

General Terms of Service

1. Definitions

Affiliated Company(ies): affiliated and associated companies within the meaning of Articles 1:20 and 1:21 of the Companies and Associations Code.

Agreement: the present Agreement, including (i) the Specific Conditions and (ii) the applicable annexes, if any.

Confidential Information: means any non-public information (commercial, financial, technical, or otherwise), in any form whatsoever, disclosed by one Party to the other (including their Affiliated Company(ies)) in the framework of this Agreement, which is marked as being confidential or which can be reasonably expected to be qualified as confidential.

Consultant: means the member(s) of Personnel who is engaged by the Service Provider in connection with the provision of the Services.

Customer: the customer named in the Specific Terms and Conditions.

External Supplier(s): third party(ies), more specifically manufacturers and/or suppliers of hardware and/or software mentioned in the Specific Conditions, including any maintenance services provided by such External Supplier(s) related to any such software and/or hardware.

Force Majeure: means any event, occurrence or cause where the performance of the Agreement is made impossible for one of the Parties, in whole or in part, temporarily or otherwise, beyond the reasonable control of the respective Party. Such events, occurrences or causes, include (without limitation) fire, strike, war, terrorism, unfavourable weather conditions, the immediate termination of cooperation with or force majeure of suppliers of the Service Provider, defectiveness of goods, equipment, software or materials of third parties, the use of which was imposed on the other Party by one Party, government measures, failure of internet, data network or telecommunication facilities, the unavailability of servers of third parties or the unavailability of Personnel not attributable to the Parties and/or their material, general transport problems and electricity failure.

General (License) Terms and Conditions of External Supplier(s): the General (License) Terms and Conditions relating to the Products of External Supplier(s) supplied by the Service Provider (as far as applicable), as well as any related terms and conditions of the External Supplier related to his maintenance services associated therewith, as may be amended from time to time, which the Customer hereby expressly accepts, and which form an integral part of this Agreement. The Customer acknowledges and agrees that the applicable General (License) Terms and Conditions of External Supplier(s) may be made known to the Customer by the Service Provider through various channels and in various ways (as attachment to / hyperlink(s) included in the Specific Conditions, quotations, PO, SOW, ...). If it is unclear or not possible for the Customer to access or to take note of the aforementioned General (License) Terms and Conditions of External Supplier(s), the Customer shall inform the Service Provider thereof in writing and request the Service Provider to provide the necessary clarifications and provide the relevant terms.

Intellectual Property Rights: all intellectual, industrial and other property rights (whether registered or not and including applications for registration of such item) and all rights in and to such intellectual property, including but not limited to designs, trademarks, drawings, sketches and (utility) models patents, copyrights, neighbouring rights, logos, domain names, as well as rights to databases, rights to computer programmes, rights to software, algorithms, modules and code (including source code), rights to web pages and websites as well as trade secrets and trade names and all related rights in the broadest sense of the word.

Notification: a written notice which shall be considered to take effect on the date of the postmark on the registered letter.

Personnel: personnel of one of the Parties and/or its Affiliated Companies, including but not limited to employees, independent staff members, directors, subcontractors, consultants and any other auxiliary person.

Products of External Supplier(s): hardware and/or software of External Supplier(s) mentioned in the Specific Conditions, as well as any (maintenance) services associated therewith and/or any open-source components, in respect of which the Service Provider shall act merely as a reseller.

Services: the Services provided by the Service Provider to the Customer, as defined in the Specific Conditions, which are to the fullest extent governed by this Agreement and form an integral part thereof.

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Specific Conditions: a sub-agreement subject to this Agreement describing the specific execution details of this Agreement.

Service Provider: ScaleCity NV, a public limited company under Belgian law, with registered office at B-2550 Kontich, Veldkant 33 A and registered with the Register of Legal Entities of Antwerp (division Antwerp) under number 0810.613.063

2. Duration and Termination

Duration

2.1. The Agreement is entered into for a definite or indefinite term as stipulated in the Specific Conditions.

Termination

2.2. This Agreement may be terminated by either Party, without cause, with prior written notice as specified in the Specific Conditions.

2.3. Either Party may terminate this Agreement, in whole or in part, with immediate effect and without any further formality (*ipso iure*) and this without prejudice to any other rights or remedies of the terminating Party under the Agreement by giving Notification in writing in the following events:

- (a) if the other Party commits a serious irreparable error;
- (b) if the other Party can no longer meet its payment obligations, has its credit at risk or becomes insolvent;
- (c) if the other Party has been declared bankrupt;
- (d) if the other is being subject to a procedure of its liquidation, dissolution or insolvency;
- (e) if the other Party is subject to the appointment of an administrator, receiver or similar official where there is executive and/or conservatory attachment at the request of a creditor of all or part of his property or in the case of other executive or conservatory measures in respect of that Party's property;
- (f) if the other Party is subject to criminal (fraud) proceedings or if there is evidence or serious suspicion of fraudulent behaviour;
- (g) if the other Party refuses to provide the information required for the provision of the Services under the Agreement or in case the other Party has deliberately provided incorrect and/or false information in this respect.

2.4. The Parties may furthermore terminate the Agreement, by means of Notification, if the other Party commits a breach of any contractual obligation and fails to remedy this within a period of thirty (30) calendar days after being declared to be in default by means of a Notification of default per registered letter by the Party invoking the fault or breach. An extension of the agreed period to restore this error shall not be refused on the basis of unreasonable grounds, if the Party being declared to be in default, during this period of thirty (30) calendar days, has started taking measures to restore this error and continues to do so justly and fairly.

Effect of Termination

2.5. Upon termination, the Customer shall reimburse the Service Provider for (i) all Products ordered from External Suppliers and (ii) all working hours actually performed at the time of termination, which shall be charged at the Service Provider's prevailing hourly rates, except in the event where Customer terminates the Agreement for duly proven gross negligence or material default on the part of the Service Provider. The foregoing is without prejudice to the Service Provider's right to claim higher actual proven damages.

2.6. If the Customer terminates or cancels the collaboration before the expiry of the first half of the agreed upon period or if the Customer delays the scheduled start date of the Services, then Parties will agree on additional

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adequate compensation to compensate Service Provider, *inter alia*, for the resources it had allocated to the Services.

3. Intellectual Rights

- 3.1. Each Party shall respect all Intellectual Property Rights of the other Party or any third party (including External Supplier(s)).
- 3.2. Unless otherwise stated in the Specific Conditions, the Service Provider shall grant the Customer a limited, non-exclusive, and non-transferable right to use the results of the Services, and this from the moment of full payment of all invoices, as well as any other amounts owed by the Customer due to default. The Customer shall only make use of the results of the Services in the manner prescribed by Service Provider.
- 3.3. The Customer is not permitted to remove or alter any (proprietary) designation concerning the confidential nature or concerning copyrights, brands, trade names or other intellectual or industrial property rights from the software, websites, data files, equipment, materials and/or Products of External Supplier(s).

4. Products of External Supplier(s)

- 4.1. Where applicable, the Customer expressly acknowledges and accepts that (i) all Products of External Supplier(s) are to the fullest extent subject to the applicable General (License) Terms and Conditions, SLAs, AUP and any other applicable terms and conditions of the relevant External Supplier, as well as that (ii) the Service Provider assumes no liability with regards to such Products of External Supplier(s). With respect to the Products of External Suppliers, the Customer shall not obtain more rights than those expressly granted in accordance with the General (License) Terms and Conditions of External Supplier(s) or specific conditions agreed between Customer/Service Provider and the relevant External Supplier.

5. Confidentiality

- 5.1. Parties and their Personnel must keep the Confidential Information received from the other Party in execution of this Agreement strictly confidential and shall not use the same for any purpose other than the execution of the Agreement. In this regard, the Parties shall ensure that their Personnel are bound by a similar duty of confidentiality.
- 5.2. The Parties undertake not to disclose the Confidential Information to third parties without the written consent of the other Party, except in the case of disclosure to auditors, professional advisers and any other persons or entities involved in the Agreement on a “*need to know*” basis.
- 5.3. The confidentiality requirement shall continue for a period of three (3) years after disclosure thereof, and in any event shall end no later than three (3) years after the end of this Agreement, irrespective of the cause of termination of the Agreement.
- 5.4. The obligations under this Article shall not, however, apply to any information which:
 - (a) the receiving Party can prove is at the time of disclosure or thereafter becomes public knowledge through no fault or negligence of the receiving Party; or
 - (b) the receiving Party can prove was known to it, prior to the receipt of Information from the disclosing Party;
 - (c) is obtained by the receiving Party from a third party not bound by a secrecy obligation towards the disclosing Party relating to the Confidential Information;
 - (d) the receiving Party can prove was developed independently without access to, or use or knowledge of, the Confidential Information; or
 - (e) which is required to be disclosed by a court order or other validly issued administrative or judicial process requesting Confidential Information.

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- 5.5. The Service Provider may include the Customer in their client' list, publish a brief description of the assignment on its website or other reference case materials and use the Customer's name and brand, including logo, for such publicity purposes and PR activities.

6. Execution of the Agreement

General

- 6.1. The Customer shall be considered to be a professional user, operating within the scope of its professional activities, as far as in the Specific Conditions no other qualification is given to Customer. The Customer shall be deemed to be in possession of the relevant know-how regarding the provided Services and Products of External Supplier(s), and to allocate Personnel with the necessary expertise.
- 6.2. The Customer shall reimburse the Service Provider for additional training of the Consultant if material substantive specifications should change over the course of performance of the Agreement. If the Customer provides training to the Consultant, the costs of such training shall be borne by the Customer unless otherwise agreed upon in the Specific Conditions.
- 6.3. The Service Provider shall - to the maximum extent possible - communicate any planned interruptions in the performance of the Services (such as, inter alia, short-term illness and holidays of the Consultant) timely to the Customer.

Place of Performance

- 6.4. Unless stated otherwise in the Specific Conditions, the Services will be performed on the Customer's premises and/or remote. The Customer shall grant the Service Provider free access to the working environment and shall provide the necessary working tools, such as a workspace with computer, printer, data, internet, telephone, and network facilities. The Customer's workspace and facilities will comply with all legal requirements. If and insofar necessary, the Customer shall implement all necessary security measures, such as but not limited to VPN and tokens. The Customer shall indemnify indemnify, defend and hold the Service Provider harmless against any claims by third parties, including the Service Provider's Personnel, resulting of acts or omissions of the Customer or unsafe situations in its organisation. The Customer shall provide its house and security rules, if applicable within their organisation, to the Consultant(s) in writing prior to the commencement of the Services.
- 6.5. The Customer shall be liable for all damages and/or additional costs incurred by the Service Provider because of late, incorrect or defective performance of the Services resulting from an unfit working environment.

Services

- 6.6. The Service Provider shall perform the Services under the present Agreement to the best of its ability and shall take into account all technical instructions and guidelines received from the Customer in accordance with the present Agreement.
- 6.7. The Services shall be developed and/or delivered by the Service Provider "as is", i.e. in the condition they are at the time of delivery and therefore with all visible and invisible faults and defects.
- 6.8. Under no circumstances shall the Service Provider guarantee the suitability or merchantability of the Services to perform specific tasks if those are not expressly included in the Specific Conditions and/or description of the functional specifications.
- 6.9. The Services shall be provided by the Service Provider with all care as far as reasonably possible by taking into account the current state of the art.

Cooperation

- 6.10. The Parties acknowledge and accept that the success of IT services is highly dependent on correct and timely mutual cooperation. The Customer shall always provide all cooperation as reasonably required by the Service Provider, and this in a timely manner. The Customer shall only assign Personnel who are qualified and suitably skilled to cooperate with the Service Provider in the execution of this Agreement.

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- 6.11. The Service Provider shall provide the Services under this Agreement based on the information provided by the Customer. The Customer shall guarantee the accuracy, timeliness, completeness, and legality of all provided information, specific measures, requirements, specifications of the Services and other data, which are crucial to fulfil the Service Provider's obligations under this Agreement. The Customer shall indemnify the Service Provider against any damage that would arise due to incorrect, late, incomplete, or illegal provision of information.
- 6.12. If the unavailability of the Customer's Personnel and/or facilities and/or materials that are reasonably considered necessary for the performance of the Services results in additional costs, including but not limited to, additional time spent by the Service Provider's Personnel, such additional costs shall be invoiced to the Customer.
- 6.13. The Customer shall have the ultimate responsibility for ongoing projects of which the Service Provider's Services may merely constitute a part. The Service Provider is not responsible for incorrect, missing, late, illegal or conflicting instructions from the Customer.
- 6.14. The Customer shall have the ultimate responsibility for its existing infrastructure (e.g., without limitation, hardware, software, websites, data files, control and security procedures, adequate system management, etc.) as well as the proper functionality and safety of all its work materials. If the Customer requires specific security measures from the Service Provider when performing the Services, the Customer shall inform the Service Provider thereof in advance. Parties will then enter into negotiations on the feasibility, timing and any (additional) costs associated with implementing these security measures. Upon agreement, the measures will be included in the Specific Conditions.

The Customer is solely responsible for establishing procedures that allow him to reconstruct lost or modified files, data, or programmes at any time, regardless of the cause of the loss or modification. The Customer must have the necessary daily backups of its computer programmes, files, and data in place.

Consultant

- 6.15. The Service Provider shall appoint one or more Consultant(s) to execute the Services contemplated by the present Agreement. The Service Provider reserves the right to determine at his sole discretion which Consultant will be assigned to perform the Services, as well as to replace such Consultant during the term of the Agreement.
- 6.16. If both Parties consider it desirable or necessary, they may also by mutual agreement entrust, either temporarily or permanently, another Consultant with the execution of the Agreement.
- 6.17. If the Consultant does not (or no longer) meet the specified requirements, discredits the Customer in any way, or does not (no longer) reasonably perform the Services in accordance with the present Agreement, the Customer shall have the right to request the Service Provider to replace the Consultant. The foregoing does not release the Customer from its obligation to pay for all Services already rendered up to that point.

The Service Provider shall endeavour to find a replacement as soon as reasonably possible if he agrees to the replacement. If the Service Provider is unable to provide a qualified substitute within a period of two (2) weeks, the Customer shall be entitled to terminate the part of the Agreement related to the Consultant that is being replaced.

7. Payment and invoicing

- 7.1. In consideration of the Services rendered, the Customer shall pay a fee equal to the number of hours/days worked multiplied by the hourly/daily rate agreed in the Specific Conditions. For the avoidance of doubt, it is clarified that any estimates included in the Specific Conditions or other documents provided by the Service Provider are purely indicative.
- 7.2. All fees are expressed in euro and are exclusive of VAT, charges and taxes, excise duties, transport charges (e.g. from External Suppliers), import duties and any other levies imposed or to be imposed by the government. All such taxes will be the sole financial responsibility of the Customer. If Invoices are paid in another currency and/or from outside Belgium, sufficient funds must be transferred such that the net sum received by Service

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Provider in the required currency after foreign exchange and other bank charges is equal to the amount indicated on the related invoice. The Service Provider has the right to invoice the Customer for any shortfall. All payments pursuant to this Agreement shall be made without any withholding or deduction for or on account of any taxation ("Tax Deduction"), except as may be required by law. In case a Tax Deduction is required to be made, the Customer has to make that Tax Deduction in the amount and within the time limit prescribed by law and shall pay such additional amount as will ensure that the Service Provider receives the amount that it would have received had the Tax Deduction not been required. If any credit or repayment is available to the Service Provider in respect of the Tax Deduction, the Service Provider shall use its reasonable endeavours to obtain the credit or repayment and, having obtained the same, shall promptly repay to the Customer an amount which will leave the Service Provider in the same overall position that it would have been in had the Tax Deduction not been required to be made.

7.3. Unless otherwise stated in the Specific Conditions, these fees also exclude travel time and/or (accommodation) costs, incidental expenses, and all other reasonable costs, which shall be borne by the Customer.

7.4. The rates may be adjusted by the Service Provider annually as from 1 January based on the following formula:

$$\text{New price} = \text{Base price} * (0.2 + 0.8 * (\text{New index} / \text{Initial index}))$$

For which the following definitions apply:

- Base price: price at the start of the Agreement;
- Initial index: the index published by Agoria "reference wage cost for digital sector companies, Agoria DIGITAL" based on PC 200, of the month preceding the signing of the Agreement;
- New index: same reference wage cost of the month prior to the date of indexation.

7.5. The Service Provider shall take all reasonable steps to perform the Services in accordance with the Customer's work schedule. Unless otherwise agreed, Parties assume a work schedule of 40 hours per week. If Services are delivered beyond the aforementioned work schedule, the following rate increases will be applied (not cumulative):

- performance > 40 hours/week: + 50%;
- performance > 8 hours/day: + 50%;
- performance between 18h and 22h: +50%;
- performance between 22h and 7h: + 100%;
- performance on Saturday between 7h and 22h: + 50%;
- performance on Saturday before 7h and after 22h: +100%;
- performance on Sunday or public holidays: + 100%.

7.6. Unless otherwise agreed in writing between the Parties, the Consultant shall provide the Customer with an overview of their work performance and/or have the Customer sign it off for approval, using timesheets or any other time recording system as agreed between the Parties. The Service Provider shall be entitled to suspend the Services if the Customer refuses to sign or accept these without good cause.

7.7. The Service Provider shall invoice the Customer each month for the above fees. All invoices are payable within thirty (30) calendar days from invoice date, unless otherwise stated in the Specific Conditions. Failure to protest an invoice in writing within eight (8) calendar days from its dispatch shall constitute irrevocable acceptance by the Customer of the invoice and the Services specified therein.

7.8. Upon expiry of the payment period and subject to a prior written notice of default, the Customer incurs conventional interest charges equal to the interest rate as defined in the Belgian Act on payment arrears (Belgian Official Gazette 7 August 2002), increased by 3%. This interest is calculated as from the deadline for payment of the invoice up until the date of full payment.

7.9. In the event of late payment of an invoice and subject to a prior notice of default:

- (a) the Service Provider is entitled to increase the invoice amount by 10% as compensation;
- (a) all costs, extrajudicial collection of the invoice, as well as the costs of the legal proceedings and execution shall be borne by the Customer;

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- (a) all unexpired claims against the Customer become immediately due, eligible, and payable; and
- (a) the Service Provider has the right to suspend all their Services in respect of the Customer.

7.10. The Customer shall not be entitled to set off or suspend payment.

7.11. In case the Service Provider has reasonable concerns about the Customer's solvency or the Customer fails to pay two (2) undisputed invoices or disputes invoices not in good faith, the Service Provider shall be entitled, at any time during the course of the Agreement, to require the Customer to provide a (an additional) security for the payment of the Services yet to be provided. The Service Provider may suspend the performance of the Services while this security has not been provided.

8. Relationship between the Parties

8.1. The Service Provider shall perform the present Agreement in all freedom and independence. No hierarchical relationship shall exist between the Service Provider and the Customer, nor between the Customer and the Consultant(s) assigned by the Service Provider. Under no circumstances does the Service Provider transfer any employer authority over their Personnel to the Customer, except to the extent permitted by applicable law as set out below.

8.2. Parties acknowledge and accept that they are familiar with the Law of 24 July 1987 on temporary work, agency work and the posting of workers for the benefit of users, including the amendments made by the Program Law of 27 December 2012 and any ensuing amendments that are published in the Belgian Official Gazette. The Parties undertake to comply to the fullest extent with the provisions thereof.

8.3. The Customer may not give any instructions to the Service Provider's Personnel (and/or employees of any subcontractors engaged by the Service Provider) other than those set out in this Agreement in relation to standards of conduct and safety, time management, the Customer's applicable policies and procedures set out in this Agreement or the work to be performed by such employees.

8.4. Among other things, the Customer is not authorised to make decisions regarding:

- the recruitment process;
- the remuneration package (definition of salaries and benefits, reimbursement of expenses, etc);
- disciplinary matters;
- training and policies relating to training (excluding those aspects necessary for the performance of the Services);
- dismissal and related policies;
- managing presences and absences from work (holidays, sick leave and other forms of absence);
- employments and aspects of organisation relating to Personnel of the Service Provider (and/or employees of subcontractors used by the Service Provider).

8.5. Any instructions given by the Customer to the Personnel of the Service Provider (and/or employees of the subcontractors engaged by the Service Provider) regarding the work to be performed shall be strictly limited to the operational and technical aspects of the provision of the Services, and shall in no case amount to employer' authority and shall relate solely to the following:

- schedule of Services to be provided;
- timeframe in which the Services are to be provided, if applicable;
- Customer's processes and procedures as agreed by the Parties and to be observed in the provision of the Services (e.g. in relation to security or access rules);
- access to Customer's sites and facilities for the purpose of providing the Services;
- use of material, infrastructure, tools, or facilities of the Customer for the purpose of providing the Services.

8.6. In case of doubt, the Parties should discuss the applicability of an instruction of the Customer.

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- 8.7. The Specific Conditions may contain more specific details on the instructions that may be given by the Customer. This list may be amended by mutual agreement at any time during the term of the Agreement.
- 8.8. The Customer must comply with the obligations imposed on the "user of the services" by the aforementioned legislation.
- 8.9. The Customer shall indemnify the Service Provider against all claims, damages and liabilities resulting from any non-compliance by the Customer with the provisions of the present clause.

9. Liability

- 9.1. The liability which the Service Provider may incur derives from a reasonable effort obligation (*inspanningsverbintenis/obligation de moyen*) and the Customer will have to provide proper proof of such liability.
- 9.2. To the maximum extent permitted by applicable law, the total liability (including in view of any indemnification) of the Service Provider for an attributable failure in the performance of the Agreement shall be limited to the reimbursement of proven direct damages up to a maximum of the amount owed by the Customer for the specific Services that caused the damage (excluding VAT). If the Services were to run over several years, the Service Provider shall only be liable for compensation of direct damage up to a maximum of the value of the amounts invoiced for the specific Services (excluding VAT) over a period of twelve (12) months preceding the damaging occurring event. In no event shall the total liability for all direct damages during the entire duration of the Agreement exceed the total fees paid by the Customer for the specific Services (excluding VAT). For cases of damages in part also attributable to the Customer and/or a third party, the Service Provider shall only be liable to the Customer for the portion that is attributable to the Service Provider, within the limits set out above, to the exclusion of any obligation in solidum with the other debtors.
- 9.3. Given its obligation to limit damages, the Customer shall notify the Service Provider in writing of any event that may give rise to its liability or any prejudice suffered by the Customer, within the shortest possible time and, at the latest, within fifteen (15) calendar days from the occurrence of such event or prejudice or, at the very least, from the moment the Customer became aware of it or could reasonably have become aware of it. This to enable the Service Provider to determine the origin and cause(s) of the damage(s) within a reasonable period of time. If the Customer fails in its obligation to limit damages, the Service Provider cannot be held liable for the increase in damages from the time the Customer should have informed the Service Provider of the event or disadvantage. Each Party shall minimise any loss or damage (including in the context of any indemnity) that might otherwise be recoverable from the other Party under the present Agreement, including by taking steps to limit or reduce the amount of losses and/or damages suffered.
- 9.4. Under no circumstances shall the Service Provider be liable (including under any indemnity) for indirect, incidental or consequential damages, including but not limited to financial or commercial losses, loss of profit, increase of general expenses, lost savings, diminished goodwill, damages resulting from business interruption or interruption of operation, damages resulting from claims of customers of the Customer, disruptions in planning, loss of anticipated profit, loss of capital, loss of customers, missed opportunities, loss of data, loss of advantages, or corruption and/or loss of files resulting from the performance of the present Agreement,
- 9.5. The statute of limitations for any claim by the Customer in respect of the Services shall be twelve (12) months following the day on which the Customer became aware or could reasonably have become aware of the harmful event giving rise to that claim.
- 9.6. The limitations of liability set out in this Agreement shall not apply in case of fraud, wilful misconduct and/or deceit of a Party as well as in respect of any liability that cannot be limited by law.
- 9.7. If the results of the Services are used for further development or commercialisation, the Customer shall indemnify the Service Provider against any claim for damages brought by third parties, even if they have their origin in the Services provided by the Service Provider.

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9.8. The Service Provider shall not be liable for any direct or indirect damage caused in whole or in part by Products of External Supplier(s) or software or hardware supplied or made by third parties, or by any other element brought into the Customer's business after the conclusion of the Agreement.

9.9. The Service Provider shall not be liable for any claim of infringement of Intellectual Property Rights based on:

- (a) use of a modified or old version of (part of) the developments, if the breach would have been prevented by use of the unmodified or latest version made available by the Service Provider; or
- (a) information, design, specifications, instructions, software, data, or other materials not developed by the Service Provider.

9.10. These limitations of liability shall continue to apply even if the Service Provider was informed by the Customer of the existence of a real risk of damage. The Parties acknowledge that the (limitation of) liability in all circumstances and the allocation of risk is balanced considering all relevant factors, including price and the scope of the Services.

9.11. Notwithstanding Article 6.3, §1 and §2 of the Belgian Civil Code, the Customer may only initiate a contractual claim against the Service Provider. The Service Provider and its Personnel cannot be held liable by the Customer, the Customer's principal, or any other party which is part of the contractual chain above the Customer, on extra-contractual grounds for damage(s) caused by an error in the execution of the Agreement, an Assignment/Project, or any other agreement between the Service Provider and the Customer. The provisions of this clause, as well as all other limitations and exclusions of liability mentioned in this Agreement, shall also apply in favour of the Personnel of the Service Provider and their Affiliated Company(ies).

10. Protection of Privacy

10.1. Each Party shall, at all times, comply with its respective obligations under applicable personal data processing laws in relation to any personal data that would be processed under this Agreement. The Customer shall not provide the Service Provider and the Consultant(s) with access to personal data under this Agreement, except where the performance of the Agreement would be impossible without such access. In such event, the Customer shall only grant access to the personal data strictly necessary for the performance of the Agreement. The Customer remains solely responsible for determining the purposes for which the Service Provider processes personal data under the Agreement. For the avoidance of doubt, the Parties acknowledge that the Customer acts as the data controller and the Service Provider as the data processor of the personal data to be stored, used, or otherwise processed under the present Agreement, in line with how these terms are defined in the applicable personal data processing legislation. The Customer warrants to have obtained all necessary approvals for the use and processing of the personal data provided to the Service Provider under the Agreement and the Customer equally guarantees that the content, use and/or processing of the personal data is not unlawful and does not infringe any rights of third parties. The Service Provider shall have the right to invoice the Customer if they request support in terms of the applicable legislation regarding the processing of personal data (such as e.g. providing assistance when the Customer receives a request from a data subject, in the context of a possible audit, etc. or if e.g. additional technical and organisational measures are required from the Service Provider).

10.2. If and to the extent personal data are processed in the context of the performance of the Services, the Parties will conclude a separate data processor agreement (DPA).

11. Force Majeure

11.1. Neither Party shall be in default if the performance of any of its obligations under this Agreement is partly or wholly delayed or prevented by reason of Force Majeure.

11.2. If a Force Majeure situation lasts longer than sixty (60) calendar days, each Party has the right to terminate the Agreement in writing by means of Notification. What has already been performed under the Agreement shall in that case be settled proportionally without the Parties owing anything else to each other. Termination shall take effect immediately upon receipt of such Notification.

12. Hardship ("*imprevisie*" / "*imprévision*")

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- 12.1. If fundamental changes in circumstances occur following the signing of the Agreement that alter the equilibrium of the Agreement to the point of making it onerous and/or difficult for one and/or the other of the Parties to perform their obligations (*"imprevisie"/imprévision*), the Party invoking and relying on such altered circumstances shall provide the other Party with an analysis thereof and their impact.
- 12.2. In such case, the Parties will negotiate a revision of the Agreement in good faith, taking into account the aforementioned analysis. The Parties shall constructively endeavour to arrive at a balanced adjustment of the Agreement.
- 12.3. If the Parties cannot reach an amicable agreement within thirty (30) calendar days from the request for adjustment of the Agreement, or if the other Party refuses to negotiate, the most diligent Party shall have the possibility to terminate the Agreement by means of a Notification with observance of a notice period of thirty (30) calendar days, without any (additional) compensation being due.

13. Non-solicitation

- 13.1. The Customer agrees not to approach (directly or indirectly) the Service Provider's (proposed) Personnel involved in the provision of the Services for the purpose of engaging them from the commencement of the performance of the Services until twelve (12) months after the end date of the Services and/or termination of the Agreement, whichever is later, unless otherwise agreed in writing.
- 13.2. If the Customer contracts, hires or uses the services of a (proposed) member of the Service Provider's Personnel, in employment and/or on a self-employed basis and/or through a company, the Customer shall pay to the Service Provider an amount equivalent to 120 times the daily fee as stipulated in the Specific Conditions. This sum shall be payable on the date the (proposed) member of Personnel was first engaged or his/her services were used.
- 13.3. The Customer commits to impose the undertakings in Clauses 13.1 and 13.2 of this Agreement on the third parties with which it collaborates and/or contracts. The Customer undertakes that these third parties shall not approach any of the Service Provider's (proposed) Personnel with a view to engaging or recruiting them.

14. General Provisions

- 14.1. **Insurance.** The Parties shall at all times be insured with a reputable insurance company against all insurable liability under the present Agreement. Upon the first written request of a Party, the other Party shall within ten (10) calendar days provide the requesting Party with certificates of insurance evidencing adequate cover.
- 14.2. **Transfer of Agreement.** Neither this Agreement, nor any rights or obligations arising therefrom, may be transferred in whole or in part without the express written consent of both Parties. Notwithstanding the foregoing, the Service Provider shall at all times be entitled to transfer this Agreement, or any rights or obligations arising therefrom, in whole or in part, to any of its Affiliated Company(ies) without requiring the written consent of the Customer.
- 14.3. **Subcontractors.** The Service Provider may use subcontractors for the performance of the Agreement without the prior written consent of the Customer. Subject to article 9 of this Agreement, the Service Provider shall be responsible for all acts and omissions of their subcontractors.
- 14.4. **Severability.** The possible nullity of a provision (or part thereof) of this Agreement shall in no way affect the validity of the remainder of the provision nor other provisions of the Agreement. The Parties will use their best efforts to negotiate by mutual agreement and in good faith, a valid and enforceable replacement provision with the same or substantially the same economic impact.
- 14.5. **Forfeiture of Rights.** Neither Party to this Agreement shall be deemed to have waived any right or claim under this Agreement or in relation to a breach of the other Party unless this waiver has been expressly communicated in writing. Even if a Party, in the application of this paragraph, waives a specific right or claim under this Agreement, such waiver can never be interpreted as a waiver of any other right or claim under this Agreement even if both cases demonstrate large similarities.

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- 14.6. Legal Remedies.** Except as otherwise provided, all remedies provided for in the Agreement shall be available to the Parties cumulatively and in addition to (and not in lieu of) other remedies.
- 14.7. Entire Agreement.** Together with the Specific Conditions, this Agreement includes the full representation of the rights and obligations of the Parties and replaces, annuls and voids all prior agreements and proposals, both orally and in writing. Unless otherwise agreed between the Parties, alterations, reviews and additions to this Agreement will only be binding if they are agreed between the Parties in writing.
- 14.8. Contradiction.** In case of contradiction between the Agreement and the Specific Conditions, the Specific Conditions shall prevail. As regards to the Products of External Suppliers, only the General (License) Terms and Conditions of the relevant External Suppliers shall apply. If and to the extent that the General (License) Terms and Conditions of the External Supplier are for whatever reason deemed inapplicable or declared inapplicable, the provisions of this Agreement and the Specific Conditions shall apply in full.
- 14.9. Exclusion provisions book 5.** Unless otherwise stipulated in the present Agreement and to the maximum extent permitted by law, the following provisions of Book 5 "Obligations" of the Civil Code are expressly excluded: article 5.23; article 5.74; article 5.85 juncto article 5:235, article 5.88 §1; article 5:90 second paragraph, article 5.93 and article 5.97 . By signing this Agreement, both Parties also exclude the applicability of their own purchase, delivery or other general terms and conditions, even if these terms and conditions would stipulate otherwise or if these terms and conditions are still provided to the other Party in any other way after the signing of this Agreement (e.g. via invoices, PO, ...).
- 14.10. Notifications.** All notices, requests, and other communications under the present Agreement (excluding day-to-day operational communications) shall be in writing by registered letter with acknowledgement of receipt or by another conventional method of communication agreed between the Parties.
- 14.11. Survival.** Any provisions of the Agreement expressly designated to survive the termination or expiry of the Agreement, as well as any provisions of the Agreement which by their nature should continue to apply after the termination thereof, will survive the termination or expiry of the Agreement and remain in full force and effect.
- 14.12. Proof.** Regardless of the nature and/or value of the legal act to be proven, both Parties may always prove it by means of the following additional means of evidence: copy or reproductions in any form (including photocopy, scan), via information carrier, SMS, chat, and e-mail. Such evidence has the same probative value as a private deed drawn up in accordance with the provisions of the Civil Code.
- 13.12. Applicable law.** The present Agreement shall be governed by and construed in accordance with Belgian law, to the exclusion of the Vienna Sales Convention of 11 April 1980 (CISG).
- 14.13. Competent Jurisdiction.** All disputes concerning the validity, performance, interpretation and/or termination of the present Agreement which cannot be settled amicably shall fall within the exclusive jurisdiction of the Courts of Antwerp (Antwerp Division).