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| On behalf of |  | processed by |
|                 |  | softgarden e-recruiting GmbHTauentzienstraße 1410789 Berlin, Germany |
| - hereinafter referred to as the “**Principal”** - |  | - hereinafter referred to as the “**Contractor”** - |

hereinafter jointly referred to as the **Contract Parties**.

# General Provisions

1. The Contractor processes personal data on behalf of the Principal in the sense of Article 4 Number 8 and Article 28 of Regulation (EU) 2016/679—General Data Protection Regulation (GDPR). This Contract regulates the rights and obligations of the Parties in relation to the processing of personal data.
2. In case of contradictions, this Contract and all of its components will have priority over the corresponding main agreement.
3. Where this Contract uses the terms “data processing” or “processing” (of data), the definition of “processing” in the sense of Article 4 Number 2 of the General Data Protection Regulation applies.
4. The Contractor may only process data on commission in member states of the European Union (EU) or of the European Economic Area (EEA). Any relocation of processing to a third country may only take place if the special requirements of Art. 44ff GDPR are met.

# Order Object

1. The object, type and purpose of processing, the type of personal data and the categories of data subjects are specified in Annex 1 to this Contract.
2. The duration of commissioned processing is determined by the duration of the main agreement. Please refer to the main agreement.

# Rights and Obligations of the Principal

1. The Principal is the controller in the sense of Article 4 Number 7 of the General Data Protection Regulation for the commissioned processing of data by the Contractor.
2. As the controller, the Principal is responsible for safeguarding data subject rights.
3. The Principal has the right to issue additional directives concerning the type, scope and procedure of data processing to the Contractor. Oral directives must be confirmed in text form without undue delay. The Principal will specify the persons authorized to issue directives in **Annex 1**. If the persons authorized by the Principal to issue directives change, the Principal will report this to the Contractor in text form.

# General Obligations of the Contractor

1. The Contractor may only process personal data in compliance with concluded agreements and/or with directives issued by the Principal. However, this does not apply if legal regulations require the Contractor to process personal data otherwise. In such cases, the Contractor must inform the Principal about these legal regulations prior to processing, unless the respective rights prevent such disclosure in the public interest. Apart from that, the purpose, type and scope of data processing are determined exclusively by this Contract and/or the Principal’s directives. Contrary data processing by the Contractor is prohibited.
2. The Contractor must inform the Principal without undue delay if the Contractor considers a directive issued by the Principal to violate the law. The Contractor may suspend performance of the respective directive until the directive is confirmed or amended by the Principal. The Contractor may refuse performance of obviously unlawful directives at any time.
3. The Contractor must name persons to the Principal in **Annex 1** who are authorized to receive the Principal’s directives. If the persons authorized by the Contractor to receive directives change, the Contractor must report this to the Principal in text form.

# Reporting Obligations of the Contractor

1. The Contractor must report to the Principal without undue delay every breach of data protection law, contractual agreements and/or the Principal’s directives by the Contractor or by other persons involved in processing that occur as part of the data processing. The same applies to any breach of the protection of personal data processed by the Contractor on the Principal’s behalf.
2. Furthermore, the Contractor must notify the Principal without undue delay if a supervisory authority under Article 58 of the General Data Protection Regulation takes action against the Contractor which may affect the control of the processing the Contractor performs on the Principal’s behalf.
3. The Contractor must inform the Principal without undue delay if data subjects exercise their data subject rights against the Contractor.
4. The Contractor is aware that the Principal may be subject to reporting obligations under Articles 33 & 34 of the General Data Protection Regulation requiring notification of a supervisory authority within 72 hours of becoming aware of a personal data breach. The Contractor must assist the Principal with its compliance with these reporting obligations. The Contractor must especially report to the Principal any unauthorized access to personal data processed on the Principal’s behalf, operational disruptions or other irregularities when handling personal data of the Principal without undue delay upon learning of the access to the data. The Contractor’s report to the Principal must especially include the following information:
* A description of the type of personal data breach, insofar as possible, stating the categories and approximate number of affected persons, affected categories and approximate number of affected personal data datasets
* A description of the likely consequences of the personal data breach
* A description of the measures implemented or suggested by the Contractor to rectify the personal data breach and, if applicable, measures to mitigate adverse effects.

# Cooperation Obligations of the Contractor

1. The Contractor must assist the Principal with its obligations to answer inquiries concerning the exercise of data subject rights under Articles 12 – 23 of the General Data Protection Regulation. The Contractor must especially ensure that the necessary information is provided to the Principal without undue delay, especially to enable the Principal to fulfill its obligations under Article 12(3) of the General Data Protection Regulation. Insofar as the Contractor’s cooperation is necessary for the Principal to safeguard data subject rights—especially to access, rectification, blocking or erasure—, the Contractor must implement necessary measures following the Principal’s directives. The Contractor must, if possible, apply appropriate technical and organizational measures to assist the Principal with its obligation to answer inquiries concerning the exercise of data subject rights.
2. The Contractor must, in consideration of the type of processing and available information, assist the Principal with compliance with the duties under Articles 35 – 36 of the General Data Protection Regulation.

# Review Rights of the Principal

1. The Principal has the right to review or have the Contractor’s compliance with legal regulations concerning data protection and/or with contractual regulations concluded between the Parties and/or with the Principal’s directives reviewed by commissioned inspectors to the necessary extent.
2. The Contractor must disclose information to the Principal insofar as this is necessary for the performance of reviews in the sense of Subsection 1.
3. Following prior announcement with an appropriate notice period, the Principal or the commissioned inspector may perform inspections in the sense of Subsection 1 during regular business hours. The Principal will ensure that such inspections are only conducted to the necessary extent to not impair the Contractor’s business operations disproportionately. The Parties believe that such inspections will be necessary no more than once annually. Further inspections must be justified by the Principal stating reasons. Each Party must bear the costs it incurs for such inspections. If the Contractor’s cooperation with such inspections in the sense of Subsection 1 significantly exceeds the necessary extent, the Contractor may invoice the ensuing costs in accordance with customary industry rates.
4. Proof of compliance with technical and organizational measures may be provided through submission of appropriate current certificates, reports or excerpts thereof by independent authorities (e.g., auditors, the data protection officer, IT security department, data protection auditors or quality auditors) or suitable certification if the audit report appropriately enables the Principal to confirm compliance with the technical and organizational measures under **Annex 2** to this Contract. The Principal’s review rights in the form of on-site inspections will remain unaffected thereby. The Principal is aware that on-site inspections should only be performed at the data center in justified exceptions.

# Subcontractor Relationships

1. The Contractor may use the subcontractors specified in **Annex 1** to this Contract as further processors within the meaning of Art. 28 para. 4 GDPR to process data on commission.
2. The following conditions apply when changing or commissioning additional subcontractors:
* The Contractor must ensure that this Contract and, if applicable, the Principal’s directives also apply to the subcontractor.
* The Contractor must conclude a commissioned processing agreement that complies with the regulations of Article 28 of the General Data Protection Regulation with the subcontractor. Furthermore, the Contractor must subject the subcontractor to the same personal data protection obligations agreed between the Principal and the Contractor. The technical and organizational measures agreed with the subcontractor must especially provide the same level of protection.
* The Contractor must inform the Principal without undue delay about any intended changes concerning the addition of new or the replacement of previous subcontractors (“change notification”) to allow the Principal to object to such changes (Art. 28(2) Sentence 2 of the General Data Protection Regulation). Such change notification must be submitted to the persons authorized by the Principal to issue directives.
* If the Principal does not object within 2 weeks of receipt of the change notification, the changes will be considered approved.
* Objections of the Principal may be withdrawn in text form at any time.
* If the Principal objects to a subcontractor and a mutual solution between the Principal and the Contractor cannot be found, the Principal and the Contractor may exercise special termination rights. The Contractor must take the Principal’s interest into account for the notice period.
1. Subcontractor relationships in the sense of Subsections 1 - 2 do not include third-party services the Contractor utilizes as merely ancillary services to perform the Contractor’s business activities. This includes, e.g., travel services, purely telecommunications services not specifically related to the services the Contractor performs for the Principal, postal and courier services, transport services or monitoring services. However, for ancillary third-party services, the Contractor must ensure that appropriate precautions and technical and organizational measures are implemented to protect personal data. Maintenance of IT systems or applications represents a subcontractor relationship and commissioned processing in the sense of Article 28 of the General Data Protection Regulation if the maintenance and reviews concern IT systems used for the performance of services for the Principal and if personal data processed on the Principal’s behalf may be accessed during maintenance.

# Non-Disclosure Obligations

1. When processing data for the Principal, the Contractor must maintain confidentiality over any data of which the Contractor learns or which it receives through the order.
2. The Contractor must require confidentiality and familiarize the Contractor’s employees with all relevant data protection regulations.

# Technical and Organizational Measures

1. The Contractor assures the Principal that the Contractor will comply with the technical and organizational measures necessary for compliance with applicable data protection regulations. This especially includes Article 32 of the General Data Protection Regulation.
2. The state of the art for technical and organizational measures at the time of Contract conclusion is specified in **Annex 2** to this Contract. The Parties agree that changes to these technical and organizational measures may be necessary due to legal requirements. Significant changes must be documented and disclosed to the Principal on request. The Principal may review or have the concluded agreement reviewed by a third-party expert with regard to the technical and organizational measures.

# Order Duration

1. This Contract will come into effect upon being signed and will be concluded for an indefinite duration or for the duration of the main agreement between the Parties on the Principal’s commissioning of the Contractor’s services.
2. The Principal may terminate this Contract without notice at any time in case of a severe violation by the Contractor of applicable data protection regulations or obligations under this Contract.

# Termination

When this Contract expires, the Contractor must, at the Principal’s discretion, return to the Principal or destroy in compliance with data protection regulations any documents, data and processing or usage results prepared in relation to the order. Destruction must be documented appropriately. Legal storage obligations or other requirements to save data will remain unaffected.

# Liability and Compensation

1. The Principal and the Contractor will be liable to data subjects in accordance with Article 82 of the General Data Protection Regulation.
2. If a data subject exercises compensation claims against a Party for violations of legal data protection regulations, the Party against whom claims are exercised must notify the other Party without undue delay.
3. The Parties must mutually assist each other with the defense against compensation claims exercised by data subjects, unless doing so could threaten the legal position of one Party towards the other Party or towards a supervisory authority.

# Final Provisions

1. Should a regulation of this Contract be or become invalid, the validity of the remainder of the Contract will remain unaffected. In such cases, a regulation that most closely approximates the intent of the invalid regulation must be agreed between the Parties.
2. Changes or additions to this Contract, individual agreements or any parts thereof must be issued in written form to be effective. This also applies to any waiver of this written form requirement.
3. The defense of rights of retention in the sense of Section 273 of the German Civil Code [Bürgerliches Gesetzbuch, BGB] for the processed data and associated data carriers is excluded.
4. The legal relationships of the Contract Parties is governed by the law of the Federal Republic of Germany under exclusion of the UN sales convention and under exclusion of any regulations under German law that refer to a legal system other than the German legal system.
5. For any disputes under or in relation to this Contract, the place of jurisdiction of the main agreement will apply—as far as permissible.
6. If regulations of this Contract apply beyond the contractual duration, these regulations will remain effective even after the Contract expires.
7. The included Annexes are essential parts of this Contract.

**Annex 1: Order Specification**

**Annex 2: Technical and Organizational Measures**

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|  |       |  |       |
|  | PrincipalName / Signature / Company Stamp |  | ContractorMathias Heese / CEOMartin Behrend / CFOName / Signature / Company Stamp |