

CONDITIONS AND TERMS CLOUD SOURCING 2019 SWEDISH SOFTWARE

**Conditions and terms for delivery of Software as a Service and
Cloud Sourcing provided by the association Swedish Software
(SweS)**

1. Definitions

- 1.1. "General Conditions" shall mean these General Conditions Cloud Sourcing 2019 for provision of the services.
- 1.2. "Additional Services" shall mean any customer adaptation of the Basic Services, implementation-, support-, training or other extra services provided to the Customer by the Supplier upon the Customer's request in accordance with the specifications in the Agreement.
- 1.3. "Agreed date for Delivery" shall mean the time when delivery or partial delivery of the Services or the Result shall have taken place in accordance with the agreed time schedule, and the customer has had the opportunity to control the delivery within the control period.
- 1.4. "Agreement" shall mean the agreement document Cloud Sourcing2019 or any other agreement between the parties regarding delivery of the Services, the General Conditions Cloud Sourcing2019 and any other appendices to the Agreement.
- 1.5. "Approved delivery" shall mean the time when delivery or partial delivery of the Services or the Result shall be deemed to be completed as set forth in section 6 below.
- 1.6. "Basic Services" shall mean (i) the software and any equipment made available to the Customer by the Supplier for processing of the Customer's Data in accordance with the specifications in the Agreement or (ii) the cloud services made available to the Customer by the Supplier over a public electronic network in accordance with the specifications in the Agreement.
- 1.7. "Change Management" shall mean the agreed procedure for management of alterations and supplements to the Agreement.
- 1.8. "Confidential Information" shall have the meaning of section 16 below.
- 1.9. "Control Period" shall mean the period of time during which the Customer has the opportunity to control delivery of the Additional Services and the Result as set forth in section 6 below.
- 1.10. "Customer" shall mean the buyer of Services in accordance with what is stated in the Agreement.
- 1.11. "Customer's Data" shall mean information belonging to the Customer entered into and stored in the Supplier's system by the Customer via the Services.
- 1.12. "Result" shall mean the result of the work performed by the Supplier within the scope of the Additional Services, irrespective of whether the Additional Services is completed or not and regardless of the form of the Result.
- 1.13. "Supplier" shall mean the supplier of the Services in accordance with what is set out in the Agreement.
- 1.14. "Service Levels" shall mean the service levels, agreed upon by the parties, for the Supplier's provision of the Services in accordance with the specification in the Agreement.
- 1.15. "Services" shall mean the Basic Services and the Additional Services.
- 1.16. "Specification" of the Additional Services" shall mean the specification of the Additional Services and the Result explicitly agreed in the Agreement.
- 1.17. "Start Date" shall mean the day when the provision of the Services shall begin in accordance with the Agreement. Supplier shall on the Start date provide the Customer with login information or other instructions in order for the Customer to access the Services.

- 1.18. "Third Party Product" shall mean software or any other solution to which the rights belongs to a party other than the Supplier and to which is referred to in the Agreement as a Third Party Product.
 - 1.19. "Time Plan" shall mean a time plan, agreed upon by the parties, for starting the Services.
2. Scope
 - 2.1. The Services include the number of licenses or other use limitation specified in the Agreement. The Customer has the right to extend the number of licenses or use limitation if, and to the extent, the parties have explicitly agreed in the Agreement.
 - 2.2. The Services are provided and produced on the Supplier's premises, via the Supplier's system. Observing section 12, Supplier may, unless otherwise agreed in the Agreement, provide the Services or part of the Services from another country. The Services includes on-site work at the Customer's premises or similar only after a specific agreement between the parties.
 - 2.3. The parties shall each appoint a contact person in charge of the ongoing cooperation under the Agreement. The parties shall actively cooperate and consult through coordination, which shall not, however, include the performance of the Services.
3. Supplier's obligations
 - 3.1. The Supplier undertakes to provide the Services in accordance with the specifications in the Agreement and the conditions set forth therein during the term of the Agreement.
 - 3.2. The Supplier shall, at its own expense, update and upgrade the software included in the Basic Services to the extent the Supplier deems necessary for the performance of the Services. Updates and upgrades in addition to the above can, subject to specific agreement by the parties, be provided by the Supplier on request from the Customer.
 - 3.3. The Supplier shall provide back-up of Customer's Data as specifically agreed between the parties in the Agreement. In the event that the Supplier is in breach of a specific back-up undertaking, section 14 shall apply.
 - 3.4. The Supplier shall be entitled to engage subcontractors for the performance of the Supplier's undertakings in accordance with the Agreement. The Supplier is liable for the performance of the contractual obligations performed by the subcontractor as if they were performed by the Supplier.
 - 3.5. To the extent that Third Party Products are included in the Services, the terms of the relevant third-party supplier for licenses and use, defects, liability and intellectual rights shall apply instead of what is stated in this Agreement. If reference is made to Third Party Products in the Agreement with respect to fees, any change in fees to the third-party supplier shall entitle the Supplier to adjust the fees for the Services correspondingly. With respect to liability for faults and infringement of intellectual property rights, the Supplier's liability is limited to reporting the fault to the third-party supplier and installation of any remedy provided by the third-party supplier, provided, however that the Services hereby are not adversely affected. The Supplier is also entitled to make changes and amendments in accordance with section 7. The Supplier's liability for Third Party Products shall be limited to what is stated in this section 3.5.

4. Customer's obligations

4.1. The Customer undertakes to:

- i. ensure access to such software and equipment according to Supplier's instructions in writing;
- ii. at all times have access to proper communication services as instructed in writing by the Supplier;
- iii. take any measures which are the obligations of the Customer according to the Time Plan or otherwise in the Agreement;
- iv. make sure that the data entered into the Supplier's system is in the agreed upon format and virus-free, and not in any other way capable of damaging or negatively affecting the Supplier's system or the Services;
- v. immediately hand over any information or documentation regarding the Services which the Supplier requires;
- vi. follow the Suppliers instructions as provided from time to time for the use of the Services;
- vii. and reasonably assist the Supplier and in any other respects take any necessary actions that are reasonably required in order for the Supplier to fulfill its obligations under the Agreement.

4.2. The Customer shall actively work to ensure that the Services can be provided in the intended fashion and shall continuously and without delay provide Supplier data and material that Supplier from time to time requests for the provision of the Services and otherwise comply with the Supplier's instructions and control and approve documentation provided by the Supplier. Furthermore, the Customer shall provide the Supplier access to the Customer's premises to the extent necessary for the performance of the Services.

4.3. The login information and other instructions provided to the Customer by the Supplier in accordance with section 5 shall be kept in a secure manner by the Customer in accordance with section 16 below. The Customer is responsible for that login information and other instructions are only distributed to duly authorized users. The Customer undertakes to immediately notify the Supplier if an employment ceases for an employee holding login information or other instructions or if anyone else has or is suspected to have unauthorized access to login information or other instructions. The Customer is responsible for its user's use of the Services.

4.4. The Customer is aware that the Services are only to be used for legal purposes and the Customer undertakes to indemnify the Supplier against all claims from any third party towards the Supplier on account of the Customer's use of the Services in violation of this provision, including but not limited to claims regarding infringement of third parties' intellectual property.

5. Start of the Services

5.1. The Supplier shall provide the Customer with the Services from the Start Date by providing the Customer with the login information and other instructions. The Start Date occurs when the supplier has made the necessary login information and other instructions for accessing the Services available to the Customer without any special approval from the Customer. Additional Services may be made available by the Supplier at a separate

date as agreed in the Time Plan. Any such agreed separate date for Additional Services shall not change or affect the Start Date.

6. Delivery Approval

- 6.1. The Services shall be delivered in the manner and at the time specified in the Agreement. The Customer shall, within ten (10) working days from the notification of the Supplier that the Services has been completed ("Control Period"), verify that the Services and the Result meet the Specification of the Services. Unless justified remarks are presented, the Customer shall approve the Services and the Result within the Control Period.
- 6.2. Delivery online or by electronic transmission to the Customer occurs and the Control Period begins when the Additional Services or the Result is made available for transmission to the Customer by the Supplier.
- 6.3. The Additional Services shall be deemed to be completed ("Approved delivery") when:
 - i. the Additional Services or the Result has been approved by the Customer by written notice to the Supplier;
 - ii. the Control Period has expired and the Customer has not presented a justified remark on the Additional Services/the Result;
 - iii. the Customer uses the whole or essential parts of the Additional Services or the Result in its business; or
 - iv. the Supplier has rectified fault due to remarks presented which, according to the Supplier's fair judgment, means that the delivery meets the Specification of the Additional Services.

7. Changes and additions

- 7.1. If the Customer during the term of the Agreement requests additions and/or changes to the Services, the Supplier is entitled to make such reasonable changes of fees, Start Date, Time Plan, Service Levels or any other reasonable change or the Agreement as is required as a result of the Customer's request.
- 7.2. Unless otherwise stated, the contact persons named pursuant to the above may make decisions regarding changes in accordance with the procedure for Change Management.
- 7.3. The Supplier is entitled to make changes and amendments to the Basic Services and the Additional Services. If the change or amendment adversely affects the Customer the Supplier shall notify the Customer of the change or amendment no later than three (3) months before the change or amendment becomes effective. The Customer is entitled to terminate the Agreement if the change implies a material inconvenience for the Customer. Such termination shall be given with thirty (30) days' notice and the termination shall be effective as of the day stated in the termination notice, such day being the implementation date of the change at the earliest and three (3) months after such date at the latest.
- 7.4. The Supplier may not oppose the Customer's wish for alterations, unless the Supplier can present objective reasons for such refusal. The Supplier shall without delay notify the Customer if the alteration implies changes to the Specification of the Additional Services, fees for the Services and/or postponement of the Agreed Date for delivery. Change of the specification

shall be agreed in accordance with the procedure for Change Management. If the Customer does not accept the changes put forward by the Supplier, the Customer shall without delay notify the Supplier, in which case the alterations shall not be made and the Additional Services shall be carried out in accordance with the wording of the Specification of the Additional Service.

7.5. The Supplier may, upon the Customer's request and after specific written approval from the Supplier in accordance with the procedure for Change Management, provide additions and/or amendments of Additional Services. Unless agreed otherwise, the Customer shall, to the Supplier, pay remuneration and any other costs for such additions and/or amendments. Unless the Supplier notifies the Customer to the contrary, the Customer shall pay on a current account at agreed hourly rates. If no hourly rates have been specified, compensation is payable in accordance with the Supplier's current price list.

8. Price and payment

8.1. The Customer shall pay the fees specified in the Agreement. In the event the agreement does not specify remuneration, the Customer shall pay the price set out in the Supplier's from time to time applicable price list for the provision of the Services.

8.2. For Additional Services, the Customer shall pay the fees applicable for a current account according to the Suppliers from time to time applicable price list. The Supplier shall be entitled to compensation for subsistence allowance, travels and accommodations in so far as the Service is performed outside of the Supplier's base as specified in the Agreement. The Supplier shall be entitled to compensation for travelling time and overtime work in accordance with the Supplier's current price list. The Supplier shall be entitled to compensation for costs agreed or otherwise ordered or initiated by the Customer. In case of price on a current account, the Supplier may charge compensation for time spent as well as any other costs and expenses monthly in arrears. In case of fixed price the Supplier's compensation shall, unless specifically agreed otherwise in the Consultancy Agreement, be invoiced with one third (1/3) when entering into the agreement, one third (1/3) on a current basis during the performance of the Service, however no more than one (1) time per calendar month in arrears, and one third (1/3) at Approved delivery of the Services. In case the Services shall be delivered by means of partial delivery/ deliveries, the payment plan shall apply to each partial delivery. When using a fixed price, costs and expenses shall also be charged on a current basis monthly in arrears.

8.3. The terms of payment are specified in the Agreement and may vary depending on the specific service provided Unless otherwise agreed in the Agreement, invoices shall be paid within 30 days from the date of invoice. In the event of late payment, The Customer shall pay interest according to applicable laws. The fees in the Agreement are stated excluding value added tax, taxes and other fees.

8.4. Unless otherwise stated in the Agreement, invoices shall be paid no later than thirty (30) days from the date of invoice stated in the invoice.

- 8.5.If the Customer is in delay with the payment of the fees indicated above, the Supplier is entitled to withhold its performance under the Agreement until full payment is made. Furthermore, section 19 applies.
- 8.6.If, during the term of the Agreement, there are any changes in laws, decisions of authorities, decisions on new or changed taxes or public fees or if the practice of the courts in any respect affects the provision of the Services, the Supplier is entitled to raise the fee for the Services in order to cover the Supplier's increased costs.
- 8.7.If the Supplier is incurred with additional work or additional costs due to circumstances that the Customer is liable for, the Supplier is entitled to remuneration of such costs in accordance with the Supplier's from time to time applicable price list.
- 8.8.Unless otherwise specified in the Agreement the Supplier is entitled to annually change the agreed fees in accordance with the equivalent change of Statistics Sweden's Labour Cost Index for section J ("LCI") (Sw. *SCBs Labour Cost Index för näringsgren J*) from the time of entering into the Agreement or, if the fees already have been adjusted under this section, from the time of the last adjustment. The basis of indexation will be the first quarter of the year the Agreement was entered into.

9. Support and maintenance

- 9.1.The Customer is aware and accepts that the Services will be unavailable from time to time due to planned or unplanned shutdowns for necessary service and maintenance of the Services and/or the Supplier's system.
- 9.2.Unless otherwise agreed, the Supplier undertakes to notify the Customer within reasonable time before a planned shutdown of the Services and the Supplier's system takes place.
- 9.3.The Supplier shall make reasonable efforts in order to minimize the time for shutdowns of the Services and or the Supplier's system as well as any disturbance this might cause in the Customer's business.

10. Liability for faults and delay

- 10.1.The Services shall be provided in accordance with the Service Levels stated in the Agreement.
- 10.2.If the Services do not meet the agreed upon Service Levels, the Customer is entitled to a deduction of the fees for the Services in accordance with the Agreement (Service Level Penalty). If the parties have agreed upon such Service Level Penalty, the Customer shall not be entitled to any other remedy due to delay in or non-delivered Services, unless intent or gross negligence is at hand. The Service Level Penalty is limited according to what is specified in the Agreement. If no percentage rate is specified, the Service Level Penalty is limited to fifteen (15) % of the monthly fee for the Basic Services.
- 10.3.If there is a defect in the Services that the Supplier is liable for and which Service is not subject to a specific Service Level, the Supplier undertakes to, as soon as the circumstances so require, considering the nature of the defect and any other circumstances, at its own expense rectify the defect.
- 10.4.If the parties have not specifically agreed upon such Service Level Penalty, the Customer shall be entitled to a reasonable deduction of the fees for the Services during the period the reduced Service Level remains.

- 10.5. The Supplier's obligations in accordance with section 10 are only applicable if the Customer has met all the undertakings stated in section 4 above. Further, the Supplier is not liable for deficient fulfillment of agreed requirements if the deficiency is directly or indirectly caused by:
- i. the Customer or circumstances for which the Customer is responsible;
 - ii. interruption of communications services;
 - iii. planned shutdowns of the Services due to maintenance and support of the Services and/or the Supplier's system;
 - iv. circumstances which the Supplier has not reasonably been able to avoid, including, but not limited to, force majeure in accordance with section 17 below, viruses and other external attacks; or
 - v. interruption or change in the Service undertaken by Supplier due to a risk that the provision of the Service is causing damage which is more than minor for the Customer, another customer to the Service or the Supplier.
- 10.6. The Supplier's responsibility in accordance with section 10 is applicable only if:
- i. the Customer notifies the Supplier of the defect in the Services within thirty (30) days after the Customer became aware of or should have become aware of the defect; and
 - ii. the Customer provides the Supplier with the data necessary for the Supplier to analyze and reproduce the defect.
- 10.7. This section 10 constitutes the Supplier's only obligations due to defects and delays in the Services.

11. Intellectual Property Rights

- 11.1. The Supplier and/or the Supplier's licensor holds all rights, including all intellectual property rights, to the Services and therein included software, including but not limited to patents, copyrights, design rights and trademarks. Nothing in this Agreement shall be interpreted as a transfer of such rights, or part thereof, to the Customer.
- 11.2. The Supplier agrees to indemnify the Customer from any claims by a third party based on the Customer's use of the Services, or part thereof, in Sweden and in other countries agreed upon by the parties in writing, infringing any such third party's intellectual property rights. The Supplier's obligations in accordance with section 11 are subject to the Customer having used the Services in accordance with all conditions set forth in the Agreement.
- 11.3. The Supplier's obligation to indemnify under section 11 only applies provided that the Customer:
- i. without undue delay notifies the Supplier in writing of the claims brought against the Customer;
 - ii. allows the Supplier to control the defense and solely to decide in all related settlement negotiations; and
 - iii. acts in accordance with the Supplier's instructions and cooperates with and assists the Supplier to the extent reasonably requested by the Supplier.
- 11.4. Subject to the conditions under sections 11.2- 11.3, the Supplier shall indemnify the Customer for such damages, liabilities, costs or expenses

awarded in a final judgment or settlement which has been approved in writing by the Supplier.

- 11.5. If it is finally determined that there is an infringement of a third party's intellectual property rights, the Supplier shall at its own discretion:
- i. procure for the Customer the right to continued use of the Services;
 - ii. modify the Services so that they do not infringe;
 - iii. replace the Services, or part thereof, with an equivalent service which does not infringe; or
 - iv. cancel the Services and repay the fees that Customer has paid for the Service without interest with deduction of any reasonable benefit the Customer might have had from the Services.
- 11.6. Section 11 constitutes the entire obligation of the Supplier towards the Customer with respect to any infringement in a third party's intellectual property rights.

12. Personal Data

- 12.1. To the extent the Supplier processes personal data on behalf of the Customer, the terms and conditions of the Data Processing Agreement entered into between the parties shall apply.
- 12.2. The Supplier is entitled to reasonable compensation for the performance of its obligations under such data processing agreement.

13. Customer Data

- 13.1. The Customer shall have all rights to, and be the owner of, Customer Data and no rights or ownership of Customer Data, or part thereof, shall be transferred to the Supplier under this Agreement. Supplier may during the agreement term use Customer Data for the provision of the Services to the Customer. Supplier may also during the agreement term and thereafter use Customer Data in aggregated form without specific data being distinguishable, for uses in statistics and product development purposes.
- 13.2. Unless otherwise provided for in the Agreement the Supplier is entitled to remuneration for the work with transferring of data to the Customer during the term of the Agreement in accordance with the Suppliers current price list at the time for the transfer for corresponding services.

14. Liability

- 14.1. The Supplier is, within the limitations stated below, liable for the damage that the Supplier has inflicted on the Customer by negligence in the performance of the Services. The Supplier has no liability whatsoever for damages inflicted by Third Party Products.
- 14.2. The Supplier shall in no event be liable to the Customer for the loss of profit, revenue, savings or goodwill, losses due to service outages or loss of data, the Customer's obligation to compensate a third party or any other indirect or consequential damage of any kind.
- 14.3. The Supplier's aggregate and total liability under this Agreement in respect to one or more events or series of events (whether related or unrelated) shall under no circumstances exceed fifteen (15) % of the yearly fee for the Basic Services.
- 14.4. Section 14 shall not apply to the Supplier's obligations regarding infringement of intellectual property rights in accordance with section 11.

14.5. The Customer shall, in order to not lose his right, make claims for damages no later than three (3) months after the Customer discovered or should have discovered the basis for the claim, but no later than six (6) months from the damage occurred.

15. Declaration of rights

15.1. The party providing material is responsible for ensuring that the party has obtained the necessary rights for the relevant use from the right holder.

16. Confidential Information

16.1. Each party undertakes not to, without the prior written consent of the other party, disclose to a third party such information regarding the other party's business that may be regarded as trade secret or professional secret or any other confidential information that is subject to confidentiality according to law ("Confidential Information"). For purposes of clarity, information stated to be confidential, and Supplier's price information, shall always be considered Confidential Information. A party's undertaking of confidentiality in accordance with section 16 shall not apply to Confidential Information which:

- i. is already known by the recipient when received;
- ii. is or has become publicly available or known other than by breach of this confidentiality obligation by the receiving party;
- iii. the receiving party has received in a permissible way from a third party that is under no obligation of confidentiality in relation to the other party; or
- iv. the receiving party is obliged to make publicly available due to a court order, a decision by a public authority or as otherwise required by law.

16.2. A party is liable for its employees' and consultants' respective compliance with the provisions stipulated herein and shall through confidentiality obligations with these or other appropriate measures ensure that the Agreement's confidentiality is observed.

16.3. A party's undertaking of confidentiality under the Agreement shall be valid during the term of this Agreement and continue for a period of five (5) years after expiration or termination of the Agreement.

17. Force Majeure

17.1. If the fulfilment of the Agreement is completely or partially hindered, or materially impeded, by circumstances beyond a party's reasonable control or by labour dispute, a party shall be released from non-compliance in undertaking an obligation for the time the hindrance persists, subject to the party who cannot fulfil an obligation without undue delay giving notice to this effect to the other party. The same shall apply to errors or delay in services or delivery from subcontractors due to circumstances within the remit of this section. If the discharge of the Agreement is hindered for more than six (6) months, party may give notice to terminate the Agreement. In case of such termination, the Supplier shall be entitled to compensation as set forth in the Agreement for work performed and substantiated necessary cost.

18. Term of the Agreement

18.1. The Agreement enters into force when the Agreement is signed by both parties and remains in force during the term specified in the Agreement.

19. Termination

- 19.1. In addition to what is provided for by the Agreement, a party has the right to, by giving written notice to the other party, terminate the Agreement with immediate effect or at the date specified by the terminating party if:
- i. the other party has committed a material breach of the Agreement and has not fully rectified the same within thirty (30) days after written notice thereof;
 - ii. the other party is declared bankrupt, enters into liquidation, suspends its payments or if it otherwise reasonably can be deemed to be insolvent; or
 - iii. The other party becomes subject to company reconstruction, however with such mandatory limitations provided for in law.
- 19.2. In the event of termination as set out above the Customer shall not be entitled to recover any excess amount of the advance fee paid or any other costs relating to time after the termination of the Agreement.

20. Winding up

- 20.1. Supplier shall in Customer's request at the termination or expiration of the Agreement provide Customer, or such third party as Customer appoints, a copy of Customer Data. After Customer's receipt of a copy, Supplier shall destroy or anonymize Customer Data. If the Customer does not request a copy, the Supplier shall destroy or anonymize the Customer Data sixty (60) days after the termination or expiration of the Agreement at the earliest and twelve (12) months after the termination or expiration of the Agreement at the latest. For avoidance of doubt shall anonymized data not be considered Customer Data.
- 20.2. The Supplier shall have the right to compensation for work done in accordance with Section 20.1 above, based on the Supplier's price list for corresponding services at the time of the transfer.

21. Notices

- 21.1. Termination or other notifications shall be made by messenger, registered letter or electronic message to the parties' appointed contact persons' addresses as specified in the Agreement or as changed later by written notification to the other party.
- 21.2. The notification shall be deemed to have reached the recipient:
- i. if delivered by messenger: at the time of delivery;
 - ii. if sent with registered mail: two (2) days after delivery by post;
 - iii. if sent as electronic message; upon the receipt when the electronic mail has reached the electronic address of the recipient.

22. Miscellaneous

- 22.1. In case of any inconsistency between the Agreement's main documents and appendices and these General Conditions, the Agreement and its appendices shall prevail.

- 22.2. The Agreement forms the parties' entire understanding of all the questions in the Agreement. All written or oral representations or warranties prior to the Agreement are replaced by the Agreement.
- 22.3. The Agreement may not be assigned to a third party without the other party's prior written approval. The Supplier is however entitled to assign the Agreement to a third party in connection with transfer of the Supplier's business or a part thereof and to companies within the same group as the Supplier. The Supplier is further entitled to assign its right to a third party.
23. Disputes and governing law
- 23.1. This Agreement shall be governed by and construed in accordance with Swedish law with exclusion of its conflict of law rules.
- 23.2. Any dispute arising out of this Agreement shall be settled by the court where the Supplier has its legal domicile.
- 23.3. If any disagreements arise between the parties regarding the Services, party may submit the matter to the decision of a by the Swedish Software specifically appointed committee for mediation. If the matter has been referred to the board by either party, the parties are precluded for a period of two (2) months from the referral to try the issue elsewhere. The costs of mediation shall be divided equally between the parties.
- 23.4. The Supplier shall, without prejudice to section 23.3 above, at its own option be entitled to apply to general court or enforcement service for the recovering of overdue claims for remuneration for which the other party has not raised a written complaint within seven (7) days from the due date for the current claim.