



Terms and conditions

Dynaway

Content

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Section I – General Terms

1 Introduction

- 1.1 These terms and conditions constitute the general terms and conditions under this section I (“General Terms”) and the service terms and conditions under any subsequent sections (“Service Terms”).
- 1.2 The General Terms apply to the provision of all types of products, deliverables and services (“Services”). Each of the Service Terms apply in addition to the General Terms to the Service, for which they state to be applicable. The provisions of Service Terms prevail in the event of conflict with the provisions of the General Terms.
- 1.3 The General Terms and Service Terms form an integrated part of the Agreement (as defined below). The provisions of the Agreement prevail in the event of conflict with the provisions of the General Terms or the Service Terms.
- 1.4 The General Terms and applicable Service Terms also apply to Services provided prior to entering into the Agreement as

well as additional services derived from or otherwise related to the Services.

2 The Agreement

- 2.1 “Agreement” means any agreement between any customer as set out therein (“Customer”) and Supplier as set out therein (“Supplier”) regarding provision of Services regardless of medium and method of entering into the Agreement and whether signed, confirmed by e-mail or otherwise legally formed.
- 2.2 An Agreement may for example be agreed pursuant to a separate order, service agreement, work order, statement of work, e-mail or similar specifying the Services, the scope, price and/or special conditions applicable to the Services to be provided.
- 2.3 Each Agreement constitutes an individual Agreement, separate from other Agreements entered between the parties.
- 2.4 No cross effects apply between any Agreements. Accordingly, breach, defects, delay, termination for any reason etc. relevant to Services under one Agreement does not affect any other Agreement. Limitations of liability applies to and are calculated for each Agreement separately. Termination (for any reason) of one Agreement does not affect any other Agreement and vice versa. In the event of termination of an Agreement, Supplier must thus continue to provide the Services according to any other Agreements including any underlying Agreements, unless such Agreement is also terminated.

3 The Services

- 3.1 The Services are specified in the Agreement, which contains the exhaustive specification of the Services and the requirements in relation hereto, including scope,

quantity, and quality as well as any specific expectations hereto.

3.2 Information provided by Supplier in brochures, catalogues, price lists, advertisements, previous quotations, on webpages or verbally, as well as any terms or condition in any purchase terms or such similar document provided by Customer, does not apply to the Services, unless repeated in the Agreement.

3.3 The Services include project management, documentation, support, training, and maintenance only to the extent set out in the Agreement.

3.4 The Services must be provided in accordance with recognised and generally accepted good practice within Supplier's industry.

4 The parties' cooperation

4.1 The parties must in good faith contribute to the performance of the Agreement in a flexible and cooperative manner necessary for the timely provision of the Services. Each party must ensure that the necessary organisational structure to do so is in place. The parties must ensure that their representatives have the necessary authority and decision-making competence.

4.2 Customer must participate as agreed in the Agreement and provide contribution and participation reasonably expected or requested from time to time by Supplier, including in relation to decision making and resources.

4.3 Customer must, to the extent necessary for Supplier's provision of the Services, obtain the necessary approvals, licences, authorizations, consents and permits to enable Supplier to: (a) access Customer sites and Customer personnel, and (b)

use, access, maintain and modify software, hardware and other materials provided or made available by Customer.

4.4 Customer must minimise the risk of loss or damage to Customer's IT systems, including by performing sufficient backup of data, and ensure that Supplier is made aware in writing of any safety regulations or other guidelines that apply to the access to Customer's IT systems before Supplier is given access hereto.

4.5 If information provided by a party is inaccurate or incomplete, or a party fails to perform its obligations, the parties agree to negotiate in good faith reasonable changes to the affected part(s) of the Services and/or Agreement.

5 Time Schedule and Delivery

5.1 The Services are delivered in accordance with the time schedule set out in the Agreement if any.

5.2 Notwithstanding anything to the contrary Delivery of the Services will take place for each part of the Services no later than the time when the Service is made available to Customer for commercial use. The risk of the Services passes to Customer at the time of delivery.

5.3 Each party may postpone any deadline by giving the other party 5 working days prior written notice. Each party may however not postpone any individual deadline by more than 20 working days in total.

5.4 To the extent that the non-postponing party experiences documented additional cost, as a consequence of a postponement, the non-postponing party shall be compensated by the postponing party for such costs.

6 Changes

- 6.1 Changes to the Agreement, including the Services, must be in writing (e.g. digitally or via a platform provided by Supplier) and are subject to agreement by the parties.
- 6.2 Reasonable time and materials spent by Supplier, at the request of Customer, in the preparation of changes are payable by Customer.
- 6.3 To the extent changes in laws, regulations and Customer policies impacts the delivery of the Services, the impact on the Services is handled as a change.
- 6.4 Supplier may adjust and amend the General Terms and the Service Terms (including any related data processing agreement) with a prior written notice of 90 days.

7 Use of sub-suppliers

- 7.1 Supplier may use sub-suppliers in the performance of the Services.
- 7.2 Supplier is directly responsible for the Services performed by a sub-supplier, as if provided by Supplier itself.

8 Third Party Services

- 8.1 The Services may include services from a third party, typically in the form of standardised services or products such as operating environments, hosting, online services, platforms, software, hardware, data, documentation, or other such services ("Third Party Services").
- 8.2 All Third Party Services, will be marked as such by Supplier e.g. as part of the Agreement, by notification from Supplier etc.
- 8.3 Notwithstanding anything to the contrary, Supplier assumes no liability of any kind for any Third Party Services, including

concerning availability, functionality, updates, modifications or defects; Third Party Services are delivered strictly "as is", Supplier's sole responsibility is to forward to the Third Party or distributor hereof any defect report received by Customer.

- 8.4 For the avoidance of doubt, the third party providing the Third Party Services is not considered a sub-supplier.
- 8.5 Third Party Services may be made available to Customer by Supplier's business partners in connection with Customer's use of the Service.
- 8.6 If Third Party Services are subject to the third party's applicable service terms/licence terms, the terms/licence terms will be provided to Customer, e.g. as part of the Agreement, by reference, as part of a software product, by shrink-wrap, click-wrap or browse-wrap licenses or otherwise. All provisions of third party's terms, including rights of use and limitations of liability, takes precedence over the Agreement, and are deemed accepted by Customer as part of Customer's acceptance of an Agreement for Services, which include Third Party Services.
- 8.7 Supplier can at any time change Third Party Services providers, provided however, that the Service from an overall point of view does not significantly deteriorates in relation to functionality etc. as a consequence of such a change.
- 8.8 Customer further accepts that services from Third Party Service providers are continuously developed and adapted on the basis of technological development, market demand, etc.
- 8.9 This section 8 shall apply for any Third Party Service, whether integrated in the Services or made available to Customer as a standalone Service etc.

9 Retention of title

9.1 Physical deliverables such as hardware are provided subject to retention of title. Supplier retains full legal title to and beneficial ownership of each unit notwithstanding the delivery to Customer and possession and use of the unit by Customer.

9.2 The retention of title remains in force until Customer has paid the total remuneration for the affected unit, including applicable interest, costs and expenses.

10 Price and terms of payment

10.1 The Services will be delivered against payment as set out in the Agreement. For any Services for which payment is not set out in the Agreement, the Services will be provided against payment on a time and material basis in accordance with the actual number of hours and materials spent in the delivery hereof and in accordance with Supplier's generally applicable price list from time to time.

10.2 Supplier may invoice Customer in advance for any recurring Services as well as Services subject to a fixed fee. All other Services will be invoiced monthly in arrears.

10.3 Customer is responsible for all third-parties used by Customer that are not subject to Supplier's instructions and liability including charges for installation, shipping, handling and insurance. Customer must according to Supplier's instruction either pay such amounts directly to the third-party or reimburse Supplier to the extent Supplier so pays.

10.4 All payments are due within 30 days from the date of the invoice, unless otherwise specified in the Agreement.

10.5 All prices are stated exclusive of VAT and other taxes/duties.

10.6 Each party is responsible for its own compliance with applicable law and regulations concerning VAT and other taxes/duties.

10.7 Taxes/duties are not to be deducted from the payments to Supplier, except as required by law, in which case Customer will increase the amount payable as necessary so that after making all required deductions and withholdings, Supplier receives and retains (free from any tax liability) an amount equal to the amount it would have received had no deductions or withholdings been made.

10.8 Interest on overdue payments accrue in accordance with applicable law.

10.9 Supplier may adjust the agreed charges for recurring Services and hourly rates annually and with effect from 1st of January.

10.10 Unless otherwise explicitly agreed in an Agreement, the adjustment cannot exceed the annual adjustment as shown in the index "Earnings and labor costs" for the industry "Information and Communication" provided by Statistics Denmark (governmental organization under the Ministry of Economic and Business Affairs) plus additional 2%. The adjustment is based upon the indexation measured against the indexation of the similar quarter in the year before (typically 2nd quarter of the year). The index is available to the public here:
<https://www.dst.dk/en/statistik/emner/arbejde-indkomst-og-formue/loen-og-arbejdsomkostninger>;

10.11 Changes due to external circumstances, including in relation to currency rates, charges for insurance and carriage, price change in prices for third party services etc. permit Supplier to further adjust its charges by the net impact of the changes without prior notice.

- 10.12 Set-off against any payments invoiced by Supplier is not permitted.
- 10.13 Supplier may collect and/or require information on Customer's credit rating. Further, Supplier may require pre-payment or adequate security in the form of a bank guarantee by a well-reputed financial institution in an amount equal to the estimated payments for Services, as a condition for the (continued) provision hereof.

11 Breach and remedies

11.1 General

- 11.1.1 The rights and remedies under applicable law are available to each party, except as otherwise limited including in the Agreement.
- 11.1.2 Customer must examine the Services without undue delay from the time of delivery.
- 11.1.3 Customer's remedies for breach, including for defects and delay, expires if notice hereof is not received by Supplier without undue delay after the breach was discovered or ought to have been discovered.
- 11.1.4 Supplier's liability for breach, including for defects and delay, expires no later than 6 months after the time of delivery of the Services in question and in any case no later than 6 months after the time where the breach occurred.
- 11.1.5 Notice of breach does not exempt Customer from its obligation to pay invoiced amounts when due.

11.2 Defects

- 11.2.1 A Service is defective if it does not substantially meet the specifications set out in the Agreement, it being understood that IT services are never completely free from errors, defects or interruptions.

- 11.2.2 Non-compliance with warranted service levels is not considered a delay, but a defect.

11.3 Delay

- 11.3.1 A Service is delayed if the time of delivery occurs after the agreed delivery date for that Service.
 - 11.3.2 Each party must give written notice of any actual or anticipated delay and loyally attempt to limit the adverse effects of the delay.
 - 11.3.3 If a party is prevented from performing its obligations due to circumstances attributable to the other party, that party may postpone any affected deadline by the duration of the delay.
 - 11.3.4 If a delay is caused mainly by circumstances attributable to Customer, affected payments are invoiced in accordance with the Agreement, regardless of whether the Services, phases, milestones, tests, etc. triggering the payment have been delayed.
 - 11.3.5 Supplier may withhold or suspend any Service if payment covering the Service is delayed, but only if Supplier has given at least 30 days prior written notice and the delayed payment has not been received in full at the expiry of the notice period.
- ### **11.4 Corrective measures**
- 11.4.1 When a party is notified of its breach, or itself becomes aware of its breach, the party is entitled and obligated to remedy the breach without undue delay. Specific service levels may be agreed in the Agreement.
 - 11.4.2 Remedy includes taking all necessary corrective measures to remedy a defect or delay and ensuring the restoration of the Services or payment of any outstanding amounts.

- 11.4.3 Defects may at the sole discretion of Supplier be remedied by remediation or replacement.
- 11.4.4 If the breach cannot be remedied without undue delay, the parties must in good faith discuss a remedial plan for the breach and any reasonable workaround.
- 11.5 **Compensation**
- 11.5.1 To the extent a party fails to remedy a breach, the non-breaching party may claim damages in accordance with the Agreement.
- 11.5.2 If Customer reports a non-existing or non-reproducible defect, Supplier may claim payment for the time and materials spent in relation hereto.
- 11.6 **Limitation of liability**
- 11.6.1 A party is not liable for any indirect, or consequential damages, including Customer's lost profits or revenues, anticipated revenues, operating loss, loss of goodwill, business interruption, diminished business value or loss of data (except for direct recovery costs for data for which the liable party has a backup responsibility). However, cover purchases, Supplier's lost profits under the Agreement, increased resource spend by Supplier or payment for surplus resources which cannot be reallocated, are deemed a direct loss.
- 11.6.2 Each party's aggregate liability in respect of any matters arising out of or in connection with the Agreement during any 12 months period, whether based on contract, indemnity, statute, equity, art. 82 of the general data protection regulation or otherwise, is limited to an amount corresponding to 100 % of the payments received by Supplier under the Agreement for the same period.
- 11.6.3 Notwithstanding the above, if Supplier has paid compensation and/or other amounts to a data subject based on Article 82 of the General Data Protection Regulation or section 26 of the Danish Liability for Damages Act (in Danish "Erstatningsansvarsloven") Customer must indemnify Supplier for the paid amount, which exceeds the agreed limitation of liability.
- 11.6.4 The limitations of liability do not limit a party's liability in relation to:
- a) payment of any due invoices;
 - b) losses that may not be excluded or limited according to applicable law which cannot be waived;
 - c) product liability in relation to death or bodily harm;
 - d) claims submitted, or finally awarded to, a third party that the Service infringes the third parties intellectual property rights
 - e) breach of confidentiality undertakings set out in the Agreement; and
 - f) gross negligence, wilful misconduct or fraud.
- 11.6.5 Supplier is not liable for loss or damages due to Customer's lack of training, use of the Services except as set out in the provided documentation or due to implementation of, amendments to or interference with the Services by Customer or any third party.
- 12 Intellectual property rights**
- 12.1 Supplier is the owner and author of all intellectual property rights in and to the Services (including any intellectual property rights created jointly with Customer), and the results thereof.

- 12.2 Supplier grants Customer a licence to the Service, as further specified in the relevant Service Terms.
- 12.3 Notwithstanding anything to the contrary, to the extent the Agreement sets out that specific licence terms or conditions apply to specific Services, the specific licence terms or conditions will govern the Services provided to Customer in lieu of the beforementioned Service Terms.
- 12.4 From the date of the Agreement, Customer grants Supplier a time-limited, non-exclusive and non-transferable right to use any services (including software) or other materials made available by Customer to Supplier from time to time as part of the performance of the Agreement. The permitted use only includes the use required for the performance of the Services and will automatically expire upon termination or expiry of the Agreement.
- 13 Infringement of third party rights**
- 13.1 Notwithstanding generally applicable limitations of liability, a party ("Defending Party") must defend, indemnify and hold harmless the other party ("Affected Party") pursuant to this clause 13 for any claims submitted, or finally awarded to, a third party that the Service infringes the third party's intellectual property rights.
- 13.2 Indemnification is conditional upon the Affected Party:
- a) promptly notifying the Defending Party of the claim, giving the Defending Party the option of taking over the defence hereof;
 - b) giving the Defending Party any reasonably requested information and cooperation and sole authority to defend and settle the claim; and
- c) not making any statement which may prejudicially affect the chances of settlement or defence of the claim.
- 13.3 The Defending Party may at its sole discretion obtain a valid licence to the infringed intellectual property rights or bring an end to the infringement by modifying or replacing the Services with a solution with materially the same functionality as the one infringing the third party's intellectual property rights.
- 13.4 Alternatively, the Defending Party may terminate the Agreement (or the part related to the infringing Services) with immediate effect against repayment of all payments for the terminated part of the Agreement received within 12 months from the notification of the infringement to the Defending Party, without the obligation to indemnify further loss or costs.
- 13.5 The Defending Party's obligations do not apply if the claim or adverse final judgment is based on:
- a) the Affected Party's non-compliance with the Agreement;
 - b) the Affected Party's integration of the Services etc. with a third party product, data or business process including third-party add-ons or software; or
 - c) use of the Services etc. for purposes other than as intended and/or contrary to any instructions on use.
- 13.6 This clause is the Affected Party's sole and exclusive remedy in relation to infringement of third-party intellectual property rights.

14 Termination

14.1 Termination for Convenience

14.1.1 The term of the Agreement (and any licences and/or services granted hereunder) is set out in the Agreement.

14.1.2 The Agreement may be terminated for convenience by a party with 6 months prior written notice.

14.1.3 In the event of Customer's termination for convenience, Customer must pay:

- a) the charges accrued until the date when termination for convenience is made;
- b) for Services delivered in the termination period;
- c) idle time for resources allocated which reasonably cannot be reallocated until expiration of the termination notice, and
- d) other reasonable and unavoidable costs incurred.

14.1.4 Any costs must be reasonably mitigated by Supplier.

14.2 Termination for cause

14.2.1 Each party may immediately terminate the Agreement for cause:

- a) if the other party commits a material breach of the Agreement, and the material breach has not been remedied within 60 days of receipt of a written notice from the non-breaching party to do so;
- b) if the other party is responsible for a material breach of the Agreement, which is not capable of remedy; or
- c) in the event of bankruptcy of the other party, subject to the right of the bankruptcy estate to enter the

Agreement to the extent permitted under the Danish Insolvency Act or similar applicable law.

14.2.2 Customer's failure to pay any outstanding amount (except for outstanding amounts disputed in good faith) is deemed a material breach.

14.3 Effects of termination

14.3.1 Termination for any reason has effect for the future only (ex nunc).

14.3.2 Termination for any reason does not result in the repayment of any payments made.

15 Force majeure event

15.1 No party is in breach of any obligation to the extent and for the duration prevented from performing the obligation due to a force majeure event.

15.2 Force majeure events include acts of God, war, mobilization, breakdown of telecommunication/infrastructure that are not provided by Supplier, external security events (e.g. hacker attacks, attack by computer viruses or other third-party destructive behaviour) and similar conditions (if the event is not the result of Supplier's breach, including non-compliance with agreed security requirements under the Agreement), health and safety restrictions and recommendations issued by public authorities, pandemics, epidemics, natural disaster, strikes, lock-out, fire, damages to production plant, import and export regulations and other unforeseeable circumstances beyond the control of the party concerned.

15.3 As soon as practicable after the affected party issues a force majeure notice, and at regular intervals thereafter, the parties must consult in good faith and use reasonable endeavours to agree on the steps to be taken and the appropriate plan for

- those steps, to enable continued provision of the Services affected by the force majeure event.
- 15.4 The parties must at all times following the occurrence of a force majeure event, and for its duration, use their respective reasonable endeavours to prevent and mitigate the effects of the force majeure event. If Supplier due to a force majeure event is prevented from deliver the Services, Supplier must at the request of Customer and against payment of time and material spent, take reasonable steps in accordance with good industry practice to overcome or minimise the consequences of the force majeure event.
- 16 Data and security**
- 16.1 Customer holds all rights, including intellectual property rights, to Customer's own data.
- 16.2 Customer is responsible for the accuracy and integrity of any data processed by Supplier when utilising the Services; and Customer's transfer, migration and/or conversion of Customer's data to or from the Services.
- 16.3 Customer accepts that Customer cannot require Supplier's employees to personally agree to terms on Customer's IT security policy.
- 17 Customer's personal data**
- 17.1 If Supplier undertakes to process personal data on behalf of Customer (as a data processor), the parties must enter into a separate data processor agreement based on Supplier's standard. The provisions of the data processor agreement prevail in the event of conflict with the provisions of the Agreement, the General Terms or the Service Terms.
- 17.2 Supplier may not entrust personal data processed on behalf of Customer to other parties for storage, reworking or deletion without informing Customer.
- 17.3 Customer confirms that it has obtained the necessary legal basis for Supplier, Supplier's affiliates and third parties lawful processing of personal data on behalf of Customer, before providing personal data to Supplier.
- 17.4 Supplier may anonymise and use for its own purposes any data received, generated, or processed as part of the Services. Supplier holds any and all rights, including intellectual property rights, to the anonymised data.
- 17.5 The parties are individually liable for fees & fines imposed pursuant to article 83 of the General Data Protection Regulation.
- 18 Confidentiality**
- 18.1 Each party must observe complete confidentiality regarding any information and documentation etc. about the other party in every respect as obtained in relation to the Agreement and the Services. This clause applies regardless of termination of the Agreement for any reason.
- 18.2 Each party may disclose confidential information to its representatives, including legal advisors, consultants etc. if the disclosure is necessary for legal advisors, consultants etc. to perform their roles or professional functionality in relation to the Agreement or the Services. A party may further disclose confidential information to the extent that it is required to do so by mandatory law or regulation, or by an enforceable order of a court or public authority acting within the scope of its powers.
- 18.3 The confidentiality obligations do not cover:

- a) information known or which becomes known to the receiving party without obligation of confidentiality;
- b) information which is independently developed by the receiving party;
- c) information which is known to the general public.

18.4 Personal information subject to privacy laws is not *per se* confidential information.

19 Assignment

19.1 The parties may only assign rights and obligations pursuant to the Agreement to a third party with the other party's prior written approval, which must not be unreasonably withheld or delayed.

19.2 Notwithstanding anything to the contrary, Supplier may, at its sole discretion, assign, novate or transfer the Agreement, in whole or in part, to (a) an affiliate of Supplier or (b) to any third party if done so as part of a divestment of one or more of its entities, business units etc.

20 Validity and severability

20.1 If a provision in this Agreement is considered illegal, invalid or unenforceable, such provision will be enforced to the maximum extent possible under applicable law, and such provision will not affect the legality or the validity of any other provisions.

21 Global Trade Compliance and Anti-Corruption

21.1 Services are provided for Customer's internal use and not for commercialisation. If Customer exports, imports, or otherwise transfers any Service, Customer will be responsible for complying with applicable laws and regulations and for obtaining any required export or import authorizations.

Both parties must comply with applicable laws and regulations relating to anti-bribery and anti-corruption. Supplier may suspend its performance under the Agreement to the extent required by applicable law.

22 Governing law and disputes

22.1 The Agreement is governed by and construed in accordance with the law where Supplier is domiciled except for (a) rules leading to the application of other law and (b) the United Nations Convention on Contracts for the International Sale of Goods (CISG).

22.2 Any dispute controversy or claim arising out of or related to the Agreement must be settled by arbitration as described below, unless otherwise agreed between the parties:

- (a) for Customer's domiciled in Denmark: Using the Danish system of simplified arbitration adopted using the Danish Institute of Arbitrations rules for simplified arbitration applicable at the initiation of the arbitration proceedings. The seat of arbitration shall be Copenhagen. The language to be used in the arbitral proceedings shall be English.

(b) for Customer's domiciled in any other country: Using the Danish system of simplified arbitration adopted using the Danish Institute of Arbitrations rules for simplified arbitration applicable at the initiation of the arbitration proceedings. The seat of arbitration shall be Copenhagen. The language to be used in the arbitral proceedings shall be English.

2.3 Supplier has the initiative for the performance of the Professional Services in accordance with the time schedule set out in the Agreement.

2.4 Supplier may fulfil any specification through the provision of standard functionality.

2.5 Upon effective payment for the Services Supplier grants Customer a perpetual, transferable, non-exclusive licence to any results that have been created or changed specifically for Customer as part of the Professional Services, including documentation, data, customizations, integrations and custom software.

2.6 The licence is unlimited in all respects, including in relation to time, territory, configuration, form, design, method and medium. The licence further includes any and all rights available to the owner and author, known or unknown, including the right to use, alter, develop, maintain, sublicense, distribute and assign the Services and results in any configuration, form, design, method and medium in Customer's sole discretion

Section II – Service Terms – Professional Services

1 Introduction

1.1 These Service Terms constitute an integral part of the Agreement and apply to Supplier's provision of professional services, including Services within consulting, training, integration, applications development, project management, implementation, scripting, data transfer and documentation as well as the results and deliveries provided as a part thereof ("Professional Services").

2 The Services

2.1 Unless expressly set out in the Agreement, all Professional Services are provided as professional performance services, meaning that Supplier provides a work effort but does not warrant a specific functionality or result (in Danish: "Indsatsforpligtelse").

2.2 To the extent expressly set out in the Agreement, Professional Services may be provided with an obligation to achieve a specified result, meaning that Supplier must provide a specific functionality or result (in Danish: "Resultatforpligtelse").

3 Time schedule and delivery

3.1 Supplier will use commercially reasonable efforts to perform the Professional Services in accordance with any time schedule set out in in the Agreement. Any time schedule in the Agreement is intended for planning and estimating purposes only and is not intended as a "time of the essence" provision.

3.2 Unless a specific acceptance testing-, or delivery process is set out in the Agreement, time of delivery will occur continuously as Supplier performs the work effort constituting the Professional Services.

3.3 If a specific acceptance testing- or a delivery process is set out in the Agreement,

the time of delivery will occur at the earliest of either (a) when the acceptance testing, or specific delivery process, has been approved/completed or (b) when Customer starts using the Professional Services or puts the Professional Services into production use or in any other way accepts the Professional Services.

4 Testing and approval

- 4.1 Formalised testing, such as an acceptance test, will be performed to the extent set out in the Agreement and in accordance with the time schedule set out therein.
- 4.2 Approval is based on the agreed test plan and scope only; any testing outside hereof, e.g. testing outside of the agreed scripts or user cases, does not impact the approval of the acceptance test.
- 4.3 Customer must during the acceptance test report and classify all non-conformities without delay and provide appropriate documentation.
- 4.4 If the Customer does not reject the approval of the acceptance test in writing within 10 days after completion of the acceptance test and provides documentation for the basis hereof the acceptance test is deemed approved.
- 4.5 Customer may only reject approval of the acceptance test if reproducible non-conformities are documented, deviate from the agreed specifications, and materially prevents Customer from putting the Professional Services into commercial operation.
- 4.6 If the acceptance test is rejected in accordance with the Agreement, Supplier may remedy the defects preventing acceptance and submit the Professional Services for renewed acceptance testing until the acceptance test is approved or the Agreement terminated.

5 Personnel

- 5.1 Supplier must use qualified resources for the performance of the Professional Services.
- 5.2 The parties must seek to ensure continuity in the resources used. If necessary, the parties may however replace resources, including named resources allocated to the Agreement, with other corresponding resources.
- 5.3 A party must notify the other party if a named resource is no longer available. In such case, the party must provide a replacement resource of equivalent capability.

6 Price and terms of payment

6.1 Time and material

- 6.1.1 Professional Services delivered under the price model time and material are invoiced based on the actual number of hours and materials spent in delivering the Professional Services. To the extent hourly rates are set out in the Agreement, they are used in the calculation.
- 6.1.2 Only actual and effective time spent may be invoiced excluding e.g. lunch breaks, longer breaks, social events, internal training.
- 6.1.3 Travel time is invoiced with 50 % of the applicable rate.
- 6.1.4 Supplier must provide a price estimate if requested by Customer. If there is a risk or potential risk that an estimate may or will be exceeded, Supplier must notify Customer without undue delay. The parties must in good faith agree on the necessary adjustments. If an estimate is exceeded, Supplier may continue to provide the Professional Services against payment of the charges exceeding the fee estimate unless a change has been agreed.

6.1.5 Supplier must keep account of the time spent, specifying in each instance the relevant resource and the extent and nature of the work performed.

6.2 Fixed fee

6.2.1 Professional Services delivered under the price model fixed fee are invoiced according to the agreed fixed fee regardless of time and material spent.

6.3 Other expenses

6.3.1 Supplier delivers the Professional Services within normal business hours, i.e., on Monday to Friday, excluding public holidays in Supplier's jurisdiction. If Customer specifically instructs Supplier to deliver the Professional Services outside of normal business hours, Supplier may charge Customer an overtime premium per hours of 100 %, regardless of the price model.

6.3.2 Costs, expenses and outlays e.g food and accommodation expenses are invoiced in addition to the charges for the Professional Services, regardless of the price model. Extraordinary expenses must be approved by Customer in advance.

6.3.3 Mileage is invoiced in addition to the charges for the Professional Services regardless of the price model and is calculated in accordance with the prevailing official tax mileage reimbursement rate per kilometre driven (in Danish: 'Statens takster for kilometergodtgørelse'). Mileage does not include bridge toll or tickets to public transportation, which are invoiced separately as expenses. Supplier must reasonably reduce transport costs.

7 Breach and remedies

7.1 Supplier's delay in the delivery of the Professional Services constitutes a material breach only if the agreed time of delivery

is delayed by more than 90 days due to circumstances attributable to Supplier.

Section III – Service Terms – Hosting Services

Section not relevant and not included

Section IV – Service Terms - Software

1 Introduction

1.1 These Service Terms constitute an integral part of the Agreement and apply to Supplier's provision of licensing of software (the "Software"), excluding software-as-a-service.

1.2 These Service Terms apply only to the extent that the Software is not subject to separate licence terms, in which case such separate licence terms applies to the Software in lieu of these Service Terms in their entirety.

2 The Service

2.1 The Software, including data included in the Software, is a standard software product.

2.2 If the Software is provided under a subscription licence, Customer is granted a time-limited, non-exclusive, non-transferable right to use the Software, including any upgrades, updates, versions, releases, and development services, etc. provided by Supplier during the licence term specified in the Agreement, from the delivery date unless otherwise agreed in the Agreement and provided that Customer pays the subscription fee. Any delay in payment of the subscription fee means that Supplier may without liability suspend Customer's access to the Software.

- 2.3 If the Software is provided under a perpetual licence, Customer is granted a perpetual, non-exclusive, non-transferable right to use the Software provided by Supplier as specified in the Agreement and from the delivery date unless otherwise agreed in the Agreement and provided that Customer pays the licence fee.
- 2.4 Only Customer is entitled to use the Software. Customer can only use the Software for its own purposes.
- 2.5 If specified in the Agreement, Customer can allow any affiliated company to use the Software for such company's own purposes on the same terms as Customer, including terms regarding acquisition of the required licences. Customer will remain directly liable for any use of the Software and for compliance with the terms relating thereto, including for Customer's affiliated companies.
- 2.6 The Software may be used only as expressly permitted unless otherwise permitted by mandatory legislation in force. It is expressly not permitted to:
- a) Break or circumvent any technical limitations;
 - b) Reverse engineer, decompile or disassemble the Software or use any other methods to gain access to source code of the Software or any trade secrets embodied in the Software;
 - c) Modify or change the Software or the object code;
 - d) Allow a third party to perform changes or maintenance to the Software on behalf of Customer;
 - e) Make the Software or the functionality of the Software available to any third party through any means (e.g. through a network or hosting service);
- f) Publish or enable others to copy or access the Software;
 - g) Sell, rent, lease or lend the Software;
 - h) Use the Software for commercial software hosting services;
 - i) Use the Software to support the business of a third party or to operate a bureau service;
 - j) amend or remove any labels and/or notices regarding copyright, trademarks or other rights, or any references thereto, included in the Software or the medium on which the Software has been delivered.
 - k) use API or other interface tools made available or developed by Supplier to establish functionality, which is contained in, or planned for development of, the Software.
- 2.7 Subject to Supplier's prior specific written consent, Customer is notwithstanding the forgoing entitled to make the Software available to a third party operating the Software on behalf of or for the benefit of Customer (e.g. a hosting service provider or outsourcing service provider). Supplier may require such third party to enter into a separate declaration concerning the rights to the Software.
- 2.8 The source code of the Software is to be considered and treated as confidential information.
- 2.9 Customer has no right to receive a copy of the source code to the Software. Customer only has a right to receive a copy of the object code to the extent the Software is provided for client-side installation.

2.10 If Customer uses the Software in violation of these Service Terms, Supplier may immediately and without notice cancel or terminate the Agreement with immediate effect on the grounds of material breach.

3 Licence metrics

3.1 The licence is granted pursuant to the licence metrics specified in the Agreement, including the restrictions specified therein.

3.2 Customer must at all time, ensure to have the appropriate number of licences needed for Customer's actual use regardless of any organisational ties, including in terms of employment and affiliation.

4 Updates and amendments

4.1 Supplier may, at its own discretion and at any time, decide to let the Software undergo upgrades, updates, releases, maintenances, development services and amendments in general, including by adding new versions, updates and amending functions, as long as such changes does not adversely affect the Software. The changes may occur without notice. Such upgrades and amendments may require planned downtime and may take place without any notice.

4.2 Access to upgrades, updates, versions, releases, maintenances, development services and amendments in general may be subject to entering into a separate agreement in this regard.

5 Intellectual property rights

5.1 Customer acknowledges that Supplier (or its licensors) owns all copyright and intellectual property rights or industrial property rights in and to the Software, including, but not limited to, the Software code. This also applies to any amendments, adjustments, upgrades etc. of the Software.

Customer must respect such intellectual rights, and Customer is liable for any breach of such rights, including a third party's unauthorised access to the Software.

6 Warranties

6.1 The Software is licensed "as-is" meaning that the Software is provided in whatever condition it presently exists.

6.2 Supplier however warrants that the Software in all material aspects will work in accordance with the specifications set out in the Agreement and any original documentation provided by Supplier, and that all material functions work, provided that the Software is used for the intended purpose, in accordance with the specifications and on the computer hardware and with the operating system for which the Software has been developed.

6.3 The above represents the only warranties, and Supplier provides no additional warranties of any kind, neither explicit or implicit. Supplier explicitly waives any warranties regarding marketability and suitability for a specific purpose.

7 Audit and information

7.1 Supplier is at any time and without prior notice entitled to verify Customer's compliance with these Service Terms. Such verification may be in the form of electronic access to the Software and any records therein. Customer must provide reasonable assistance to Supplier with these verification tasks.

7.2 Without prejudice to any other remedies for breach which Supplier may have at its disposal, and in case Customer has not been licenced correctly, Supplier is enti-

tled to claim payment of the additional Licence Fee for the period when Customer has not been licenced correctly.

- 7.3 Neither of the parties are liable for the other party's costs related to this clause 7. Regardless of the above, Customer is liable for any costs paid by Supplier if an audit reveals any non-compliance with the Service Terms on the part of Customer.

8 System requirements

Customer is aware and recognises that the Software may require and be comprised by specific system requirements and/or a software subscription. Such requirements are specified in the Agreement. Customer is responsible for complying with any such system requirements and for paying any related costs and fees. Supplier does not guarantee that the Software is compatible with any future versions of third party software.

Section V – Service Terms – Software as a Service

Section not relevant and not included

Section VI – Service Terms – Maintenance and Support Services

1 Introduction

- 1.1 These Service Terms constitute an integral part of the Agreement and apply to Supplier's provision of maintenance and support services ("Maintenance and Support Services").

2 The Services

- 2.1 The Maintenance and Support Services are provided for the supported software and/or hardware set out in the Agreement.

- 2.2 These Service Terms apply only to the provision of the Maintenance and Support Services, not the supported software itself and/or hardware (including any changes hereto as a result of the Maintenance and Support Services), which is subject to the separate terms and conditions applicable hereto.

- 2.3 Maintenance and Support Services exclude the following:

- a) services for earlier versions of the supported software and/or hardware;
- b) upgrading, modifying or refurbishing supported hardware;
- c) new versions or releases of software other than supported software;
- d) supply and installation of consumables (including user replaceable items);
- e) updates to documentation;
- f) data correction, data transfer or data conversion; and
- g) services required due to: (i) misuse or abuse; (ii) damage or malfunction caused by fire, smoke, heat, water, flood, storm, lightning, electrical failure and any other similar event; (iii) repairs or modifications by any party other than Supplier; (iv) use other than in accordance with the manufacturer's instructions; (v) manufacturer recalls including product or parts replacement or substitution; (vi) inability or refusal of the manufacturer to provide services or spare parts; (vii) bugs, errors or defective materials and workmanship caused by software and/or hardware other than the supported software and/or

hardware; or (viii) the deliberate or negligent acts or omissions of Customer or any third party.

2.4 Unless expressly set out in the Agreement, all Maintenance and Support Services are provided as professional performance services, meaning that Supplier provide a work effort but does not warrant a specific functionality or result (in Danish: "Indsatsforpligtelse").

2.5 Replacement parts provided by Supplier are new standard parts or refurbished parts of similar quality. Upon installation of a replacement part, the replaced part becomes the property of Supplier and the replacement part becomes the property of Customer.

2.6 Customer will care for the supported hardware, house it in suitable premises with suitable environmental conditions and follow reasonable operating and manufacturer instructions for the care and use of the hardware.

2.7 Supplier does not warrant any specific service levels for the performance of the Maintenance and Support Services.

3 Time schedule and delivery

3.1 The Maintenance and Support Services will be delivered from the agreed time of delivery.

3.2 The Maintenance and Support Services will be delivered to the term set out in the Agreement. If the Maintenance and Support Services are delivered on a renewal or subscription basis, Customer acknowledges that continued provision of the Maintenance and Support Services is conditional on Customer's timely periodic payment of renewal or subscription charges set out in the Agreement.

3.3 The Maintenance and Support Services will be delivered during Supplier's normal business hours and at/from a location determined by Supplier from time to time.

4 Price and terms of payment

4.1 All recurring charges for the Maintenance and Support Services are invoiced in advance in according with the Agreement.