General Terms and Conditions

General terms and conditions of Triple IT BV, a private limited liability company under Dutch law, having its registered office and maintaining business premises in Alkmaar, the Netherlands, hereafter referred to as "Triple"

These general terms and conditions (hereafter referred to as the "General Terms and Conditions") are registered with the Dutch Chamber of Commerce under number 37081955.

The Dutch version of this document prevails.

Article 1: Applicability, offer, contract realization
1.1   These General Terms and Conditions apply to all offers and contracts pursuant to which Triple delivers goods and/or provides services to the customer.
1.2   Except where specified otherwise by Triple in writing, all offers issued by Triple shall be subject to contract.

Article 2: Prices and payment
2.1   All prices are in euros and exclusive of turnover tax (VAT) and other government levies (for instance withholding tax).
2.2   Triple is permitted to index the agreed prices annually as per the first day of the new calendar year according to the Consumer Price Index published by Statistics Netherlands.
2.3   If a term of payment has not been agreed upon, a term of payment of thirty days applies.
2.4   In case the contract specifies more than one natural and/or legal persons as the customer, each of these persons shall be joint and severally liable in respect of payment of the amounts due.

Article 3: Delivery dates
3.1   Triple shall make every commercially reasonable effort to observe (delivery) periods or (delivery) dates wherever possible. In any case, Triple shall not be bound by a (delivery) period or (delivery) date, that can no longer be achieved as a result of circumstances that are outside Triple's control or if the customer fails to (timely) fulfil its obligations arising from the contract. Triple shall also not be bound by a (delivery) date or (delivery) period, if the parties have agreed on a change to the content, scope or execution of the agreement.
3.2   In case a delivery period or date has been exceeded, Triple shall not be in default until such time as the customer has given written notice of default including a specified and comprehensive description of the breach and has given Triple a reasonable period to comply with is obligations and this period has expired.

Article 4: Performance, guarantee
4.1   Triple shall in all cases carry out its services on the basis of a commercially reasonable efforts obligation, unless and in so far as Triple has explicitly undertaken in the agreement in writing to achieve a specific, sufficiently determined result and the achievement of this result is qualified in this agreement as a duty to reach this result (in Dutch: "resultaatsverplichting").
4.2   In case of development of software with respect to which parties use an iterative development/design method (for instance Agile/Scrum), the parties shall accept that, at the start, the work shall not be performed on the basis of complete and detailed specifications, and that the specifications may be changed in conformity with the agreed development/design approach during the performance of the contract. The customer shall ensure that it will actively contribute and cooperate, for instance with respect to, testing and decision-making. The customer delivers and is responsible for the Product Owner.
4.3   In case of delivery of software, Triple shall make every effort to fix errors in the software within a reasonable period insofar as Triple receives written, detailed notification of these errors within a period of three months following delivery or within three months of acceptance if the parties have agreed to an acceptance test. Under no circumstances shall Triple be obliged to recover lost or scrambled data. Triple does not have any obligation to fix errors that are reported following expiry of the guarantee period stated in this article, unless a separate maintenance agreement is entered into by the parties that holds an obligation to this effect.
4.4   Due to the nature of its services, Triple cannot guarantee that the service and/or software will always operate with no interruptions, errors, defects or, that all errors and defects can always be fixed and that the service and/or software will function effectively in conjunction with all types of software and/or hardware of third parties or updates thereof.
4.5   Where this General Terms and Conditions refer to 'errors', this shall mean: the substantial failure to meet the specifications explicitly agreed in writing between the parties. An error shall only be deemed to exist if it can be demonstrated by the customer and can be reproduced. Triple is under no obligation to fix any defect other than errors that fall under the above definition.
4.6   The customer guarantees the completeness and accuracy of all information that is provided to Triple.

Article 5: Intellectual property rights
5.1   All intellectual property rights to software and materials developed or made available to the customer on the basis of the agreement, such as hardware, websites, data files, analyses, documentation, designs, reports, and related preliminary material, shall remain exclusively vested in Triple, its licensors or its own suppliers. Any rights of use granted to the customer shall be non-exclusive, non-transferable to third parties and non-sublicensable. The customer's right of use shall not extend to the software source code. The software source code shall not be made available to the customer under any circumstances unless agreed otherwise by the parties in writing.

5.2 If all design and development costs with respect to the software shall be borne exclusively and in full by the customer, the right of use of the software developed on behalf of the customer shall not be subject to any restrictions.

5.3 If Triple provides third-party software to the customer, the license terms of the respective third parties apply in the relationship between Triple and the customer with respect to the software instead of the provisions of these General Terms and Conditions that deviate from those license terms.

5.4 Insofar the parties agree that intellectual property rights in software, data files, websites, hardware or other material specifically developed for the customer, shall be transferred to the customer, this shall not affect Triple's right or option to use and/or to exploit the algorithms, general principles, components, ideas, designs, documentation, programming languages, protocols, work, standards and suchlike that form the basis of the development work on its own behalf or on behalf of a third party for other purposes without any restriction.

Article 6: Liability, indemnity

6.1 The total liability of Triple due to an attributable failure to perform this agreement and/or agreements that result from this agreement or due to any other reason, explicitly including any failure to comply with a guarantee obligation and/or liability under an indemnification obligation, shall be limited to compensation of the direct damage or loss, not exceeding the sum stipulated for this agreement (excl. VAT). If the agreement is a continuing performance contract with a term of more than one year, the sum stipulated for the agreement shall be set at the total fees (excl. VAT) stipulated for one year. However, the total liability of Triple for any reason whatsoever shall under no circumstances exceed an amount of €150,000 (one hundred fifty thousand euro).

6.2 The liability of Triple for resulting loss, indirect damage or loss, loss of profit, reduced goodwill, loss of savings, loss due to penalties, business interruption, claims from the customer's customers or partners, loss in connection with the use of software, items or other materials provided by third parties that Triple is instructed to use by the customer and loss in connection with the engagement of secondary suppliers by Triple on the customer's instructions, shall be excluded. Liability of Triple due to the scrambling, destruction or loss of data or documents shall also be excluded.

6.3 The limitations of liability stated in this article shall not apply if and insofar as the loss is the result of intentional acts or deliberate recklessness on the part of Triple's management.

6.4 If performance by Triple is still possible, Triple shall only be liable as a result of an attributable failure to perform the agreement if the customer gives Triple immediately a detailed and substantiated notice of default in writing, holding a reasonable term in which the breach can be remedied, and Triple still attributably fails to meet its obligations after this period.

6.5 The customer shall notify Triple in writing of the loss or damage as soon as possible after it occurs, failing which the corresponding claim for damages shall expire. Claims for damages shall also expire by the mere passage of 12 months from the date on which the claim arose unless the customer has instituted proceedings against Triple within this term.

6.6 All restrictions and exclusions of liability referred to in these General Terms and Conditions shall also apply in favour of all (legal) persons that Triple engages to execute the agreement.

Article 7: Acceptance

7.1 In case of development of software, the customer shall perform an acceptance test within fourteen days following delivery, during which the customer shall assess whether the software delivered conforms to the functional or technical specifications agreed between the parties in writing. The customer is not entitled to use the software for operational or productive purposes during the test period. The customer shall provide Triple with a written, clear and understandable report on the test results.

7.2 The software shall be deemed to have been accepted between the parties:
a. upon the first day following the test period, or
b. if Triple receives a test report as referred to in article 7.3 before the end of the test period: at such time as the errors described in the test report have been fixed.
Contrary to the above, if the customer uses the software for productive or operational purposes, the software shall be deemed to have been accepted from the time at which such use commenced.

7.3 In case errors are discovered in the software during the acceptance test, the customer shall notify Triple of these errors by means of a written and detailed test report, no later than on the last day of the test period. Triple shall make every effort to fix these errors within a reasonable period of time.

7.4 The customer may not withhold acceptance of the software 1) on grounds that do not relate to the written specifications agreed between the parties or 2) due to the existence of defects that cannot reasonably be deemed to prevent the operational or productive use of the software, without prejudice to Triple's obligations under the guarantee scheme of article 4 of these General Terms and Conditions. Acceptance of software and/or a design shall also not be withheld on the basis of aspects that can only be assessed subjectively, such as aesthetic aspects and design of user interfaces.

7.5 In case of delivery of the software in parts and/or in stages, the non-acceptance of a specific part and/or stage shall not affect the acceptance of another part and/or a previous stage.

7.6 With the acceptance of the software Triple is discharged in respect of compliance with its obligations in relation to the provision and delivery of the software, notwithstanding customer's rights pursuant the guarantee scheme under article 4 of these General Terms and Conditions.

Article 8: Processing of data; hosting services

8.1 Responsibility for the data processed by Triple in conformity with the instructions of the customer shall rest solely with the customer. The customer shall guarantee that such processing of the data is not unlawful and does not

infringe the rights of third parties. The customer shall indemnify Triple against legal claims by third parties in relation to this data.

8.2 If the agreement stipulates some form of information security, this security shall meet the specifications agreed upon by the parties in writing. Triple shall not guarantee that the information security will be effective under all circumstances. If the agreement does not give an explicit description of the required security measures, the security measures shall be of such a level that, having regard to the sensitivity of the data, the state of the art, and the costs associated with the security measures, is not unreasonable.

8.3 In case of managed hosting or managed services provided by Triple, the following terms apply in addition to the other terms of this General Terms and Conditions:

8.3.1 Customer shall respect rights of third parties, in particular intellectual property rights and privacy rights. Customer shall furthermore refrain from providing illegal access to systems, unlawful distributing of data, distributing viruses or other harmful programs and from infringing any other statutory obligations.

8.3.2 The customer shall remove apparently unlawful information immediately upon the first request of Triple. Failing this, Triple shall be entitled to prevent access or remove such information at its own discretion. In this case, Triple shall also be entitled to terminate the agreement with immediate effect.

8.3.3 Triple is not responsible for updating customer's applications and other software (for instance content management systems) nor for the non-functioning of such applications and/or software due to patches and updates.

Article 9: Force majeure

9.1 Neither of the parties shall be obliged to meet any obligations, including any guarantee obligation and/or indemnification obligation, if it is prevented from doing so as a result of force majeure. Force majeure shall include: (i) a situation of force majeure encountered by Triple's own suppliers, (ii) failure by secondary suppliers engaged by Triple on the customer's instructions to meet their obligations, (iii) the defectiveness of software, items, hardware, or other materials provided by third parties that Triple has been instructed to use by the customer, (iv) electricity failure, (v) faults affecting the internet, computer network or telecommunication facilities, (vi) government measures (vii) war, (viii) circumstances outside the parties reasonable control.

9.2 Either of the parties shall be entitled to terminate the agreement in writing if a situation of force majeure lasts for longer than ninety days. In such case services already performed on the basis of the agreement shall be settled on a pro rata basis, and the parties shall not owe one another any other amounts.

Article 10: Additional work

10.1 If Triple has, at the request or with the prior consent of the customer, carried out work or performed other services that fall outside of the scope or content of the agreed work, such work or services shall be paid for by the customer in accordance with the agreed rates or Triple's standard rates in case no rates are agreed upon.

Article 11: Confidentiality and taking over of personnel

11.1 The parties shall ensure that all information received from the other party that is known or should reasonably be known to be of a confidential nature, is kept secret and will only be used for the purpose for which it has been provided.

11.2 During the term of the agreement and for one year following termination of the agreement, Customer will refrain from directly or indirectly engaging or otherwise employ employees of Triple who are or were previously involved in the execution of the agreement, without prior written consent of Triple.

Article 12: (Interim) End of Contract; assignment

12.1 A fixed term agreement regarding the provision of services may not be terminated by the customer before the end of the term.

12.2 Either of the parties shall be entitled to terminate the agreement in part or in full, with immediate effect, in writing if the other party is granted a moratorium of payments or if a winding-up petition is filed in respect of the other party. Every right of use of the software, websites and suchlike made available to the customer shall end if the customer becomes bankrupt or is liquidated.

12.3 Either of the parties shall only be authorized to rescind the agreement until it has given the other party written notice of default including a specified and comprehensive description of the breach and has given the other party a reasonable period to comply with is obligations, this period has expired and the other party continues to attributably fail to meet its fundamental obligations arising from this agreement. If the customer has at the time of rescission already received goods or services under the agreement, these goods or services and the associated payment obligations shall not be undone unless the goods and/or services are not in conformity with the agreement.

12.4 Fixed-term contracts between the customer and Triple will be automatically converted into an open-ended contract subject to three months' notice, if none of the parties have indicated an intent to end the contract.

12.5 The customer shall not be entitled to sell and/or transfer the rights and/or obligations arising from the agreement to a third party.

Article 13: Availability

13.1 If service level agreements are entered into, periods of unavailability due to maintenance work announced in advance or to circumstances outside of Triple's sphere of influence will not be taken into account when assessing availability. The assessment of availability will be based on the service as a whole during the term of the agreement.

Article 14: Applicable law, competent court

14.1   The agreements between Triple and the customer shall be exclusively governed by Dutch law. The applicability of the Convention on Contracts for the International Sale of Goods 1980 is excluded.

14.2   Any disputes that may arise between Triple and the customer in relation to an agreement concluded between Triple and the customer or in relation to further agreements that arise from such an agreement, will be exclusively submitted to the competent sector of the Court of Noord-Holland, The Netherlands.

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