothing in this Agreement shall limit or exclude the Company's liability for:
 - a) Death or personal injury caused by its negligence, or the negligence of its Agents or subcontractors;
 - b) Fraud or fraudulent misrepresentation; or
 - c) any matter which may not be excluded or limited by law.
- 6.3 This Clause 6 shall survive termination or expiry of this Agreement.

7. COMPANY'S RESPONSIBILITIES

- 7.1 The Company can help the Customer to assess and select the Services appropriate to the Customer's needs based on the information and specifications provided by the Customer, but such assessment and selection as to the Customer's ultimate solutions remains the Customer's sole responsibility.
- 7.2 The Company warrants and undertakes that:
 - a) it has obtained all permissions and consents required to enter into the Agreement and to provide the Managed Staff, Services and Additional Services;
 - b) it shall, during the term of this Agreement, select the Resource to provide Managed Staff

- who possess the requisite degree if skill, qualification and experience required to fulfil their roles and obligations under the agreement;
- c) it shall comply with all statutes, laws, regulations, and by-laws as are applicable to it and/or the provision of the Managed Staff, Services and/or Additional Services;
 - d) it will at all times act in good faith in its business relationship with the Customer.

8. CUSTOMER'S RESPONSIBILITIES

The Customer shall:

- a) provide the Company (and its agents and sub-contractors) with such information, co-operation and assistance required in order to enable it to manage the Managed Staff, Services and/or Additional Services;
- b) permit the Company (and its agents and sub-contractors) and Managed Staff with access to the Customer's premises where physical attendance is required to provide the Services and/or perform its other obligations, and where such access is refused, the Company will not be liable any loss that may arise as a result to the Customer;
- c) where reasonable and practical, attend to matters raised by the Company relating to the Managed Staff and Additional Services in a timely manner;
- d) comply with laws and regulations applying to the Customer's business to the extent that is reasonable;
- e) be responsible for backing-up all of the Customer's own data and information to the Customer's own back up devices. The Company is not responsible for the organisation, management or overall control of backing-up or restoring any Customer data. Furthermore, the Company will not store any of the Customer's data on the Company's network unless agreed in writing by both parties.
- f) provide the Company with a means to connect to the Customer's network and systems at the Customer's expense, excluding any costs associated with connecting to the internet which will be met by the Company.
- g) pay all invoices by their due date.

9. INTELLECTUAL PROPERTY

- 9.1. All Intellectual Property Rights owned in the Services by the Company on or prior to the Commencement Date, used or applied pursuant to this Agreement, shall remain the property of the Company.
- 9.2. All Intellectual Property Rights created, developed or produced in the Services after the Commencement Date during the term of this Agreement by or on behalf of the Customer or by the Company on behalf of the Customer shall be owned by the Customer and the Company agrees to assign and hereby irrevocably and unconditionally does assign all such Intellectual Property Rights to the Customer and will take all such actions and execute all such documents as may be required to give effect to such assignment (including ensuring that any third parties who create such Intellectual Property Rights on behalf of the Customer have assigned such rights to the Customer).

10. SOFTWARE

Where software is provided within the Services, the Customer agrees to use the software in

accordance with any and all software licences required by the licensor and where there is a conflict in the terms of the licensor's terms and this Agreement, the licensor's terms shall prevail in relation to the software.

11. TERM AND TERMINATION

- 11.1. This Agreement shall commence on the Commencement Date and shall continue until terminated by either Party at any time by giving one (1) month's written notice to the other Party. This Agreement shall be reviewed by the Parties every six (6) months.
- 11.2. Where it is agreed between the Customer and the Company to make any of the Managed Staff redundant after the individual's probationary period (the initial six months of employment), the Company shall charge, and the Customer agrees to pay, any costs associated with such redundancy.
- 11.3. Individual resources (Managed Staff) as detailed initially within the Schedule may be changed upon the request of the Customer. The Customer will be required to provide 30 days written notice. Under these circumstances the Individual will be replaced by the Company with a suitable replacement at the earliest possible time.
- 11.4. Any change or amendment to this Agreement shall be mutually agreed and reflected in an Addendum, which must be signed by the authorised signatories to the original Agreement.
- 11.5. Termination of this Agreement shall not affect the accrued rights and remedies of each party.

12. TELEPHONE – FAIR USE POLICY

Telephone charges are included within the cost of the monthly Fees. The Company operates a 'Fair-use Policy' whereby any call costs over £6 per head per month are charged monthly in arrears at the charge rate as detailed with the Company's Call Charge Rate Card (available upon request).

13. DATA PROTECTION

- 13.1 With respect to the Parties' rights and obligations under this Agreement, the Parties agree to process any personal data in respect of the Customer Data, Company and/or the Customer and/or any and their employees and representatives in accordance with the provisions of Data Protection Law only to the extent and in such manner as is necessary for the provision of the Services.
- 13.2 The Customer will ensure that any Customer Data provided to the Company has been obtained fairly and lawfully and that it has obtained all necessary consents and otherwise complied with the Data Protection Law to enable it to pass such data to the Company and for the Company to process such Customer Data in accordance with this Agreement.
- 13.3 The Company shall:
 - 13.3.1 only carry out processing of any Customer Data on the Customer's instructions;
 - 13.3.2 implement appropriate technical and organisational measures to protect any End User Personal Data against unauthorised or unlawful processing and accidental loss or damage; and
 - 13.3.3 only transfer Customer Data to countries outside the European Economic Area

necessary in the performance of the Services being provided to the Customer and that ensure an adequate level of protection for the rights of individuals.

- 13.4 The Company shall promptly and fully notify the Customer in writing of any notices in connection with the processing of any Customer Data, including subject access requests, and provide such information and assistance as the Customer may reasonably require.
- 13.5 The Customer acknowledges that the Company will be acting as a Processor, rather than as a Controller, as each term is defined under Data Protection Law, in respect of all such data processing activities which the Company carries out under this Agreement.

14. CONFIDENTIALITY

- 14.1. For the purposes of this Agreement, in respect of any Confidential Information which is disclosed, furnished or made accessible by either Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"), the Receiving Party agrees:
 - a) to keep confidential all Confidential Information belonging to the Disclosing Party;
 - b) to keep Confidential Information belonging to the Disclosing Party in a safe and secure place; not, without the prior written consent of the Disclosing Party, to disclose Confidential Information belonging to the Disclosing Party in whole or in part to any other person save those of its employees, agents, advisors or sub-contractors who are involved in performing its obligations under this agreement and who need to know the Confidential Information in question for that purpose; and to use the Confidential Information belonging to the Disclosing Party solely in connection with performing its obligations under this Agreement and not for its own benefit or the benefit of any third party.
- 14.2. Each Party undertakes to the other to make all relevant employees, agents, and advisers aware of the confidential nature of the Confidential Information belonging to the Disclosing Party and to take all such steps as shall from time to time be necessary to ensure compliance by its employees, agents and advisers with this provision.
- 14.3. These provisions shall not apply so as to prevent disclosure of Confidential Information by the Receiving Party where and to the extent that such disclosure:
 - a) is or becomes public knowledge;
 - b) is in the possession of the Receiving Party prior to the date of receipt from the Disclosing Party or without restriction in relation to its disclosure
 - c) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - d) is independently developed without access to any Confidential Information belonging to the Disclosing Party.
 - e) required to be disclosed by any court or governmental or administrative authority competent to require the same; or
 - f) by any applicable UK law, legislation or regulation.
- 14.4. These provisions shall not apply so as to prevent disclosure of Confidential Information by the Receiving Party where and to the extent that such disclosure is required to be made by any court or governmental or administrative authority competent to require the same; or by any applicable UK law, legislation or regulation.

- 14.5 The Receiving Party agrees that upon written request from the Disclosing Party, the Receiving Party will immediately return to the Disclosing Party (or destroy if so directed) all Confidential Information, whether in printed matter form, on disk or otherwise, which is in the Receiving Party's possession, custody or control.
- 14.4 Neither Party may make any public statements or issue any press releases about this Agreement or its contents or any other arrangements or potential arrangements between the Parties without the prior written consent of the other Party.

15. NON SOLICITATION

The Customer agrees that it shall not solicit, induce, encourage or entice any agent or Resource who, during the course of this Agreement, is employed by the Company, to leave the employment of the Company for any reason. Furthermore and specifically, the Customer agrees that it shall not directly or indirectly employ or use the services of any such Agent or Resource for a minimum period of one (1) year following termination of this Agreement.

16. GENERAL

- a) This Agreement together with any Schedules or Addendums contains the entire agreement between the Parties in respect of the supply of Services and Additional Services. No other agreements, representations or warranties, whether oral or written, shall be deemed to bind the Parties with respect to this Agreement
- b) Except as in relation to any assignee or sub-contractor referred to, the Parties hereby agree that a Person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999.
- c) If any clause or part of a clause is found to be unenforceable then that clause or part may be severed and will not affect the enforceability of any other provisions of this Agreement.
- d) The waiver of a breach or default by either Party shall not be construed as a waiver of any succeeding breach of the same or other provisions; nor shall any delay or omission on the part of either party to exercise or avail itself of any right; power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.
- e) Any notice shall be in writing and served upon the recipient at its address set out in this Agreement by registered post or received email, to the attention of the following persons:

ProcessFlows UK:

Rosy Velikova, Operations and Service Delivery Manager
rosy.velikova@Processflows.co.uk
Tim Muckart, Business Unit Director, ECM Solutions
tim.muckart@processflows.co.uk

Claranova:

- Raphaël Sendowski, Chief Legal Officer, rsendowski@claranova.com
- Azziz Mimouni, Data Protection Officer, amimouni@avanquest.com

- a) Save as otherwise expressly provided all Fees and Additional Fees are expressed exclusive of value added tax ("VAT") and any VAT arising in respect of any supply shall be paid to the Company by the Customer in addition to the Fees.

17. ASSIGNMENT

Neither Party shall have the right to assign, transfer, novate or sub-contract any benefit of obligation under this Agreement without the prior written consent of the other Party.

18. AGREEMENT

The signatories to this Agreement confirm that they are authorised to sign (whether by hand or by e-signature) and accept the Terms herein.

19. GOVERNING LAW

This Agreement shall in all respects be governed by and construed under English Law and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

Signed for and behalf of ProcessFlows (UK) Limited:

Name

Position

Date

Signed for and on behalf of CLARANOVA SE:

Name

Position

Date

**Schedule 1 to Managed Services and Managed Staff Agreement between
CLARANOVA SE and ProcessFlows (UK) Limited**

Resource

N: 1; Part time employment, 20h a week
Position: Project Manager
Start Date 23/03/2020

A) Responsibilities:

- Coordinate resources and third parties/vendors for the flawless execution of projects
- Ensure that all projects are delivered on-time, within scope and within budget
- Monitor and track Project progress
- Measure project performance using appropriate tools and techniques
- Report and escalate to management as needed
- Manage the relationship with the client and all stakeholders
- Establish and maintain relationships with third parties/vendors
- Create and maintain comprehensive project documentation
- Create and maintain comprehensive project Reports
- Develop spreadsheets, diagrams and process maps to document needs
- Delegate project tasks based on junior staff members' individual strengths, skill sets and experience levels
- Attend conferences and training as required to maintain proficiency
- Help DPO on his daily tasks and projects
- Get trained and Maintain Ontetrust GDPR Platform
- Perform other related duties as assigned

B) General:

Working hours are from 1pm to 5pm Monday-Friday, excl. UK statutory public holidays. The resource

is entitled to 20 days paid personal holidays and public holidays.

The Customer expects to be involved in the holiday approval process for the resource and such approval will not be unreasonably withheld by The Customer. The Customer shall require at least a week's notice for leave of 5 days or less and at least a month's notice for up to two weeks leave. Requests for periods longer than 2 weeks will have to be negotiated.

The Customer expects to be notified of the resource being unable to work (either through sickness, unapproved leave, internal personnel issues at The Company) as soon as is practicable by the Company and be kept informed on a likely return to work date for that member of staff.

The Customer will provide required training for the resource in order to carry out their duties.

The Company are expected to provide all other services to support the resources in carrying out their duties for The Customer.

Signed for and behalf of ProcessFlows (UK) Limited:

Name

Position

Date

Signed for and on behalf of CLARANOVA SE:

Name

Position

Date