GENERAL TERMS AND CONDITIONS

Definitions

Article 1.

"General **Terms and Conditions**": this document entitled 'Opensource ICT Solutions – General Terms and Conditions';
"Appendix(es)": the service conditions/appendices to the Specific Conditions in which the Services to be provided are described;
"Third-Party Suppliers": the manufacturer or supplier of Products and/or Services that the Customer purchases through Opensource ICT Solutions, whereby Opensource ICT Solutions acts as a reseller or sub-licensor, or that the Customer purchases from a third party itself.
"Third-Party Suppliers General Terms and Conditions": the general terms and conditions of the Third-Party Suppliers that apply to the Product or Service;
"Services": the services purchased by the Customer as listed in the Specific Terms and Conditions and as further described in the Appendix(es);
"Run-in Period": the period of three (3) months during which no discounts are due and during which Opensource ICT Solutions is not responsible for failing to achieve the service levels specified in the Annexes or Specific Terms and Conditions. The Run-in Period commences when the Services are put into production;
"Customer": the customer specified in the Specific Conditions;
"Opensource ICT Solutions": Opensource ICT Solutions bv, with registered office at 2000 Antwerp, Tabakvest 87/4490, registered in the Crossroads Bank for Enterprises under number 1021.717.628
"Agreement": the General Terms and Conditions, the Specific Terms and Conditions, Third Party Suppliers General Terms and Conditions, the processing agreement and any other document that the Parties indicate is part of the Agreement;
"Force Majeure": a situation in which the performance of the Agreement by one of the Parties is wholly or partially, temporarily or permanently, prevented by circumstances beyond the control of the Party or Parties, including natural disasters, war, riots, terrorism, epidemics, pandemics, power failure or power outage, technical defects, bankruptcy, force majeure or breach of contract by third parties, including suppliers of Open Source ICT Solutions, fire, vandalism, industrial accidents, illness, strikes, general transport problems, restrictive measures imposed by any government, disruption of the internet, data network or telecommunications facilities, unavailability of third-party servers or any other circumstance beyond the control of Opensource ICT Solutions;
"Party(ies)": Depending on the context, Opensource ICT Solutions, the Customer or both;
"Product": the hardware and/or software supplied by Opensource ICT Solutions, as included in the Specific Terms and Conditions and to which the Third-Party Supplier General Terms and Conditions apply in full;
"Response time": the time between a correct notification by the Customer of a malfunction or problem and the commencement of work by Opensource ICT Solutions related to its solution;
"Specific Terms and Conditions": an agreement subject to these General Terms and Conditions that describes the specific terms and conditions of this Agreement (e.g. a proposal, a quotation or an order form, as well as the price list);
"Contractor(s)": the staff members and independent employees/consultants/freelancers that Opensource ICT Solutions calls upon for the performance of the Agreement;
"Confidential Information": all information, in any form whatsoever (verbal, written, graphic, electronic, etc.), exchanged between the Parties within the framework of this Agreement;
"Working Days": Weekdays, with the exception of Saturdays, Sundays and public holidays in Belgium;
"Working Hours": On Working Days from 9 a.m. to 5 p.m. CET.

Conclusion and structure of the agreement

Article 2.

These General Terms and Conditions apply to both the provision of Services and the sale of Products by Opensource ICT Solutions, unless otherwise agreed in writing. These General Terms and Conditions form part of the Specific Terms and Conditions. The Customer has the opportunity to read and agree to the General Terms and Conditions by means of the Specific Terms and Conditions. The Customer accepts the General Terms and Conditions by accepting or (digitally) signing the Specific Terms and Conditions or by confirming the General Terms and Conditions in any other way, for example in the event that the Customer allows Opensource ICT Solutions to deliver the Services and/or Products. The Agreement is concluded by accepting the Specific Terms and Conditions and the General Terms and Conditions. The Agreement is therefore a negotiated document and will take precedence over any non-negotiated Customer terms and conditions.

Article 3.

In the event of any conflict between the various documents comprising the Agreement, the following hierarchy shall apply: (i) Third Party Suppliers' General Terms and Conditions; (ii) processing agreement; (iii) Specific Terms and Conditions, and (iv) General Terms and Conditions.

Obligations of the parties

Article 4.

Unless otherwise explicitly agreed, the commitments under this Agreement are best-efforts commitments. The Services shall always be provided with all reasonable care in accordance with the state of the art and that can reasonably be expected from a service provider of similar size providing similar services. Opensource ICT Solutions will always take into account the technical instructions and guidelines it receives from the Customer.

Article 5.

The Services and Products will be developed and/or delivered by Opensource ICT Solutions in the condition in which they are at the time of delivery ('as is'), therefore with all visible and invisible errors and defects.

The delivery times for the Services and Products are indicative and are provided based solely on the information available at that time. Actual delivery times or service schedules may therefore differ.
Opensource ICT Solutions does not guarantee the suitability or marketability of the Services and Products for performing specific tasks envisaged by the Customer, unless these are expressly included in the Specific Conditions and/or the description of the functional specifications.
Unless otherwise agreed in the Specific Terms and Conditions, Opensource ICT Solutions does not guarantee that the Products or Services will be available at all times or will function without errors, bugs or interruptions.
Opensource ICT Solutions does not guarantee that any intervention by Opensource ICT Solutions will resolve the problem that has arisen, or that the problem will not recur after its intervention, or that no other difficulties will arise as a result of this correction.
The Customer shall always be responsible for its existing infrastructure (including, but not limited to: hardware, software, websites, data files, control and security procedures, adequate system management, etc.) and the proper functionality and security of all its work materials.
Opensource ICT Solutions cannot under any circumstances be held liable for any lack of licence or access rights on the part of the Customer for Products or Services used by the Customer. The Customer guarantees that it has acquired the necessary rights and indemnifies and defends Opensource ICT Solutions against any costs (including reasonable legal costs), losses, liabilities or claims from third parties in this regard.

Article 6.

The parties acknowledge and accept that the success of work in the field of information and communication technology depends on proper and timely mutual cooperation.
The Customer shall designate a permanent contact person who will make all necessary information available to Opensource ICT Solutions.
The Customer shall always provide all cooperation reasonably requested by Opensource ICT Solutions in a timely manner, including the provision of all necessary and useful information, technical or general documentation or other information.
The Customer guarantees the accuracy, timeliness and completeness of the information provided by him, the dimensions, requirements, specifications of the Services and Products and other data that are crucial for Opensource ICT Solutions to be able to fulfil its obligations under this Agreement.

Article 7.

For the performance of the Agreement, Opensource ICT Solutions will engage one or more Contractors who may or may not work on-site at the Customer's premises. Opensource ICT Solutions reserves the right to determine which Contractor will be responsible for performing the Services and may replace the Contractor at its sole discretion.
If the Contractor no longer meets the requirements, brings the Customer's name into disrepute or no longer performs the Services in accordance with this Agreement, the Customer has the right to request Opensource ICT Solutions to select another Contractor. This does not release the Customer from its payment obligation. Opensource ICT Solutions will appoint a new Contractor as soon as possible.

Article 8.

Opensource ICT Solutions shall notify the Customer in good time of any planned interruptions to the performance of the Services (such as short-term illness, leave days of the Contractor, etc.), insofar as possible and insofar as there is an impact on the Services.

Article 9.

If Services are provided on the Customer's premises, the Customer undertakes to ensure that the workspace and facilities comply with all legal requirements. The Customer indemnifies Opensource ICT Solutions and defends Opensource ICT Solutions against claims from third parties, including the Contractors of Opensource ICT Solutions, who suffer damage in connection with the performance of the Agreement as a result of acts or omissions on the part of the Customer or unsafe situations within its organisation. The Customer shall inform the Contractor(s) of the house and security rules applicable within its organisation before the commencement of the Services.

Article 10.

In the event that the Customer purchases or acquires Products or Services from Third-Party Suppliers, the Customer may only hold the Third-Party Supplier liable within the limits of the Third-Party Supplier's General Terms and Conditions. Unless otherwise provided by law, Opensource ICT Solutions is not responsible for the Third-Party Suppliers' Services and Products.
The Third Party Supplier Terms and Conditions are made available through publication on the Opensource ICT Solutions website: https://oicts.com/terms-and-conditions/. If the links to the Third Party Supplier Terms and Conditions are not available, the Customer is responsible for notifying Opensource ICT Solutions. In such a case, the Customer may also request a copy of the relevant Third Party Supplier Terms and Conditions. The Customer acknowledges that they have received, read and accepted the Third Party Supplier Terms and Conditions. Under no circumstances may the Customer derive more rights than those granted by the Third Party Supplier Terms and Conditions. The Customer indemnifies and defends Opensource ICT Solutions against any costs (including reasonable legal costs), losses, liabilities and claims arising from a breach of the Third Party Supplier Terms and Conditions.

Article 11.

Unless otherwise agreed in the Agreement, the Customer shall be responsible for making backups in order to prevent any loss of data. If the maintenance work carried out by Opensource ICT Solutions does result in unexpected data loss, the Customer cannot claim compensation from Opensource ICT Solutions for its own loss of data or for claims from third parties who have been harmed as a result.

Prices and payment

Article 12.

The prices communicated to the Customer in the context of the Specific Conditions are purely indicative and only binding after explicit confirmation by Opensource ICT Solutions. Final prices are always shown excluding VAT or other taxes or levies and are only valid for thirty (30) days or a different period specified in the Specific Conditions, or until stocks are exhausted with regard to the sale of hardware, if this is provided for in the Specific Conditions.

Article 13.

Rates and fees for services are always determined on the basis of work performed during Working Hours and taking into account a 38-hour working week, which means that supplements may be charged outside Working Hours or for overtime. If supplements are charged, the following supplements apply (not cumulative):

- services > 38 hours/week: + 50%;
- services > 7.6 hours/day: + 50%;
- performance between 7:00 a.m. and 9:00 a.m. / 6:00 p.m. and 11:00 p.m.: + 100%;
- work on Saturdays (09:00-17:00): +50%;
- work on Sundays or public holidays: + 100%.

Cancellation by the Client of a Service consisting of consultancy work must be made in writing. The following rules apply with regard to cancellation:

a. For cancellations up to 14 days before the scheduled consultancy appointment: full refund of amounts already paid.
b. For cancellations up to 7 days before the scheduled consultancy appointment: 50% of the total agreed amount must be paid to Opensource ICT Solutions. If the Client has already paid the full amount to Opensource ICT Solutions, 50% will be refunded.
c. In case of cancellation within 7 days prior to the scheduled consultancy appointment or in the event that the appointment does not take place for any reason on the part of the Client without cancellation: the Client must pay the full amount. If the Client has already paid the full amount to Opensource ICT Solutions, no refund of the amount will be made.

Cancellation by the Client of a training course or course must be made in writing. The following rules apply with regard to cancellation:

d. In case of cancellation up to 14 days before the start of the training or course: full refund of amounts already paid.
e. In case of cancellation up to 7 days before the start of the training or course: 50% of the total course fee must be paid to Opensource ICT Solutions. If the Client has already paid the full amount to Opensource ICT Solutions, 50% will be refunded.
f. In case of cancellation within 7 days before the start or in case of no-show: the Client must pay the full amount. If the Client has already paid the full amount to Opensource ICT Solutions, no refund of the amount will be made.

Article 14.

In the context of volume- or consumption-based Services, prices may be adjusted monthly in the event of an increase or decrease in the supported components.
For software licences that are invoiced on a monthly basis, the Customer must notify Opensource ICT Solutions of any changes in the number of licences for the following month before the twentieth (20th) of the current month. If the Customer does not notify Opensource ICT Solutions of any changes in the number of licences in time, the number of licences for the month will remain unchanged for the following month.
If a one-off set-up fee is charged for a specific Service, this will be stated in the Specific Terms and Conditions. If components are added subsequently, an additional set-up fee may be payable.

Article 15.

The rates may be adjusted annually on 1 February by Opensource ICT Solutions based on the following formula:

New price = Base price * (0.2 + 0.8 * (New index \Initial index))

The following definitions apply:
Base price: price at the start of the Agreement;
Initial index: the index published by Agoria, 'reference wage cost national average in the digital sector, Agoria Digital', for the month preceding the signing of the Agreement;
New index: the index published by Agoria, 'national average reference wage in the digital sector, Agoria Digital', for the month preceding the indexation date.

Article 16.

If a Third Party Supplier of Services or Products increases its prices, Opensource ICT Solutions is entitled to increase its prices accordingly, with or without an uplift.

Article 17.

In the event of sudden fundamental changes in circumstances that affect the agreed price and which could not have been foreseen at the time of pricing and which, moreover, disrupt the contractual balance, the Parties shall meet at the first request to reach a fair adjustment of the Agreement. If the Parties are unable to reach an amicable agreement within thirty (30) calendar days of the request to adjust the Agreement, the most interested Party shall have the option to terminate the Agreement by sending a registered letter with a notice period of thirty (30) calendar days, without any compensation being due.

Article 18.

Unless otherwise agreed, a minimum rate of €0.50 per kilometre applies to travel undertaken by Opensource ICT Solutions on behalf of the Customer, with a minimum as set out in the following paragraph. The total number of kilometres travelled is determined on the basis of the round trip from the registered office of Opensource ICT Solutions to the Customer.

If the Customer is located abroad, the rates will be communicated to the Customer together with the Specific Conditions. Unless otherwise agreed, Opensource ICT Solutions' accommodation costs shall be borne entirely by the Customer.

Article 19.

Except as provided in Article 25, Opensource ICT Solutions' invoices are payable within thirty (30) days of receipt of the invoice.
Invoices must be protested in writing and by registered post within fourteen (14) days of the invoice date.

Article 20.

In the event of total or partial non-payment of an invoice on the due date, the Customer shall be liable, by operation of law and without prior notice of default, to pay conventional interest on arrears equal to the interest rate specified in Article 5 of the Late Payment Act (Act of 2 August 2002, Belgian Official Gazette of 7 August 2002). Furthermore, in the event of late payment of the invoice, the Customer shall be liable, by operation of law and without prior notice of default, to pay a fixed compensation amounting to 10% of the unpaid invoice amount, with a minimum of 175 euros, without prejudice to Opensource ICT Solutions' right to claim higher compensation if it can prove that it has suffered higher actual damage.

In the event of non-payment on the due date, all other outstanding debts owed by the Customer shall become due and payable by operation of law and without prior notice of default. In that case, Opensource ICT Solutions reserves the right to suspend the performance of the Agreement without prior notice of default and without the Customer being entitled to any compensation.

Article 21.

Payments made by the Customer to Opensource ICT Solutions shall first be applied to the costs owed by the Customer, then to the interest owed and only in the last instance to the principal sum owed.

Service-specific provisions

Purchase of products

Article 22.

When the Customer takes delivery of the Products, they acknowledge the suitability of these Products and acknowledge that Opensource ICT Solutions has provided them with sufficient information about their properties and use.

Article 23.

The Customer undertakes to have gathered and received sufficient information in advance regarding the compatibility and operation of the purchased Products. Opensource ICT Solutions cannot be held liable in any way if the Customer purchases Products that are subsequently found to be incompatible with the Customer's existing infrastructure.

Article 24.

Unless otherwise agreed, the purchase of hardware will not be accompanied by the sale or installation of specific software. If specific installation software is supplied with the hardware, the Customer shall be responsible for its installation and Opensource ICT Solutions shall in no way be held liable for any problems that may arise in this regard, unless Opensource ICT Solutions is instructed to supply and/or install the specific installation software.

Article 25.

Unless otherwise agreed in the Specific Terms and Conditions and notwithstanding Article 19, the purchase invoice for the entire amount is payable in cash at the time of purchase or at the time of placing the order if the desired Product is not immediately available. For purchases exceeding 5,000 euros, the Customer is required to pay 40% of the purchase price at the time of placing the order. The outstanding amount must be paid at the latest at the time of delivery.

Article 26.

The delivery times communicated for the delivery of Products are purely indicative. Nevertheless, the Customer will receive a notification when the ordered Products are available for collection at the premises of Opensource ICT Solutions or can be delivered to the agreed place of delivery.
Unless otherwise agreed, the Customer shall always be responsible for the delivery costs of the delivered hardware.

Article 27.

Ownership of the hardware sold will only be transferred to the Customer after all consideration owed by the Customer to Opensource ICT Solutions has been paid, including payment of the agreed price, costs, interest and any compensation. The risks of loss or destruction of the purchased hardware shall always be borne by the Customer from the moment of delivery.

Article 28.

Unless the Third Party Suppliers' General Terms and Conditions stipulate otherwise, the Customer is deemed to accept the Product 'as is' at the time of delivery.
The Customer is deemed to waive any claim for visible defects upon delivery of the Products. Unless otherwise agreed in writing, Opensource ICT Solutions is only liable for hidden defects if the Customer notifies it of these by registered letter within fourteen (14) days of discovering the defects. Any complaint must be described in great detail. In any case, any claim for hidden defects shall lapse one (1) year after delivery has taken place.

Article 29.

Any warranty period shall commence at the time of delivery of the hardware. Only the warranties in the Third Party Suppliers' General Terms and Conditions may be invoked by the Customer, but shall not apply in the event of abnormal use of the Product by the Customer, in the event of combining the hardware with incompatible hardware and/or software, modifying the hardware contrary to the instructions or without the consent of Opensource ICT Solutions or the Third Party Supplier, or any other grounds for exclusion mentioned in the Third Party Suppliers' General Terms and Conditions.

Fixed-price services (including network maintenance)

Article 30.

Unless otherwise agreed, maintenance will be invoiced on the basis of a price per device.
Opensource ICT Solutions reserves the right to adjust prices annually in accordance with Article 15.

Article 31.

The Customer cannot claim compensation from Opensource ICT Solutions for errors in the system caused by modifications, including combining the system with incompatible hardware and/or software, carried out by the Customer or by third parties.

Consultancy and management work

Article 32.

Unless otherwise agreed, Opensource ICT Solutions' fees are calculated on the basis of the number of hours worked, taking into account the specialisation and labour intensity required for the specific assignments.

Article 33.

The Customer undertakes to pay commissions to Opensource ICT Solutions, which will be charged in the final invoice for the total services provided. At the end of the services provided, the Customer will receive a complete and detailed statement of costs.

Hosting

Article 34.

Opensource ICT Solutions offers hosting services on its own systems and at Third-Party Suppliers where it acts as an intermediary. Unless otherwise agreed, Opensource ICT Solutions is only obliged to provide web space that meets the description given by the Customer as set out in the Specific Terms and Conditions. Customers who wish to purchase additional services (such as a domain name, webmail, content management system, etc.) will need to enter into an additional agreement with Opensource ICT Solutions.

Article 35.

If the hosting service is offered on a system of Third Party Suppliers, whereby Opensource ICT Solutions acts solely as an intermediary, the Customer acknowledges that Opensource ICT Solutions cannot be held liable in any way for hosting problems that may arise with these Third Party Suppliers. The Third Party Supplier is ultimately responsible for the hosting service.
The Third Party Suppliers' General Terms and Conditions apply in full.

Article 36.

In the event that the Customer wishes to host its own hardware or software, this must be compatible with the specifications provided by Opensource ICT Solutions. The Customer assures Opensource ICT Solutions that the transferred data is sufficiently secured and virus-free. The Customer will also be responsible for setting up a secure

connection between their own network and the hosting platform. The Customer declares that they are aware of all legislation applicable to them and their activities and undertakes to comply with it at all times.

Article 37.

Apart from performing the necessary virus scans, Opensource ICT Solutions will refrain from making any changes to the Customer's data that was forwarded in the context of the hosting services. The Customer acknowledges that the final responsibility for the content of its data lies with it at all times. Opensource ICT Solutions reserves the right to deny the public access to certain data if it determines that such data is unlawful or constitutes illegal activity. The foregoing does not affect the Customer's responsibility and obligation to indemnify Opensource ICT Solutions if its data causes damage to third parties.

Article 38.

For the registration and transfer of domain names, the Customer acknowledges that they are aware of the relevant regulations (see those of the non-profit organisation DNS Belgium). The Customer acknowledges that they have taken note of the general terms and conditions of the non-profit organisation DNS Belgium concerning the registration of domain names and declares that they accept them. Opensource ICT Solutions cannot be held liable in any way for the registration or transfer of domain names that cause damage to third parties, or for the unlawful registration of the Customer's domain name by third parties, etc., or for the loss of the domain name by the Customer. The Customer indemnifies Opensource ICT Solutions against all claims that third parties may assert and that are the direct result of the domain name registered at its request. The requested domain name is registered directly in the Customer's name by Opensource ICT Solutions, with Opensource ICT Solutions acting solely as an intermediary. The Customer has a verification obligation in this regard.
With regard to the hosting service, Opensource ICT Solutions undertakes to secure the hosting platform and to prevent the complete destruction of the Customer's data and information. If the backup files are not requested by the Customer at the end of the agreement, they will be permanently deleted from Opensource ICT Solutions' servers after a maximum of six (6) months.

Helpdesk

Article 39.

Customers who use the Opensource ICT Solutions helpdesk service can contact the helpdesk on 03/377 69 36 or via support@oicts.be. The helpdesk is only available during Working Hours, unless otherwise agreed.
The helpdesk service is limited to calls within the above-mentioned hours and only applies to helpdesk employees who always work remotely. Unless otherwise agreed, the services provided by the support staff of the Opensource ICT Solutions helpdesk are charged per quarter hour started, in accordance with the price list.

Common provisions

Response time and SLA

Article 40.

If a Response Time and/or SLA is specified in the Annexes, the following matters will not be taken into account when calculating availability or whether or not the SLA has been achieved: unavailability or failure to achieve the SLA as a result of:

- regular maintenance work by Opensource ICT Solutions or a Third-Party Supplier, as well as emergency maintenance;
- defects/bugs in the hardware, software or services of the Customer or a Third Party Supplier;
- any error or negligence on the part of the Customer or a Third-Party Supplier, including the staff and subcontractors of the Customer or a Third-Party Supplier;
- a violation by the Customer or its appointees of the AUP;
- the Walk-in Period;

- Force majeure.

System management

Article 41.

If agreed in the Specific Conditions, the Customer will be assigned a permanent employee who will provide the necessary information to manage the IT file together with the Customer. Matters that do not fall under the responsibility of Opensource ICT Solutions, such as applications from other IT suppliers, can also be monitored and reported on by the employee. This gives the Customer the advantage of working with a single local contact person. In the event of problems, a meeting with all parties involved is necessary in order to find a suitable solution for the Customer.

Acceptable Use Policy (AUP)

Article 42.

This clause sets out the responsibilities of the Customer and end users with regard to the acceptable use of the cloud environment.
Unless otherwise stipulated, Opensource ICT Solutions will not monitor the activities and (content of) materials of the Customer or its end users. However, Opensource ICT Solutions will be entitled to remove (content of) material if it can reasonably assume that it violates this AUP.
In that case, and if possible, Opensource ICT Solutions will notify the Customer to allow the Customer to take the necessary actions to prevent or terminate further use in violation of the AUP. , in the event of a material breach of the AUP or in the event that Opensource ICT Solutions is unable to notify the Customer in advance, it shall suffice for Opensource ICT Solutions to inform the Customer afterwards.
The Customer acknowledges and accepts that Opensource ICT Solutions will cooperate with authorities and/or other third parties who are entitled to investigate criminal or other unlawful activities.
The Customer is obliged to comply with applicable legislation at all times and is not entitled to use the Services for illegal, obscene, offensive or fraudulent activities or content. The following is not permitted (non-exhaustive list): (i) advocating harm, encouraging hatred or violence, causing harm to people, (the safety of) companies or institutions, (ii) interfering with or violating the integrity or security of a network or (communication) system, (iii) circumventing filters, (iv) sending unsolicited, fraudulent, misleading or offensive messages, (v) spreading or introducing viruses or harmful code or programmes (such as Trojan horses, worms), (vi) collecting personal data or information about a person without that person's consent, including but not limited to phishing, internet scamming, password theft, spidering or harvesting, (vii) accessing or attempting to access third-party accounts, networks, computers, security, hardware and systems, or (viii) violating third-party rights, such as third-party intellectual property rights.
The Customer is not permitted to use any means, software, tools, procedures or routines that could compromise the servers, services or software, or their accessibility, security and proper functioning.
The Customer shall at all times be responsible for any misuse of user accounts and shall ensure that an effective password policy is in place. The Customer shall take the necessary measures to prevent unauthorised third parties from accessing the accounts. End users shall not use the accounts of other end users.
It is also prohibited to: (i) circumvent the user identification or security of a network or account. This also applies to granting yourself or end users unauthorised access to data and/or granting yourself or end users access to data that is not intended for them, (ii) log in to or use a server or account to which the Customer or end users do not have access, (iii) use tools designed to breach or circumvent security measures, or (iv) carry out distributed denial of service (DDoS) attacks.

Relationship between the Parties

Opensource ICT Solutions shall perform this Agreement in complete freedom and independence. There shall be no hierarchical relationship between Opensource ICT Solutions and the Customer, nor between the Customer and the Contractor(s). Opensource ICT Solutions shall in no event transfer any employer authority over its employees to the Customer, except to the extent permitted by applicable law as set out below.
The Parties acknowledge and accept that they are familiar with the Act of 24 July 1987 on temporary work, temporary agency work and the provision of workers for the benefit of users, the amendments made by the Programme Act of 27 December 2012 and the amendments that may be made from time to time and published in the Belgian Official Gazette. The Parties undertake to comply with the provisions of these laws.

The Customer may therefore not give any other instructions to the employees of Opensource ICT Solutions (and/or employees of subcontractors engaged by Opensource ICT Solutions) other than the instructions specified in this Agreement with regard to standards of conduct and safety, time management, the applicable policy standards and procedures of the Customer specified in this Agreement, or the work performed by these employees.
The Customer is not authorised to make decisions regarding:

- the recruitment process;
- the remuneration package (definition of salaries and emoluments, reimbursement of expenses, etc.);
- disciplinary matters;
- training and training policy (with the exception of those aspects that are necessary for the performance of the Services);
- dismissal and related policies;
- management of attendance and absence from work (holidays, sick leave and other forms of absence);
- employment relationships and organisational aspects relating to employees of the Service Provider (and/or employees of subcontractors used by the Service Provider).

Any instructions given by the Customer regarding the work to be performed must be strictly limited to the operational and technical aspects of the provision of the Services, must in no case amount to the authority of an employer and must relate solely to the following:

- planning of Services to be provided;
- time frame in which the Services are to be provided, if applicable;
- the Customer's processes and procedures as agreed by the Parties and to be observed in the provision of the Services (e.g. with regard to safety or access rules);
- access to the Customer's locations and facilities for the purpose of providing the Services;
- use of the Customer's materials, infrastructure, tools or facilities for the purpose of providing the Services.

In case of doubt, the Parties shall consult on the applicability of an instruction given by the Customer.
The Specific Conditions may contain more specific details about the instructions that may be given by the Customer. This list may be amended at any time during the term of the Agreement.
The Customer must comply with the obligations imposed on the "user of the services" by the aforementioned Programme Law.
The Customer shall indemnify Opensource ICT Solutions against all claims, damages and liabilities resulting from non-compliance with the provisions of this article.

Liability

Article 43.

The liability that Opensource ICT Solutions may incur arises from a best-efforts obligation that must be duly demonstrated by the Customer.
Opensource ICT Solutions cannot be held liable for (i) indirect or consequential damage suffered by the Customer, such as financial or commercial losses, increased general costs, lost savings, reduced goodwill, damage due to business interruption, planning disruptions, loss of expected profits, lost customers, loss of benefits, damage to and loss of files or data, loss of customers, loss of reputation, loss of profits and losses resulting from legal action or claims brought by third parties against the Customer, (ii) damage caused by an error or negligence on the part of the Customer, (iii) compensation for all direct and indirect damage caused in whole or in part by software or hardware supplied or manufactured by third parties, or by any other element introduced into the Customer's business after the conclusion of the Agreement, (v) all claims by third parties against the Customer, (vi) technical malfunctions and breakdowns that may occur outside the Opensource ICT Solutions network, and (vii) situations of Force Majeure.
The Customer is responsible for the proper use of the Products and/or Services. He must always take into account the specifications and instructions given to him by Opensource ICT Solutions or by the Third Party Supplier. If the Customer uses the Products and/or Services in an unauthorised manner, all rights of recourse against Opensource ICT Solutions will lapse.

Article 44.

To the maximum extent permitted by applicable law, Opensource ICT Solutions' total liability for any attributable failure to perform the Agreement shall be limited to (i) in the context of the provision of Services, compensation for direct damage up to a maximum of the total invoiced amounts (excluding VAT) during the 6 months prior to the day on which the damage-causing event occurred, and (ii) in the context of the delivery of Products, up to a maximum of 10% of the sales price of the Product in question. In no event, however, shall the total liability for all direct damage during the entire term of the Agreement exceed the remuneration paid by the Customer for the specific Services (excluding VAT).
The limitations of liability do not apply in relation to damage caused by an intentional and/or fraudulent error or gross negligence on the part of Opensource ICT Solutions.

Intellectual property rights

Article 45.

The intellectual property rights, including but not limited to copyrights and rights to and in software and databases, which form the subject matter of the Agreement between Opensource ICT Solutions and the Customer, shall at all times remain exclusively with Opensource ICT Solutions or its Third-Party Suppliers. The Customer cannot assert any claims, as the delivery of Products and/or Services does not result in the transfer of intellectual property, unless otherwise specified in this Agreement.

Article 46.

With regard to Products supplied by Third-Party Suppliers, only the licence or access conditions and restrictions as set out in the Third-Party Suppliers' General Terms and Conditions shall apply.

Article 47.

The Customer shall only have a limited, non-exclusive, royalty-free and non-transferable (including non-sublicensable) right of use for the Customer's internal business purposes, from delivery until the end of the Agreement.

Article 48.

However, Opensource ICT Solutions is entitled, without prior notice, to suspend or terminate any licence or access in the event that the Customer fails to pay the invoices relating to the licence or access on time or in the event of a material breach of the Agreement. A breach of the AUP is considered a material breach.

Article 49.

Unless with the prior written consent of Opensource ICT Solutions, the Customer may never disclose or make available to third parties the data, results, etc. that are the result of the Agreement with Opensource ICT Solutions.
The Customer shall also never remove or alter any indications relating to copyrights, trademarks, trade names or other intellectual property rights.

Article 50.

Opensource ICT Solutions confirms that it is the owner of the rights of use that it grants to the Customer and indemnifies the latter against claims from third parties. The foregoing does not apply if the Customer itself made changes to the delivered Products or Services, as a result of which third parties suffered direct damage.

Confidentiality

Article 51.

The Parties undertake to treat the Confidential Information as confidential and not to disclose it to third parties, unless this is necessary for the performance of the Agreement and provided that such third parties are bound by appropriate confidentiality obligations.
The following shall not be considered Confidential Information:

- information lawfully obtained from a third party who is not bound by any confidentiality obligation or secrecy;
- information that a Party already knew before it was transferred within the framework of this Agreement;
- information developed by a Party itself without breach of this Agreement;
- information that has fallen into the public domain without the intervention or fault of the Party that received it.

If a Party is required to disclose Confidential Information on the basis of applicable legislation, a judgment or ruling, or a judicial or administrative decision, that Party shall, if permitted, notify the other Party thereof in order to enable that Party to challenge such decision or to comply with the disclosure.

Data protection

Article 52.

Within the framework of the Agreement, Opensource ICT Solutions (processor) may process personal data on the instructions of the Customer (controller). In that case, the Parties shall enter into a processing agreement.

Duration

Article 53.

Unless otherwise agreed in the Specific Terms and Conditions, the Agreement shall be entered into for a term of one (1) year. Thereafter, it shall be automatically renewed for successive terms of one year, unless one of the Parties gives written notice to the other Party at least three months before the end of the term.

Termination

Article 54.

Opensource ICT Solutions reserves the right to terminate the Agreement with the Customer by means of a registered letter if it can be demonstrated that the performance of the Agreement is no longer feasible and reasonable. Upon termination of the Agreement, any advances paid will not be refunded.

Article 55.

Without prejudice to its right to compensation, the Service Provider may, at its discretion, suspend the performance of the Agreement or terminate the Agreement by operation of law, without notice of default, without judicial intervention and with immediate effect, by simply sending a registered letter:

- in the event of repeated or serious breach of the contractual obligations (such as late and/or non-payment on a single due date) by the Customer;
- in the event that the Customer has requested a deferment of payment, or is in a state of bankruptcy or suspension of payments, or their credit has been compromised, or they are clearly insolvent;
- if the Customer refuses to sign, confirm or accept the timesheet or any other time registration system without good reason;
- in the event of dissolution and/or liquidation of the Customer's company;
- if all or part of the Customer's goods are seized or attached at the request of a creditor or in the event of other enforcement or attachment measures in respect of the Customer's goods;
- in the event of evidence or serious suspicions of fraud committed by the Customer;
- if the Customer refuses to provide the requested information or if the Customer has provided incorrect and/or false information.

Article 56.

The Parties may also terminate the Agreement if the other Party commits a proven gross error or material contractual breach and has not rectified this within a period of thirty (30) calendar days after being given notice of default by

registered letter by the Party invoking the error or breach. Extension of the aforementioned remedial period shall not be refused on unreasonable grounds if, during the remedial period of thirty (30) calendar days, the negligent Party has commenced remedial action and continues to do so in all reasonableness and fairness.

Article 57.

If the Customer enters into an Agreement with a minimum purchase obligation and the Customer does not comply with the minimum purchase obligation or wishes to terminate the minimum purchase obligation, the Customer shall owe a lump sum equal to one (1) year's (monthly) amount relating to the purchase obligation, unless otherwise agreed.
The Customer expressly waives the application of Article 1794 of the Civil Code.

Consequences of termination

Article 58.

In the context of hosting services, the Customer is entitled to transfer of the file, including the necessary system documentation. The Customer's virtual servers and data will be delivered in a server format (i.e. an image of the server) on a data carrier provided by the Customer. Assistance with termination will be invoiced in accordance with the standard rates applicable between the Parties.

Force majeure

Article 59.

Neither Party shall be obliged to fulfil any obligation if it is prevented from doing so as a result of Force Majeure. This does not apply to the Customer's payment obligation.
In the event that a Party is prevented from performing its obligations due to a case of Force Majeure, it shall notify the other Party thereof in writing within a reasonable period of time after the commencement of the case of Force Majeure.
If a situation of force majeure lasts longer than sixty (60) calendar days, each Party shall be entitled to terminate the Agreement in whole or in part immediately and without judicial intervention by registered letter. In such a case, the Customer shall be obliged to make a pro rata payment for the Services provided.

Imprevision

Article 60.

If, after the Agreement has been signed, circumstances arise that make the performance of the Agreement excessively onerous, which could not have been foreseen at the time of signing the Agreement and which are not attributable to the Party affected by these circumstances, the affected Party shall be entitled to request renegotiation of the the relevant part(s) of the Agreement.
In such a case, the Parties shall, upon first request, negotiate in good faith to amend the Agreement. The Parties shall make every effort to reach a fair amendment to the Agreement in a constructive manner.
If, after thirty (30) calendar days from the request to amend the Agreement, the Parties are unable to reach an amicable agreement, or if the other Party refuses to negotiate, the affected Party shall be entitled to terminate the Agreement by registered letter with a notice period of thirty (30) calendar days, without any compensation being due.

Non-solicitation

Article 61.

During the term of the assignment and for twelve (12) months after its end, the Customer shall not enter into any cooperation, either directly or indirectly (employment contract, independent collaboration or via any other arrangement) with the Contractors who have been/were assigned by Opensource ICT Solutions to the assignment with the Customer, unless, upon payment of a compensation to Opensource ICT Solutions equal to six (6) months of the daily rate charged for the Contractor in question or, if no daily rate has been determined, the hourly rate multiplied by eight (8) hours to arrive at a daily rate.

Applicable law and court

Article 62.

The Agreement is governed exclusively by Belgian law, to the exclusion of the Vienna Sales Convention of 11 April 1980 (CISG). All disputes between the Parties concerning the conclusion, performance and/or interpretation of the Agreement shall fall exclusively within the jurisdiction of the courts of Antwerp, Antwerp division.

General provisions

Article 63.

The Agreement contains the complete representation of the rights and obligations of the Parties and replaces all previous agreements and proposals, both verbal and written. Deviations from and additions to this Agreement are only valid if they have been agreed in writing between the Parties.

Article 64.

The Customer is not entitled to transfer the Agreement, or the rights or obligations arising from it, in whole or in part, without the prior written consent of Opensource ICT Solutions.

Article 65.

Opensource ICT Solutions may engage subcontractors for the performance of the Agreement.

Article 66.

The possible nullity or invalidity of a provision shall not affect the validity of the other provisions. The parties shall make every effort to replace a null or invalid clause with a valid clause with the same economic impact.

Article 67.

A Party cannot be deemed to have waived any right or claim under this Agreement or in relation to a breach by the other Party, unless such waiver is expressly made and communicated in writing.

Article 68.

Unless otherwise stipulated, all legal remedies provided for in the Agreement shall be cumulative and in addition to (and not in lieu of) other legal remedies available to the Parties, with the exception of the following remedies, which are explicitly excluded: the right to a price reduction (Article 5.97 of the Civil Code), the right to replace Opensource ICT Solutions or have it replaced by another service provider (Article 5.235 of the Civil Code), the right to terminate or suspend the Agreement as a result of anticipatory non-performance by Opensource ICT Solutions (Article 5.90, paragraph 2 and Article 5.239, paragraph 2 of the Civil Code, respectively).

Article 69.

All notifications, requests and other communications under this Agreement (excluding day-to-day operational communications) shall be made in writing by registered letter with acknowledgement of receipt.

Article 70.

All provisions of the Agreement that are expressly designated as surviving termination (including termination) or expiry of the Agreement, as well as all provisions of the Agreement that are intended to be performed or complied with after the termination or expiry of the Agreement, shall survive the termination or expiry of the Agreement and remain in full force and effect. In particular, but without limitation, all provisions relating to liability, confidentiality and non-solicitation shall continue to apply after termination of the Agreement, in any manner whatsoever.

Article 71.

The titles and divisions in this Agreement are used for indicative purposes only and do not affect the content or scope of the provisions and the rights and obligations arising therefrom in any way.