

MSP IaaS GENERAL TERMS AND CONDITIONS

These **GENERAL TERMS AND CONDITIONS OF SUBSCRIPTION** govern the terms and conditions of access to and use of the Services. For the purposes hereof, the "**Customer**" is the legal entity referred to on the Purchase Order.

By accepting these General Terms and Conditions and the Purchase Order on behalf of a company or other legal entity, the Customer's signatory declares that he/she has the legal capacity and powers necessary to represent this entity and bind it in accordance with the General Terms and Conditions.

Supplier and the Customer are hereinafter referred to as the "**Parties**" and, individually, as a "**Party**".

1. DEFINITIONS

Capitalized terms, whether singular or plural, have the meanings given below.

"**Anniversary Date**" means the annual anniversary date of the first Entry into Service ("First Entry into Service").

"**Anomaly**" means any reproducible malfunction affecting the proper functioning of the Services in accordance with the Documentation, irrespective of any fault on the part of the Customer or use that does not comply with the Documentation and the General Terms and Conditions. Malfunctions resulting from products, services or networks not directly supplied by Supplier or its subcontractors are not the responsibility of Supplier.

"**Application**" or indifferently "**Platform**" means the platform developed by Supplier on which the Customer and Users access the Services.

"**Commissioning**" refers to the provision on the Platform of Licenses subscribed to by the Customer, enabling Users to use the Services.

"**Contract**" means the combination of the General Terms and Conditions and the Order Form(s).

"**Customer Data**" refers to information submitted and processed by the Customer and/or Users via the Services. Customer Data remains the property of the Customer.

"**Documentation**" means all instructions for the operation and use of the Services, provided 'online' or delivered by any other means and on any other medium to the Customer.

"**First Commissioning**" means the first commissioning under the Contract. The Anniversary Date is determined by the date of First Commissioning.

"**General Terms and Conditions**" means these "GENERAL TERMS AND CONDITIONS OF SUBSCRIPTION AND SERVICES -

"**License**" has the following meaning. Supplier implements the Subscription subscribed to by the Customer by making available on the Platform a certain number of Licenses whose scope of rights and characteristics (rights of access and use of the Services) depend on the Service offering subscribed to by the Customer as described in Appendix "Description of Service offerings". The Order Form for a Subscription must specify the chosen Service offering and the number of corresponding Licenses.

"**Maintenance**" means "**Corrective Maintenance**" activities aimed at the correction by Supplier of any Anomalies in the Application as well as "**Evolutionary Maintenance**" activities aimed at improving existing functionalities of the Application or adding new functionalities as part of the policy of continuous improvement of the Application decided by Supplier. The terms and conditions of Maintenance are specified in Article 8.

"**Personal Data**" means personal data within the meaning of the Personal Data Protection Laws. The categories of Personal Data processed, as well as the purposes and characteristics of their processing, are described in Appendix "Processing of Personal Data".

"**Personal Data Protection Laws**" means Law No. 78-17 of January 6, 1978 relating to information technology, files and freedoms in its current version, European Regulation No. 2016/679, known as the General Data Protection Regulation ("GDPR").

"**Platform**" or indifferently "**Application**" means the platform developed by Supplier on which the Customer and Users access the Services.

"**Price**" means the price(s) or rate(s) as indicated in article 4 and including the price of the Subscription to the Services (including maintenance and hosting) and the price of the Services, where applicable. Unless otherwise indicated, all Prices are exclusive of tax.

"**Purchase Order**" means the quotation (or similar document) issued by Supplier and signed by the Customer by which the Customer orders Services and/or Provisions from Supplier. All Purchase Orders are subject to these General Terms and Conditions and may include Special Terms and Conditions.

"**Services**" refers to all services that the Customer may order by virtue of a Purchase Order in addition to the Subscription under the conditions set forth herein, and which may include, but are not limited to, support and training services, project management, provision of customized Documentation, configuration, development for integration of external application systems or databases, and provision of a white-label mobile application.

"**Subscription**" means the Customer's subscription to an offer of Services proposed on the Platform, via the signature of an Order Form.

"**User**" means any identified natural person who has been authorized by the Customer to access and use the Services.

2. SUBJECT

The General Conditions describe the conditions under which Supplier grants the Customer the right to access and use the Services on the Platform in SaaS mode (via mobile or web) as well as, where applicable, the provision of the Services in return for payment of the Price set out in Article 5.

3. COMMISSIONING AND CONTRACT TERM

The Contract comes into force on the date of signature and continues for an initial firm period (the "**Initial Period**") from the date of First Commissioning.

Unless otherwise stipulated in the Purchase Order, Supplier will proceed with the First Commissioning as soon as possible after signature of the Contract and will inform the Customer accordingly.

On expiry of the Initial Period, the Contract will be automatically renewed by tacit agreement on each Anniversary Date for a further period of twelve (12) months (the "**Renewed Period**"), unless terminated by either Party by registered letter with acknowledgement of receipt at least three (3) months before the next Anniversary Date.

4. Modifications to Services

Supplier reserves the right to modify the Services or any part or element thereof from time to time without prior notice, including, without limitation:

- rebranding, repackaging or repricing (including any adjustments to current Fees which will be applicable at the next Plan renewal date) the Services at its sole discretion;
- ceasing providing or discontinuing the development of any particular Service, Feature or part or element of the Platform, temporarily or permanently;
- taking such action as is necessary to preserve Supplier's rights upon any use of the Services that may be reasonably interpreted as violation of Supplier's intellectual property rights, distribution of Internet viruses, worms, Trojan horses, malware, and other destructive activities or illegal activity.

As applicable, Client may be notified of such modifications when logging in to the Account.

If the Client does not accept a modification, Client shall notify Supplier or Reseller (if Client purchased access to the Services from a Reseller) before the effective date of the modification, and Client's Account will terminate on the effective date of the modification. However, Client's continued use of the Services, or any part or element thereof, after the effective date of a modification shall indicate its consent to the modifications. Supplier shall not be liable to the Client or to any third person for any modification, suspension or discontinuance of the Services, or any part or element thereof.

5. PRICING AND BILLING

5.1 Billing principles

5.1.1 Service billing

As from the First Start-up, Supplier will invoice the Customer the Price corresponding to the number of Licenses ordered by the Customer in accordance with the Order Form(s), irrespective of the actual use made by the Customer of the Licenses thus made available.

5.1.2 Billing for Services

Unless otherwise specified in the Purchase Order, Services are invoiced on the date the Contract takes effect, and for Services ordered subsequently on the date the corresponding Purchase Order is signed.

5.1.3 Invoice recipient and due date

Invoices will be issued in the Customer's name and address as shown on the Purchase Order.

Unless otherwise stipulated in the Purchase Order, invoices are payable by bank transfer thirty (30) days net after the invoice date.

Without prejudice to any damages, in the event of non-payment by the Customer of an invoice on its due date, Supplier may automatically :

- Claim payment of late payment penalties at the rate of 3 (three) times the legal interest rate, calculated from the due date shown on the invoice to the date of actual payment, and payment of the fixed indemnity for collection costs set at 40 euros in accordance with article D. 441-5 of the French Commercial Code. If the collection costs incurred exceed the amount of this fixed indemnity, Supplier may request additional compensation, on justification.
- Suspend access to the subscribed Services after prior formal notice has been served without success at the end of a period of thirty (30) working days.

6. OBLIGATION OF THE PARTIES

6.1 Supplier bonds

Supplier undertakes to provide the Services in accordance with good practice and in such a way that they comply with the legal and regulatory obligations in force.

Supplier will use its best efforts to ensure that the Services operate in accordance with the service levels set out in Appendix "Service Level Agreement (SLA).

6.2 Customer obligations

6.2.1 Collaboration

The Customer undertakes to inform Supplier in writing precisely of its requirements or of any information necessary for the performance of the Services and of any event likely to affect the proper performance of the Contract.

To ensure close collaboration between the parties, the customer appoints a single, competent and experienced contact person.

6.2.2 Documentation compliance

The Customer also undertakes not to hinder or disrupt the operation of the Services and to comply with the requirements, Documentation, procedures and general rules communicated to him by Supplier for the proper operation of the Services.

7. SUBSCRIPTION TO SERVICES

7.1 Subscription

7.1.1 Rights of use

Supplier grants the Customer a non-exclusive and non-transferable right to access and use the Services on the Platform, depending on the Subscription and the number of Licenses ordered, in exchange for payment of the Price.

To guarantee proper operation of the Services, the Customer must comply with the instructions for use contained in the Documentation and ensure that his hardware and browsers are compatible with those specified in the Documentation or directly on the Platform.

7.2 Suspension of Services

In the event of non-compliance with the conditions of use of the Services stipulated herein not remedied within 30 days of Supplier sending a registered letter with acknowledgement of receipt stating the breach, Supplier may temporarily suspend access to the Services of one or more Users until the breach is remedied.

As an exception to the above, in the event of an emergency concerning the security of the Platform or in the event of suspected fraud, Supplier may suspend access to the Services for one or more of the Customer's Users without prior notice.

7.3 Restrictions on use

The Customer is prohibited from (and the Customer undertakes to ensure that Users comply with):

- i. use, copy, modify, rent, lease, sublease, sublicense, transfer, grant access to third parties (except Users) to any element of the Service, except as expressly authorized under the Agreement;
- ii. modify the Service or create a derivative work of the Service;
- iii. to decompile the software, applications and programs making up the Services or to reverse engineer the Service except in cases authorized by law. In this respect, before exercising the decompilation and reverse engineering rights provided for by law for interoperability purposes, the Customer must request from Supplier the information necessary to ensure the interoperability of the Services with other services and programs. The Customer may then only exercise the legal rights in the event of either (i) Supplier's acceptance or (ii) Rise-up's unjustified refusal to provide the information or (iii) Supplier's refusal to provide the information.
- iv. failure by Supplier to respond within a reasonable time, and provided that such information is not used by the Customer to provide services to third parties (except as expressly authorized in the Contract). Decompilation of the Service for any other purpose is strictly forbidden.
- v. unauthorized access to the Services (for example, by impersonating another User of the Service or by providing false information concerning his or her identity);
- vi. disrupt or interrupt the performance of the Services or the processing of the data contained therein (for example, by means of unauthorized comparative tests or penetration tests);
- vii. process, distribute, download or transmit via the Services any information or data the use of which would infringe intellectual or industrial property rights or any other private right, or which would constitute the commission of a criminal offence.
- viii. distribute or store any infringing, obscene, threatening, defamatory or unlawful content via the Services, or
- ix. distribute or store content containing viruses, worms, Trojan horses or other malicious or harmful computer code, files, scripts, agents or programs via the Service.

7.4 Services

In addition to the Subscription, the Customer may request Supplier to provide Services.

Supplier will make reasonable efforts to investigate and respond to the request as soon as possible by providing the Customer with a quotation.

It is understood that Supplier is under no obligation to provide a quotation. Supplier will only commence performance of the Services if a corresponding Purchase Order has been signed.

8. MAINTENANCE

Supplier will maintain the Services for the duration of the Contract. Supplier guarantees that upgrades and new versions of the Services will not result in any regression of the Services in terms of performance and functionality.

Supplier is not responsible for Maintenance and will not be required to correct Anomalies in the following cases:

- refusal by the Customer to cooperate with Supplier in resolving the Anomalies and in particular to respond to reasonable questions and requests for information,
- use of the Services in a manner that does not comply with their intended purpose or Documentation,
- failure by the Customer to meet its obligations under the Contract affecting maintenance operations,
- installation of any software package or operating system that is not compatible with the Services,
- failure of the customer's electronic communication networks, or
- deterioration due to an event of Force Majeure.

Service maintenance operations may render the Service temporarily unavailable. They are carried out after 2 weeks' notice and only outside working days and hours.

9. PROTECTION OF PERSONAL DATA

The Parties undertake to comply with the provisions of Annex Data Processing Agreement.

10. INTELLECTUAL PROPERTY AND WARRANTY

Each party reserves for itself all proprietary rights that it has not expressly granted to the other

The Customer remains the owner of all data communicated when using the Services.

The Contract does not confer any ownership rights to the Services, and access to the Services does not entail the transfer of any intellectual property rights to the Customer.

Supplier warrants that it holds or has the necessary authorizations and intellectual property rights to provide the Services, the Services and the Documentation (hereinafter the "**Warranty**").

Under this Guarantee, Supplier shall defend and indemnify the Customer against any claims or legal actions by third parties who claim that the Services or Documentation provided by Supplier constitute an infringement of its copyrights and/or an act of unfair competition (together, a "**Claim**").

To this end, Supplier undertakes:

- i. to defend the Customer against any Claim at its own expense; and
- ii. to pay all damages and interest which, in the event of a final court decision, the Customer may ultimately be required to pay.

The Customer shall inform Supplier in writing as soon as it becomes aware of any such Claim and shall leave the exclusive control of the defence to Supplier, at its own expense.

The Customer shall also have the right to participate, at its own expense, in such defense and shall cooperate in good faith with Supplier in such defense.

The warranty provided for in article 10 will not apply if claims are caused by :

- i. use of the Services that does not comply with the Documentation, or modification or adaptation of the Services by the Customer;
- ii. failure by the Customer to implement corrections or improvements to the Service provided free of charge by Supplier as part of Maintenance;

iii. using, marketing or making the Service available to a third party, except as provided for in the Contract;

iv. information, instructions, specifications or materials supplied by the Customer or a third party at the Customer's request.

In the event of a suspected or confirmed Claim, Supplier will, at its own expense and at its own discretion and within commercially reasonable time, either:

- i. to obtain in court for the Customer the right to continue using the Service and Documentation; or
- ii. to replace or modify the litigious elements by elements presenting substantially equivalent functionalities that do not constitute an infringement of a third party's right;

If none of the above options is possible on reasonable commercial terms, at Supplier's discretion, Supplier may require the Customer to cease use of the infringing portion of the Service and shall refund to the Customer the applicable Price prepaid therefor and not consumed, on a pro rata basis. The warranties given in this section are exclusive of all other remedies and warranties.

11. RESPONSIBILITY

In the event of a breach by either Party of its contractual obligations, the cumulative and aggregated liability of the Party at fault, for all liability-generating events combined, per contractual year, may not exceed the Prices paid by the Customer over the last 12 months prior to the last liability-generating event.

Under no circumstances shall Supplier be liable for any indirect loss or damage suffered by the Customer or any third party, including but not limited to any loss of profit, inaccuracy or corruption of files or data, commercial loss, loss of sales or profit, loss of goodwill or loss of opportunity in connection with this Contract.

The parties expressly agree that Supplier shall not be liable for any interruptions to the Services or for any damages related thereto:

- i. Force Majeure ;
- ii. abnormal or fraudulent use of the Services by the Customer or third parties requiring the Services to be shut down for security reasons;
- iii. malfunction of the customer's equipment or access to the customer's Internet network;
- iv. the nature and content of information and data created and/or communicated by the Customer. More generally, Supplier cannot under any circumstances be held liable for data, information, results or analyses originating from a third party, transmitted or received through the use of the Services;

As an exception to the foregoing, the liability of either Party shall not be limited or excluded in the event of fraud, gross negligence or personal injury and death.

12. LIMITATION OF LIABILITY

In no event will Customer or Supplier or its Affiliates be liable for (i) any indirect, incidental, loss or damage of any kind, or (ii) loss of revenue, loss of goodwill or reputation, loss of anticipated savings, loss of, damage to, or corruption of data, howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty or otherwise except for: any breach of the Conduct section of this Agreement and any amount which Supplier is liable to pay to a third party under the Infringement Indemnity section of this Agreement, or any liability to the extent liability may not be excluded or limited as a matter of applicable law.

The maximum aggregate and cumulative liability of Customer and Supplier and each of their Affiliates, for damages under this Agreement, whether arising in or for breach of contract, breach of statutory duty or otherwise, will not exceed the fees paid or payable for such Professional Services or Supplier Services during the immediately preceding twelve-month period, except for:(i) Supplier's express obligations under the Infringement Indemnity section of this Agreement; (ii). Breach of the

Conduct Section of this Agreement; or (iii). Boomii's costs of collecting delinquent amounts that are not subject to a good faith dispute; or (iv). Any liability to the extent liability may not be excluded or limited as a matter of applicable law.

Nothing herein waives or limits any claim of either party for violating the intellectual property rights of the other, including use of intellectual property outside of the applicable license scope.

Limitations on Damages. The limitations, exclusions and disclaimers stated apply to all disputes. The terms of this section are agreed allocations of risk constituting part of the consideration for Supplier's and/or its Affiliates' sale of products and services to Customer and will apply even if there is a failure of the essential purpose of any limited remedy, and regardless of whether a party has been advised of the possibility of the liabilities. In no event may Customer bring any claim against a contractor, licensor or supplier to Supplier for a matter associated with performance of this contract, beyond the amounts and theories of liabilities permitted if asserted against Supplier itself. Customer is solely responsible for backing up its data.

13. EARLY TERMINATION OF CONTRACT

In the event of a sufficiently serious breach by one of the Parties of its contractual obligations, the victim party may terminate the Contract by operation of law thirty (30) days after sending a formal notice by registered letter with acknowledgement of receipt to no avail.

The formal notice will indicate the fault or faults observed.

Once the Contract has been terminated, the Customer must cease to access the Services. In the event of termination for breach attributable to the Customer, no refund of Prices already paid will be made.

13.1 Effect of Termination

In the event of termination or expiry of this Agreement for any reason:

- I. both Parties shall, at the discretion of the other Party, either return to the other Party or destroy all materials previously provided; and
- II. all license and other rights hereunder shall immediately cease, and any fees due shall become immediately payable.

13.2 Survival

Clauses 14 (*Confidentiality*), 12 (*Limitation of Liability*), and 22 (*Applicable Law*) shall survive the expiration or termination of this Agreement.

14. CONFIDENTIALITY

Each Party undertakes to treat as strictly confidential all information communicated to it as such by the other Party, within the framework of the performance of the Contract. Consequently, each Party undertakes not to disclose, for the entire duration of the Contract, for any reason whatsoever, the said information, in any form, for any purpose and to any person whatsoever.

The obligations imposed on the Parties by this article do not, however, apply to information :

- which the receiving Party can prove were known to it prior to the date of their communication;
- which were publicly known on the date of their communication;
- which, after communication, become accessible to the public by publication or any other means, unless this is due to the fault or negligence of the receiving Party.

Each Party undertakes to grant access to confidential information only to those of its officers, employees, agents, consultants or subcontractors who require access to such information for the proper performance of the Contract and subject to compliance by them with this confidentiality obligation.

These confidentiality obligations imposed on the Parties shall remain in force for a period of three (3) years from the end of the Contract, for any reason whatsoever.

15. PERSONNEL AND SOCIAL REGULATIONS

Supplier declares that it complies with social legislation and certifies that it is up to date with its tax and social security payments and declarations.

16. COMMERCIAL REFERENCE

With prior formal approval from the Customer, Supplier is authorized to mention it as one of its Customers and to reproduce its logo and trademark on any promotional or advertising document relating to Supplier's activity, as well as on its website.

17. OUTSOURCING

It is understood that Supplier may, under its own responsibility, use external consultants and service providers to perform part of its obligations under the General Terms and Conditions, and remains fully responsible for them.

18. NO WAIVER / EXERCISE OF RIGHTS

The failure of either Party to exercise any of its rights hereunder, or any delay by either Party in exercising such rights, shall not constitute a waiver thereof.

Similarly, the partial exercise of a right or of only one of the remedies available to one of the Parties shall not prevent the latter from exercising that right in full or from exhausting all the remedies available to it.

19. FORCE MAJEURE

Each of the Parties will be exonerated from all liability (including the payment of penalties and service credits) in the event of total or partial, even temporary, failure to meet any of its obligations under the Contract caused by an event of force majeure as defined in article 1218 of the French Civil Code.

By way of example, force majeure events include, but are not limited to, war, riot, industrial action, fire, earthquake, flood, hurricane and other natural disasters,

epidemic or pandemic, Internet service failures or delays and denial-of-service attacks (collectively, the "**Force Majeure Events**").

In the event of the occurrence of a situation which it considers to be an Event of Force Majeure, the Party concerned shall, however,

(a) promptly notify the other Party in writing of the nature and expected duration of any such Force Majeure Event, (b) endeavor to limit delay and other effects, (c) periodically notify the other Party of significant changes in the Force Majeure Event and (d) promptly notify the other Party of the termination of the Force Majeure Event.

Should the Force Majeure Event persist for more than three (3) consecutive months, and should the Parties fail to find a satisfactory solution during this period, either Party may terminate the affected Purchase Order(s) by giving thirty (30) calendar days' notice by registered letter with acknowledgement of receipt.

20. ENTIRETY CLAUSE

The Contract expresses the entirety of the agreements and undertakings of the Parties with respect to their subject matter and supersedes any other prior agreement or undertaking, whether written or oral, and any information, of whatever nature, provided prior thereto, having the same subject matter, which shall be deemed null and void and of no effect.

The customer's general terms and conditions of purchase and sale do not apply.

21. MODIFICATION OF THESE TERMS AND CONDITIONS

Supplier reserves the right, at its sole discretion, to change, modify, add, or remove any portions of the Terms from time to time. Notification of such modifications may be posted on or through the Platform or the Services. Client's continued use of the Services constitutes its acceptance of these Terms and any modifications as they arise.

22. APPLICABLE LAW

The Contract and any dispute or claim relating to its formation, validity, interpretation, performance or termination shall be governed by French law.

23. DISPUTES

Any dispute arising from the interpretation or performance of the Contract shall be subject to a prior attempt at amicable settlement. To this end, the Parties undertake, within a period of thirty (30) calendar days (this period may be expressly extended between the Parties), to attempt to resolve any dispute amicably beforehand. The Party wishing to implement this amicable settlement procedure must notify the other Party by registered letter with acknowledgement of receipt, giving the other Party a period of seven (7) calendar days in which to do so. Each of the Parties undertakes to appoint two persons from its company, at "general management" level, within the said period of seven (7) Days. These persons must meet (including by telephone conference or videoconference) at the initiative of the most diligent Party within ten (10) calendar days of receipt of the letter requesting the conciliation meeting.

in an attempt to reach agreement on the dispute. The agenda is set by the Party initiating the conciliation. Decisions taken by mutual agreement are binding. In the event of conciliation, the Parties undertake to sign a confidential settlement agreement. If the Parties fail to reach an agreement, the exchanges during the conciliation procedure remain confidential and may not be used in legal or arbitration proceedings.

IN THE ABSENCE OF AN AMICABLE SOLUTION UNDER THE CONDITIONS DEFINED IN THE PRESENT ARTICLE, ANY DISPUTE THAT MAY ARISE BETWEEN THE PARTIES CONCERNING THE FORMATION, EXECUTION, INTERPRETATION OR TERMINATION OF THESE TERMS AND CONDITIONS SHALL BE SUBMITTED TO THE EXCLUSIVE JURISDICTION OF THE PARIS COMMERCIAL COURT

