SHIREBURN DATA PROTECTION AGREEMENT

Agreement entered into on the _____ , whose provisions come into effect fully on the date of the electronic signature by both Parties identified below, between:

PARTIES

_____ (hereinafter referred to as the *Client*) bearing registration number _____,

with registered office at _____,

as duly represented hereon (hereinafter the "**Data Controller**", "**Controller**" or "**Client**")

and

Shireburn Software Limited and **Shireburn Company Ltd**, jointly and severally, (hereinafter referred to as Shireburn) both with registered office at SkyParks Business Centre, Level 3, Malta International Airport, Luqa, LQA 4000, Malta, company registration numbers C13238 and C4462 and VAT numbers MT10170818 and MT10170107 respectively as duly represented hereon;
(hereinafter referred to as the "**Data Processor**", "**Processor"** or "**Shireburn**")

Shireburn and the Client are individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

BACKGROUND

Whereas:

(A) Shireburn licenses its own developed software, sells licenses for Third Party owned software, makes available other software as a subscription service and provides services related both to such software, including support and software maintenance services, consulting services and other general information technology, networking and security related services to the Client collectively known as the Services.

(B) In providing the Services, Shireburn may collect, use or otherwise process Personal Data within the meaning of Data Protection Laws.

(C) The Parties are aware of the EU legislation on data protection namely Regulation (EU) 2016/679 (General Data Protection Regulation) dated 27 April 2016, hereinafter referred to a GDPR, the new standard in the European Union (EU) governing the privacy and data protection of EU residents.

(D) The Parties agree to enter into this Data Protection Agreement, hereinafter referred to as the DPA, which regulates the data protection obligations of the Parties when processing the Client's Personal Data and governs the relationship between the Parties in respect of the processing of Personal Data.

(E) The Parties have one or more separate agreements, written or verbal, (hereinafter referred to as the **Principal Agreement**) which currently govern their relationship including that related to the protection and management of data.

(F) The conditions contained within this DPA supplements any Principal Agreement in respect of the aspects related to the processing of data and supersede any provisions of the Principal Agreement in the event of a conflict.

(G) Any terms not defined in this DPA shall have the meaning set forth in the Principal Agreement.

NOW THEREFORE BOTH PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS & INTERPRETATIONS

1.1. The following definitions and rules of interpretation apply within this agreement:

a) "**Date Protection Law**" consists of the Maltese Data Protection Act (Chapter 440 of the Laws of Malta) as amended and, as of 25 May 2018, the General Data Protection Regulation and any other relevant legislation which is applicable during the term of this Agreement, in so far as the same relates to the provisions and obligations of this Agreement

b) "**General Data Protection Regulation**" (hereinafter referred to as the **GDPR)**, means the Regulation (EU) 2016/679 of the European Parliament and of the Council of the 27th of April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data, whose provisions come into effect on the 25th May 2018.

c) The terms "**Data Controller**", "**Data Subjects**", "**Personal Data Breach**", "**Processing**", "**Supervisory Authority**", "**Data Processor**", "**Consent**", "**Third Party**" shall, from the 25th May 2018 onwards, have the same meaning given to these terms in the GDPR

d) "**Third Party Owned Software**" means software whose intellectual property is owned by a Third Party, other than Shireburn,

e) **"Shireburn On-Premises Software"** means the software developed and owned by Shireburn which is licensed to the Client by Shireburn and deployed either on the Client's premises or a Third Party hosting provider controlled by a Third Party.

f) **"Shireburn SaaS Software**" means the software made available by Shireburn to the Client as a SaaS Service.

g) "**Shireburn Software**" means both the Shireburn On-Premises Software as well as the Shireburn SaaS Software.

h) "**Effective Date**" the effective date of this Data Processing Agreement shall be the date at which this Agreement has been electronically signed by the Client and therefore accepted by both Parties or the 25th May 2018, whichever is the earlier

i) **"SaaS Service**" the provision by Shireburn to the Client of a shared and hosted facility to use the Shireburn SaaS Software, on a shared, hosted environment and the provision of all other services necessary for productive use of such software

j) "**Affiliate**" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership of either Party, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

k) "**Anonymous Data** means Personal Data that has been processed in such a manner that it can no longer be attributed to an identified or identifiable natural person without additional information unavailable to any third party other than Authorized Subcontractors.

l) "**Authorized Staff**" means an Authorized Employee or contractor of either Party who has a need to know or otherwise access Personal Data to enable them to perform their obligations under this DPA or the Principal Agreement.

m) "**Authorized Subcontractor**" means a third-party subcontractor, agent, reseller, or auditor, or their employees, who has a need to know or otherwise access Personal Data to enable Shireburn to perform its obligations under this DPA or the Principal Agreement, and who is listed in Schedule 1 to this DPA and updates to which are reflected in the following page www.shireburn.com/dataprotection/subcontractors.

n) "**Client Data**" means the data inputted into the Software for the purpose of using the Software or Services which data includes but is not limited to Personal Data.

o) "**Data Breach**" any accidental, unauthorised, or unlawful destruction, loss, alteration, or disclosure of, or access to, Personal Data governed by this DPA.

p) "**Data Subject**" means an identified or identifiable person to whom Personal Data relates.

q) "**Instruction**" means a direction or request for action, either in writing, in textual form (e.g. by e-mail) or by using a software or online tool, issued by the Client to Shireburn and directing Shireburn to perform an action with regard to Personal Data, including but not limited to the correction, blocking and deletion of Personal Data, which instruction may thereafter be amended, supplemented or replaced by the Client by separate written or text form instruction.

r) "**Personal Data**" means any information relating to a Data Subject which Processor Processes on behalf of Controller other than Anonymous Data, which is able to identify an individual and includes Sensitive Personal Information.

s) "**Personal Data Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored, or otherwise processed.

t) "**Privacy Shield Framework and Principles**" means the Swiss-U.S. and EU-U.S. Privacy Shield Framework and Principles issued by the U.S. Department of Commerce, both available at https://www.privacyshield.gov/EU-US-Framework.

u) "**Process**" or "**Processing**" means any operation or set of operations which is performed upon the Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, or destruction.

v) "**Sensitive Personal Information**" means a Data Subject's:

   i. government-issued identification number (including identity card number, passport number, social security number, driver's license number or email address;

   ii. Client account number, credit card number, debit card number, credit report information that would permit access to an individual's financial account;

   iii. genetic and biometric data or data concerning health; or

   iv. Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, sexual orientation or sexual activity, criminal convictions and offences (including commission of or proceedings for any offense committed or alleged to have been committed), or trade union membership.

w) "**Technical and Organisational Measures**" means those measures, further described in Schedule 2 to this DPA, aimed at protecting Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, such measures being appropriate to the risks involved.

x) "**Standard Contractual Clauses**" means the standard contractual clauses set forth in EU Commission Decision 2010/87/EU of the 5 February 2010 on standard contractual clauses for the transfer of personnel data to processors established in third countries under directive 94/46/EC as may be amended or superseded from time to time.

y) "**Supervisory Authority**" shall mean the relevant supervisory authority with responsibility for privacy or data protection matters in the jurisdiction in which the Personal Data subject to this DPA agreement is held.

z) '**Data Protection Officer**" means the person nominated from time to time to hold the responsibility within Shireburn related to the protection of data.

aa) "**Sub-processor**" means any person (including any third party but excluding an employee of Shireburn) appointed by or on behalf of Shireburn to Process Personal Data on behalf of the Client

bb) "**Services**" means the provision of software licenses, both of Shireburn owned software as well as Third Party owned software, the provision of other software as a subscription service, the provision of associated services related both to such software, including support and software maintenance services, as well as other general information technology, consultancy, networking and security related services to the Client.

cc) "**Third Party**" means an individual or corporate entity other than the Parties.

dd) "**Legitimate Business Interest**" means a reason that enables the Processing of Personal Data which is necessary for the performance of a contract or provision of an agreed Service.

1.2. This DPA covers all Affiliates of the respective Party.

1.3. References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

1.4. The heads given to any Clause, schedule or paragraph shall not affect the interpretation of this Agreement.

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

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

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

1.8. A reference to one gender shall include a reference to the other genders.

1.1. The word "include" shall be construed to mean include without limitation.

1.9. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.10. A reference to writing or written shall be in the form of either a letter or e-mail.

1.11. The language of this Agreement shall be the English language and for the purposes of interpretation, the provisions as they are stated in English shall be those which are considered binding.

2. TERM

2.1. This **Agreement** shall commence on the Effective Date and shall continue as long as:

a) In the case of Shireburn On-Premises Software: throughout the period of the provision of any services carried out by Shireburn to the Client

b) In the case of Shireburn SaaS Software: until an applicable and valid Subscription Agreement remains in force

c) In the case of the provision of Network Services, while these Network Services are still being provided.

3. TYPE AND PURPOSE OF USE OF DATA

3.1. Shireburn agrees to Process the Personal Data held by the Client only on the instructions of the Client as the Data Controller and on the basis of the following grounds:

a) Where the Client, as the Data Controller, needs to process this Personal Data for the performance of a contract with the Data Subject as per (Art 6(1)(b) of GDPR);

b) Where the processing is necessary for the performance of a contract between Shireburn and the Client;

c) Where it is necessary for Shireburn's Legitimate Business Interests, (or those of a Third Party), the Client's legitimate interests or the legitimate interests of the Data Subjects concerned, provided that this processing does not override the Data Subject's fundamental rights.

d) Where Shireburn needs to comply with a legal or regulatory obligation.

3.2. Shireburn may process the following type of Personal Data for the following purposes:

Data Type	Purpose
The contact data of the Client's employees, advisors and contractors including but not limited to contact names, work addresses, phone numbers, e-mail addresses, credit card details and billing details.	To administer Shireburn's relationship with the Client in the provision of the Services including administrative, financial, licensing, billing, consulting, communicating, marketing, prospecting, training and events including sign-up registration in

Data Type	Purpose
	pursuit of its contractual obligations in respect of its Legitimate Business Interests.
Employee and related data managed within the Shireburn Indigo SaaS Software.	To enable the processing by the Client of the software application such as the Shireburn Indigo Payroll.
Copies of Client Data such as accounting, payroll, HR and other types	Assisting the Client in the support, implementation and trouble-shooting of their use of the Shireburn Software.
Contact data related to events, activities news & marketing	To enable registration for Shireburn events and other activities.
Personal Data stored to enable the on-going relationship between Shireburn and the Client	Subject to a Legitimate Business Interest
Personal Data stored related to contracts, billing, procurement and similar administrative processes	To manage and operate the commercial business to enable the on-going relationship between Shireburn and the Client
Personal Data related to correspondence, proposals, actions and opportunities	To enable the on-going relationship between Shireburn and the Client

3.3. The Client agrees that Shireburn's Authorised Staff shall be granted access by the Client to such Personal Data in the course of the provision of support and maintenance services and, in so doing take on the role of persons acting under the authority of the Data Processor.

3.4. It is recognised by the Parties that the Personal Data retained by Shireburn will vary according to the Shireburn Software or Service being used.

4. RELATIONSHIP BETWEEN PARTIES

4.1. The Client is the Data Controller.

4.2. Shireburn is a Data Processor of the Client's Personal Data in the following different situations:

a) When the Client processes their own Personal Data using the Shireburn SaaS Software

b) When the Client grants access to, either remotely or on-site, or sends copies of their Personal Data to an Authorised Employee so as to enable Shireburn to support the Client in their use, trouble-shooting or implementation of information technology systems including Shireburn Software and Third Party Owned Software.

c) When Shireburn uses the Client's Personal Data to administer its relationship with the Client including administrative, financial, support and marketing activities.

4.3. It is recognised by the Parties that the Personal Data that may be accessible to Authorised Staff will vary according to the software or Service being used.

4.4. Subcontractors of Shireburn who have access to Personal Data take on the responsibility of Sub-Processors as defined by the GDPR.

5. PROCESSING OF PERSONAL DATA

5.1. The Parties authorise the Processing of Personal Data when:

a) the Data Subject has given consent to the processing of his or her Personal Data for one or more specific purposes;

b) processing is necessary as a Legitimate Business Interest for the performance, by either Party or their respective Authorised Subcontractors, of a contract or provision of a Service to which the Data Subject is party, either directly or as a result of their employment or relationship with that Party, or in order to take steps prior to entering into such a contract or Service;

c) processing is necessary for compliance with a legal obligation to which one or all Parties are subject.

5.2. The Parties shall, irrespective of their role, at all times Process Personal Data, and provide Instructions for the Processing of Personal Data, in compliance with Data Protection Law as applicable in relation to the Personal Data and that the Processing of Personal Data in accordance with the Client's Instructions will not cause Shireburn to be in breach of Data Protection Laws.

5.3. Shireburn shall act only upon the Instructions of the Client and not Process any Personal Data that may be transferred to it by the Client except as may be necessary for the performance of any service or task requested by the Client unless required to do so by EU or Maltese law. In such a case, Shireburn shall inform the Client of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest

5.4. By virtue of this DPA, the Parties hereby agree that they consent to the processing of the Personal Data of their respective Authorised Staff, contractors or suppliers for the purposes of administering the relationship between the Parties in respect of financial, administrative and marketing functions including billing and reporting.

5.5. Personal Data shall only be processed for the purposes listed in this Agreement and shall not be further processed in a manner that is incompatible with those purposes.

5.6. The Data Processor shall implement appropriate Technical and Organisational Measures to protect any Personal Data that may be processed on behalf of the Client against accidental destruction or loss or unlawful forms of processing thereby providing the best possible level of security appropriate to the particular risks in question and take any other such measures as required by Shireburn's direct obligations as a Data Processor in terms of Data Protection Laws.

5.7. The Client is solely responsible for the accuracy, quality and legality of:

a) the Personal Data provided to Shireburn by or on behalf of the Client,

b) the means by which the Client has acquired any such Personal Data, and

c) the Instructions it provides to Shireburn regarding the Processing of such Personal Data.

5.8. The Client shall not provide or make available to Processor any Personal Data in violation of the DPA or otherwise inappropriate for the nature of the Services, and shall indemnify Processor from all claims and losses in connection therewith.

6. SHIREBURN'S OBLIGATIONS

6.1. Shireburn shall, when acting as a Data Processor:

a) Ensure that persons authorised to Process the Personal Data (including but not limited to Shireburn's Authorised Staff) have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and that the said confidentiality obligations are effectively implemented and enforced;

b) Not engage any other Data Processors (including subcontractors) to perform any processing of Personal Data, except for the Authorised Subcontractors described in Schedule 1 to this DPA, without informing the Client of any intended changes concerning the addition or replacement of other processors, thereby giving the Client the opportunity to object and terminate their Service.

c) Where that sub-processor fails to fulfil its data protection obligations, Shireburn shall remain fully liable to the Client for the performance of that sub-processor's obligations and for any breach of this DPA.

d) Assist the Client, subject to Shireburn's standard hourly rate for such services being provided, by way of appropriate Technical and Organisational Measures, insofar as this is possible, for the fulfilment of the Client's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR, taking into account the nature of the processing.

e) Inform the Client of any Personal Data Breach (including any suspected Personal Data Breach) that Shireburn becomes aware of, irrespective of whether or not the Personal Data Breach was caused directly or indirectly by Shireburn.

f) At the choice of the Client, delete or return all the Personal Data to the Client after the end of the provision of services relating to processing in terms of the DPA, and delete existing copies unless EU or Maltese law requires storage of the Personal Data.

g) Make available to the Client all reasonable information necessary to demonstrate compliance with the obligations laid down in this DPA.

h) Carry out regular tests and self-audits ensuring that the processing of the Client's Personal Data conforms with the provisions of this DPA

i) Subject to a charge at Shireburn's then current charge-out rates, allow for and contribute to reasonable audits, including inspections, conducted by the Client or another auditor mandated by the Client for the purpose of and to the extent required for verifying whether Shireburn complies with Data Protection Laws and the contractually agreed measures in this DPA

j) In case the Client intends to conduct (or mandate a third party to conduct) an audit at Shireburn's working premises, the Client shall give reasonable notice of at least two (2) working days to Shireburn. The time and duration of the audit shall be agreed to by both Parties. The results of the audit shall be recorded by both Parties in writing.

k) Inform the Client, as soon as possible, in text form (including by e-mail) of any requests from any third parties (including the concerned data subjects or from a Data Protection Supervisory Authority) in any way relating to the Client's Personal Data. In case Shireburn receives any data subject access requests and/or any other claims on the basis of any rights under Data Protection Law in connection with the Personal Data covered by this DPA, Shireburn shall refer the concerned data subject directly to the Client.

7. AUTHORIZED SUBCONTRACTORS

7.1. The Client acknowledges, agrees and is hereby providing a general written authorisation allowing Shireburn to engage Authorized Subcontractors to access and Process Personal Data in connection with the Services and solely on the instructions of Shireburn in line with Article 28 GDPR.

7.2. A list of Shireburn's current Authorized Subcontractors is found at www.shireburn.com/dataprotection/subcontractors.

7.3. In line with the same Article 28, GDPR, at least ten (10) days before instructing any Third Party, other than the current Authorized Subcontractors, to access or participate in the Processing of Personal Data as Sub-Processors, Shireburn will notify the Client of such a change and:

a) Should the Client object, Shireburn warrants to allow the Client to terminate its use of the Services without loss as long as this is done within ten (10) days of receipt by Client of the aforementioned notice.

b) Termination shall not relieve Client of any fees previously owed to Shireburn under the Principal Agreement or any other Agreement signed between the Parties.

c) If the Client does not object to the engagement of a Subcontractor in accordance with this Section of the DPA within ten (10) days of notice by Shireburn, such Third Party will be deemed an Authorized Subcontractor for the purposes of this DPA.

7.4. Shireburn shall ensure that every Authorized Subcontractor is subject to obligations regarding the Processing of Personal Data that are at least equal to, and no less onerous than, those to which Shireburn is subject under this DPA.

7.5. The Client agrees that, in order to provide the Services, Shireburn is authorised to share Personal Data including but not limited to contact names, addresses, phone numbers, e-mail addresses, credit card details and billing details, with Authorised Subcontractors that provide a service to Shireburn such as license management and billing.

7.6. Sub-Contractors are deemed to be Sub-Processors as per Data Protection Law.

8. TRANSFERRING DATA OUTSIDE THE EEA

8.1. Unless with the explicit, prior written consent of the Client, Shireburn shall only store the Client's Personal Data either within the European Economic Area (EEA) or in a manner which is undertaken by Shireburn through one of the following mechanisms:

a) in accordance with the Privacy Shield Framework and Principles, or

b) the Standard Contractual Clauses.

8.2. Where the Client provides Shireburn with the said consent to effect a data transfer outside the EEA, Shireburn binds itself that this Personal Data will be stored and processed in conformity with Data Protection Laws and that all appropriate Technical and Organisational Measures are taken by Shireburn and its Authorised Subcontractor(s), if any, to ensure that data protection obligations at least as onerous as those set out in this DPA shall be imposed on that other Processor.

8.3. The Parties agree that certain Personal Data related to the administration, accounting and billing of the relationship between the Parties, including contact names, addresses, phone numbers, e-mail addresses and billing details, may be stored in Third Party systems that provide a service to Shireburn such as license management and billing, always subject to the terms of this DPA.

8.4. Through this DPA, the Client is consenting to the storage of Personal Data in locations as defined in the Schedule to this DPA.

9. DATA RETENTION

9.1. Personal Data will be retained by Shireburn in accordance with the Data Retention Policy of Shireburn as defined in the table below as it relates to different data types:

Data Type	Retention Policy
Client's Personal Data shared with Authorised Staff for the purposes of the provision of implementation and support services	30 days
Data managed in Shireburn On-Premises Software	Managed by the Client
Data Managed within the Shireburn SaaS Software	60 days following termination of the Subscription agreement
Personal Data stored related to contracts, billing, procurement and similar administrative processes to enable the on-going relationship between Shireburn and the Client	10 years from termination of the relationship.
Personal Data related to correspondence, proposals, actions and opportunities	Up to 6 years after termination of the relationship with Client

9.2. Shireburn shall hold the Client's Personal Data only as long as is necessary to provide the Services, including administration, accounting, marketing and reporting in the context of a Legitimate Business Interest, and subject to:

a) the rights of a Data Subject in terms of the Data Protection Law, such as requests for data access or deletion;

b) any legal requirement for data retention as specified in any other law of the Republic of Malta, including laws including but not limited to Social Security, Income Tax, Value Added Tax, Employment and Industrial Relations etc.

c) a request by an authorised Governmental or regulatory authority for an additional retention period

9.3. It is agreed that modifications to this data retention policy can be effected by Shireburn publishing the new policy at http://www.shireburn.com/dataprotection/dataretention giving the Client 10 days' notice of such change as long as, in the event that the Client is not in agreement with such change, the Client shall have the right to terminate the Services without penalty.

10. RIGHTS OF DATA SUBJECTS

10.1. The Parties recognise and acknowledge the rights of data subjects to their Personal Data as defined within Data Protection Law including rights of access, rectification, restriction of Processing, erasure, data portability, restriction or cessation of Processing, withdrawal of consent to Processing, and/or objection to being subject to Processing that constitutes automated decision-making (such requests individually and collectively "**Data Subject Request(s)**").

10.2. Shireburn shall, to the extent permitted by law, promptly notify the Client upon receipt of a request by a Data Subject to exercise any of these Data Subject's rights.

10.3. Subject to the charges applicable at that time for such services, Shireburn shall, at the request of the Client, and taking into account the nature of the Processing applicable to any Data Subject request, apply appropriate Technical and Organisational Measures to assist the Client in complying with the Client's obligation to respond to such Data Subject Request and/or in demonstrating such compliance, where possible, provided that:

a) The Client is itself unable to respond without Shireburn's assistance and

b) Shireburn is able to do so in accordance with all applicable laws, rules, and regulations.

11. THIRD PARTY REQUESTS FOR DISCLOSURE OF PERSONAL DATA

11.1. Unless prohibited by applicable law, Shireburn shall promptly notify the Client of:

a) Any request for the transfer of Personal Data covered by the Agreement, by any governmental, regulatory, Supervisory Authority;

b) Any request for access received directly from a Data Subject or from a Third Party.

c) Any requirement by law, court order, warrant, subpoena, or other legal judicial process to disclose any Personal Data to any person or entity other than the Client.

11.2. Shireburn shall provide all reasonable assistance to the Client, subject to a charge based on its then current charge rates, to enable the Client to respond, object or challenge any such demands, inquiries, communications, requests or complaints and to meet applicable statutory or regulatory deadlines.

12. DELETION OR RETURN OF PERSONAL DATA

12.1. On termination of the Services, Shireburn shall:

d) Upon the Client's request, furnish the Client with any of the Client's Personal Data under its control in a format chosen by Shireburn which is appropriate to facilitate its use by the Client and subject to a charge based on Shireburn's then current charge rate for such a service.

e) Subject to the then applicable data retention policy, securely delete any of the Client's Personal Data in its possession.

13. RELIABILITY OF PERSONNEL

13.1. The Parties shall take all reasonable steps to ensure the reliability of any Authorized Staff and staff of Authorised Subcontractors who may have access to the Client's Personal Data, ensuring in each case that access is limited to those individuals who need to know and to access the relevant Personal Data, as necessary for the purposes of the Principal Agreement.

13.2. Shireburn shall ensure that all Authorized Employees and Authorised Contractors are made aware of the confidential nature of the Personal Data and have executed confidentiality agreements that prevent them from disclosing or otherwise Processing, both during and after their engagement with Shireburn, any Personal Data except in accordance with their obligations in connection with the Services and as may be enforced by relevant laws.

14. SECURITY

14.1. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Shireburn shall maintain appropriate Technical and Organisational Measures to ensure a level of security appropriate to the risk of Processing the Personal Data as detailed Schedule 2 to this Agreement..

14.2. Shireburn shall keep the Client's Personal Data logically separate to data Processed on behalf of any other Third Party.

15. MODIFICATIONS & NOTICES

15.1. Notices sent in pursuit of this DPA are to be effected in writing, sent to the official place of business of the Party concerned or to its then current registered office address, or via email addressed to the principle contact of record for the Client.

15.2. The Client undertakes to keep Shireburn informed of any change in the contact details of the person to whom notices are to be sent.

15.3. Shireburn may make, from time to time, reasonable amendments to the terms of this DPA as Shireburn reasonably considers necessary to meet its operational requirements, giving the Client ten (10) days' notice of such change.

15.4. Should the Client object to any material changes, Shireburn warrants to allow the Client to terminate its use of the Services without loss as long as this is done within ten (10) days of receipt by Client of the aforementioned notice.

16. PERSONAL DATA BREACH AND NOTIFICATION

16.1. Shireburn shall without undue delay, but not later than within 72 hours, inform the Client in writing upon it or any Subcontractor becoming aware of any Data Breach.

16.2. Shireburn agrees to provide the Client with any and all information reasonably necessary for the compliance with the Client's own obligations pursuant to the GDPR.

16.3. Such notification shall include:

a) a detailed description of the Data Breach;

b) the type of data that was the subject of the Data Breach;

c) the identity of each affected person (or, where not possible, the approximate number of Data Subjects and of Personal Data records concerned);

d) the name and contact details of Shireburn's Data Protection Officer or other point of contact where more information can be obtained;

e) a description of the likely consequences of the Data Breach;

f) a description of the measures taken or proposed to be taken by Shireburn to address the Data Breach, including, where appropriate, measures to mitigate its possible adverse effects;

16.4. Shireburn agrees to co-operate with the Client or their representatives and take such reasonable commercial steps to assist in the investigation, mitigation and remediation of each such Data Breach.

16.5. The Parties shall not release or publish any filing, communication, notice, press release, or report concerning any Data Breach without the other Party's written approval.

17. PROPRIETARY RIGHTS

17.1. This DPA does not grant the Client any additional rights to, or in, patents, copyright, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Software, Services or associated documentation.

17.2. The Client acknowledges and agrees that Shireburn and/or its licensors own all intellectual property rights in the Services and the Documentation.

18. FORCE MAJEURE

18.1. The Parties shall have no liability to each other under this Agreement if they are prevented from or delayed in performing their obligations under this Agreement, or from carrying on their business, by acts, events, omissions or accidents beyond their reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that the other Party is notified of such an event and its expected duration.

19. WAIVER

19.1. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and to the circumstances for which it is given.

19.2. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

20. SEVERANCE

20.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

21. ASSIGNMENT

21.1. The Client shall not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement without the prior written consent of Shireburn, which consent would not be unreasonably withheld.

21.2. Shireburn may at any time assign this agreement by a simple notice to that effect sent to the Client, ensuring that the assignee undertakes all the current obligations vested in Shireburn. Following such notification, the Client shall have the right, in addition to any other rights and remedies under this Agreement or at law, to immediately terminate this Agreement without any liability whatsoever.

22. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION

22.1. This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the laws of the Republic of Malta.

22.2. Both Parties agree that any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the rules of the Malta Arbitration Centre in force at the time of the dispute. It is also agreed that:

a) the appointing authority and administrator shall be the Malta Arbitration Centre

b) the number of arbitrators shall be one

c) the place of arbitration shall be Malta.

d) the applicable substantive law shall be the laws of Malta

SCHEDULE 1

AUTHORISED SUBCONTRACTORS

The table below defines a list of Authorised Subcontractors/Subprocessors and the location of the data related to these services.

Subcontractor	Nature of Services Sub-Contracted	Relevant Data Stored or Processed	Location of Hosting
Microsoft Corporation	Hosting, network services on Microsoft Azure	All information maintained on Shireburn Indigo is hosted on Microsoft Azure.	The Netherlands & Ireland
Recurly Inc	Provision of License Management and renewals processing for SaaS Subscriptions	We store tenant information such as Name, email, Company details, Vat Number, IP Address. In case of Clients choosing to pay on-line, credit card details including address are stored.	United States of America
Braintree	On-line payment processing services:	Name, surname & card details of those clients that choose to pay on-line.	United States of America
Intercom	On-line help & Real-time chat	Provision of on-line help and chat services. Chat sessions are logged consisting of the company name, user's name, email, chat activity, help center activity, location, Indigo feature usage.	United States of America
Amazon Web Services	Database & web server hosting	Data related to the Shireburn Payroll System's Leave Manager and to the Shireburn eStore	Ireland
SG Solutions	Off-site data storage for disaster recovery	An encrypted copy of critical Shireburn virtual servers for disaster recovery with encryption being undertaken at source ensuring only encrypted data is transmitted and stored off-site.	Malta
Google analytics	Usage Analytics	Anonymized page information e.g. visited urls , company details, Geo location data, browser information.	United States of America
Hotjar	User experience	Maintenance of anonymized usage data for user experience improvements.	Amazon Web Services - Ireland
SendGrid	Outbound email service for notifications in Shireburn Indigo.	From and to email addresses, subject, status of the email & company details	United States of America
Constant Contact	Marketing mailing lists management and distribution	Name, surname & email address	United States of America

Updates to this list can be found at www.shireburn.com/dataprotection/subcontractors.

SCHEDULE 2 - TECHNICAL AND ORGANISATIONAL MEASURES

Shireburn is conscious of its obligations to its Clients to ensure the security, confidentiality and availability of its infrastructure or of the infrastructure provided by its Subcontractors.. In addition to hosting either internally or with reputable Subcontractors, our software is designed with security features and ensuring the correct configuration of the environment to assure this security.

This schedule provides an overview of the Technical and Organisational Measures that are in effect to ensure a level of security appropriate to the risk of processing of Personal Data. The measures vary dependent on the nature of the service provided related to the use of the Shireburn SaaS Software, the Shireburn On-Premises Software and other services and each of these situations is outlined below.

23. General Technical and Organizational Measures at Shireburn

Shireburn implements a stringent set of measures to ensure the security and availability of its systems to enable us to manage our own operation as well as to enable us to support the use of our software and services by our Clients. These general measures are listed below:

- Granular User and Group level access control on all servers, virtual machines and systems
- Physical access control to our offices at the SkyParks Business Centre including individual Smartcard access control, burglar alarm and recorded CCTV facilities at office entrance.
- Locked access to server rooms.
- Off-site encrypted data backup for disaster recovery
- Clustered servers environment with SAN
- UTM for threat management and access control including firewall, anti-malware, mail and web content filtering

24. Measures Applicable when using Shireburn On-Premises Software

Since by definition the Shireburn On-Premises Software is located on the Client's network and infrastructure, or a 3rd party hosted environment subcontracted by the Client to a 3rd Party other than Shireburn or one of its Subcontractors, the security and the Technical and Organisational Measures to protect the Personal Data are the responsibility of the Client or their Subcontractor.

25. Measures Applicable when using Shireburn SaaS Software

In addition to the Technical and Organizational Measures applicable in general at Shireburn, the following measures are applicable to the Shireburn Indigo software:

25.1. Data Safety & Security in Shireburn Indigo:

a) Data storage - All Indigo data is stored electronically in a Microsoft SQL Azure database, hosted on the Microsoft Azure Platform in The Netherlands and is replicated to a secondary server in Ireland. Storage files such as attachments are kept on an Azure File Storage account in Netherlands and geo replicated to another server in Ireland.

b) Data access and backup - We use SQL Azure Database replication to keep your data safe in the case of system failure. We also keep a point in time recovery backup of the environment for the last thirty five (35) days.

c) Data Collection & Transmission

i. Application is hosted as a platform using Azure Application Services and there is no access via remote desktop to the machines

ii. All data sent to Indigo is encrypted in transit. Our API and application endpoints are TLS/SSL only and score an "A" rating on SSL Labs' tests

iii. Implemented all security headers to block any click jacking and XSS attacks with a rating of "A" on securityheaders.io

iv. Tinfoil Security for constant scanning of vulnerabilities

v. Transport Layer Security (TLS) provides protection of data in transit on SQL Database connections.

vi. Database Firewall - Only IP's of the App Server & Shireburn IP Addresses (Only authorised Shireburn personnel which require such access to perform their job efficiently are given access) are white listed.

vii. We also use Transparent Data Encryption which protects data at rest by encrypting the database, associated backups, and transaction log files at the physical storage layer. This encryption is transparent to the application, and uses hardware acceleration to improve performance.

d) Auditing & Threat Detection

i. We use Auditing for SQL Database and SQL Server audit to track database events and write them to an audit log. Auditing enables us to understand ongoing database activities, as well as analyse and investigate historical activity to identify potential threats or suspected abuse and security violations.

ii. We also use SQL Database Threat Detection to detect anomalous database activities indicating potential security threats to the database. Threat Detection can help meet the data breach notification requirement of the GDPR.

25.2. Application Security

a) Indigo Users

i. Full customised Password Complexity Policy - Minimum Length, Minimum Uppercase, Minimum Lowercase, Minimum Digits, Minimum Symbols, Disallowed Words
ii. Password Repeat Usage Policy - User cannot use the last x number of passwords used
iii. Password Expiry Policy - Password will expire after number of days
iv. Force user/users to change own passwords - System will ask user to change password with next login
v. Locking of user account
vi. User record filters for Employee - Can set filters on any field on the employee
vii. Two factor authentication using SMS text message or email - Either personal choice or company policy

b) Roles & Permissions

i. All Functions and screens are tied to either a role or a permission or both
ii. Permissions are organised in groups and allocated to a user

c) Audits

i. Every successful/unsuccessful login in the system is audited
ii. Every URL visited in the system is audited
iii. Every record in the system maintains the created on, created by , modified on , modified by
iv. Sensitive information such as Employees & Payroll Calculations are audited when changed or deleted.

d) Advanced

i. Whitelisting / Blacklisting of IP Address for a specific tenant

25.3. Penetration Testing

Shireburn periodically commissions independent 3rd party, specialist companies to undertake penetration testing of its Shireburn Indigo environment.

These tests, referred to in the industry as Penetration Tests, consist of reviewing the practices, software and settings and in attempts to circumvent any security provisions in the infrastructure or the application software. The findings of these tests are reported to Shireburn Software which, if appropriate, would modify any appropriate issues prior to a re-test being undertaken.

The most recent Penetration Test of the Shireburn Indigo environment was undertaken during the month of March 2018 and a certificate of successful testing was issued in April 2018.

	Shireburn Software Limited Shireburn Company Ltd
Name	**Name**
Signature	**Signature**