

# TERMS AND CONDITIONS

## DATA ACCESS EUROPE B.V.

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### MODULE A – GENERAL

#### ARTICLE A.1. DEFINITIONS

Capitalized terms in the General Terms and Conditions have the following meaning.

- A.1.1. **General Terms and Conditions:** the provisions of this document.
- A.1.2. **Data Access Europe:** the private company Data Access Europe, established in Hengelo and registered with the Chamber of Commerce under file number 06065780.
- A.1.3. **Service(s):** the service(s) that Data Access Europe will provide for the Client, including but not limited to:
  - a. *Website and software development:* Service consisting of developing, configuring and/or adapting Works such as websites, house styles, applications, lay-out, data files, (audio)visual productions, software, documentation, advice, reports, analyzes and designs.
  - b. *Hosting and related services:* Service consisting of storage and/or transfer of material supplied by the Client to third parties, such as in the case of web hosting, virtual servers, or the provision of rack space for the Client's own equipment.
  - c. *Delivery of Standard Software:* the software as developed by Data Access Europe or third parties and which is offered by Data Access Europe under License to the Client.
  - d. *Other services as described in the offer or quotation from Data Access Europe.*
- A.1.4. **Intellectual Property Rights:** all intellectual property rights and related rights, including but not limited to copyrights, database rights, domain names, trade name rights, trademark rights, design rights, neighboring rights, patent rights, as well as rights to know-how.
- A.1.5. **License:** the non-exclusive, non-transferable and non-sublicensable right of use granted by Data Access Europe to the Client for the use of the Standard Software.
- A.1.6. **Additional work:** the work or other performance performed by Data Access Europe that falls outside the content and/or scope of the work and/or performance agreed in the Agreement and/or SLA, or changes thereof (including changed functional specifications).
- A.1.7. **Client:** the natural or legal person with whom Data Access Europe has concluded an Agreement. Also referred to is the person who enters or is negotiating about this, as

well as his representative(s), authorized representative(s), successor(s) in title or heirs.

- A.1.8. **Agreement:** any agreement between Data Access Europe and the Client on the basis of which Data Access Europe provides Services to the Client and of which these General Terms and Conditions form an integral part.
- A.1.9. **SLA:** the separately concluded Service Level Agreement between Data Access Europe and the Client, which includes the agreements about the level, quality and method of problem solving with regard to the Service.
- A.1.10. **Standard software:** the software as developed by Data Access Europe or third parties and which is offered by Data Access Europe to the Client under License.
- A.1.11. **Website:** the Data Access Europe website, accessible via the domain <http://www.dataaccess.eu/>.
- A.1.12. **Working days:** Monday to Friday, with the exception of Dutch national holidays.
- A.1.13. **Work(s):** all works, such as websites and (web) applications, house styles, software (including Standard software), concepts, designs, (audio)visual productions, layouts, documentation, advice, reports and other products of the spirit, as well as preparatory material thereof and (whether or not encoded) files or data carriers on which the Works are located.

## ARTICLE A.2. APPLICABILITY AND RANKING

- A.2.1. These General Terms and Conditions apply to every quotation or offer from Data Access Europe with regard to Services and form an integral part of every Agreement.
- A.2.2. The specific modules apply if the requested or offered Services fall within the scope described in the module. If a specific module applies, it will prevail over Module A.
- A.2.3. The definitions as described in Article A.1 apply to all modules of these General Terms and Conditions, unless a meaning is assigned elsewhere in the Agreement and/or General Terms and Conditions.
- A.2.4. Provisions or conditions set by the Client that deviate from, or do not appear in, these General Terms and Conditions are only binding for Data Access Europe if and insofar as they have been expressly accepted in writing by Data Access Europe.
- A.2.5. In the event of a conflict of provisions in the Agreement, General Terms and Conditions or appendices thereto, the following order of priority applies:
  - i. the agreement;
  - ii. any Service Level Agreement concluded;
  - iii. any appendices to the Agreement;
  - iv. these Terms and Conditions.

## ARTICLE A.3. OFFERS AND CONCLUSION OF AGREEMENT

- A.3.1. The Agreement between Data Access Europe and the Client can be concluded in the following ways:
  - a. because the Client has accepted the quotation or offer from Data Access Europe in writing; or
  - b. The Client has placed an order online for a specific Service.
- A.3.2. If Data Access Europe believes it can provide the Services requested online and if, in the opinion of Data Access Europe, the request meets the requirements set, Data Access Europe will accept the request and send the Client a (digital) confirmation of the Agreement. In that case, the Agreement is deemed to have arisen on the day that the (digital) confirmation is sent by Data Access Europe.
- A.3.3. Unless stated otherwise, offers from Data Access Europe are binding and valid for the term indicated in the offer. If no term is specified, the quotation is valid until thirty (30) days after the date on which the quotation was issued. The Agreement takes

effect from the moment that notification of acceptance of the quote or offer by the Client is received by Data Access Europe.

- A.3.4. If it appears that the information provided by the Client with the application or Agreement was incorrect, Data Access Europe has the right to adjust the offer and the prices accordingly.

**ARTICLE A.4. IMPLEMENTATION OF THE AGREEMENT**

- A.4.1. After the conclusion of the Agreement, Data Access Europe will comply with it to the best of its ability and subject to sufficient care and professionalism, in accordance with the quotation.
- A.4.2. Terms of delivery stated by Data Access Europe are always indicative and in no case serve as strict deadlines, unless expressly agreed otherwise in writing.
- A.4.3. If and insofar as the proper execution of the Agreement requires this, Data Access Europe has the right to have certain activities performed by third parties. Any unexpected additional costs associated with this are only for the account of the Client if this has been agreed in writing in advance. These General Terms and Conditions also apply to the work performed by third parties in the context of the Agreement.
- A.4.4. The Client is obliged to do and refrain from doing anything that is reasonably necessary and desirable to enable the timely and correct performance of the Service. In particular, the Client ensures that all data, which Data Access Europe indicates are necessary or which the Client should reasonably understand are necessary for the performance of the Service, are provided to Data Access Europe in a timely manner.
- A.4.5. In addition to the data referred to in Article A.4.4, the Client is obliged to provide Data Access Europe with up-to-date contact details for communication between Data Access Europe and the Client. The Client will inform Data Access Europe immediately if these contact details change.
- A.4.6. If the data as referred to in Articles A.4.4 and A.4.5 are not provided to Data Access Europe in time or if the Client does not fulfill its obligations in any other way, Data Access Europe has the right to suspend compliance with its obligations without be obliged to pay any compensation.
- A.4.7. The Client cannot enforce exclusivity on a Service provided by Data Access Europe. Data Access Europe is permitted to also serve direct competitors of the Client, unless agreed otherwise in writing.

**ARTICLE A.5. DURATION AND TERMINATION**

- A.5.1. The Agreement is entered into for the term as stated in the offer and/or on the Website. If no term is stated, the Agreement is entered into for a period of twelve (12) months or for the period necessary for the provision of the Service. The Agreement can only be terminated prematurely as stipulated in these General Terms and Conditions, or with the consent of both parties.
- A.5.2. If the Agreement concerns a continuing performance contract, it will be tacitly extended by the same period in the absence of a written cancellation before the end of the aforementioned period, with due observance of the notice period, unless otherwise agreed in writing.
- A.5.3. The Client will observe a notice period of two (2) months. Data Access Europe will observe a notice period of three (3) months.
- A.5.4. Data Access Europe may immediately suspend or terminate the Agreement in writing if at least one of the following special grounds applies:
- The Client is in default with regard to an essential obligation;
  - The bankruptcy of the Client has been requested;
  - The Client has applied for suspension of payment;

- d. The Client's activities are terminated or liquidated.
- A.5.5. If Data Access Europe suspends compliance with its obligations, it retains its claims under the law and the Agreement, including the right to payment for the Services that have been suspended.
- A.5.6. If the Agreement is terminated or dissolved, the claims of Data Access Europe against the Client are immediately due and payable. In the event of dissolution of the Agreement, amounts already invoiced for services rendered remain due, without any obligation to undo. In the event of dissolution by the Client, the Client may only dissolve that part of the Agreement that has not yet been performed by Data Access Europe. If the dissolution is attributable to the Client, Data Access Europe is entitled to compensation for the damage that arises directly and indirectly as a result.
- A.5.7. The right to suspension in the above cases applies to all Agreements concluded with the Client simultaneously, even if the Client is only in default with regard to one Agreement, and without prejudice to Data Access Europe's right to compensation for damage, loss of profit and interest.

**ARTICLE A.6. PRICES**

- A.6.1. Fees for the provision of the Services are stated in the quotation offered by Data Access Europe and/or on the Website. All prices quoted are in Euro and exclusive of VAT.
- A.6.2. If the Agreement is a continuing performance contract, the amounts due will be invoiced annually to the Client prior to the new period, unless agreed otherwise in writing.
- A.6.3. Data Access Europe is entitled to adjust the prices each time the Agreement is extended. However, if a supplier of Data Access Europe increases its prices in the meantime, Data Access Europe is entitled to pass on this increase immediately 1-on-1 to the Client. Data Access Europe will notify price adjustments in writing.
- A.6.4. Data Access Europe is entitled to adjust the price conditions in the interim and to invoice the Client additionally if it appears that due to (organizational) changes the Client no longer meets the conditions on which it was scaled when entering into this Agreement.

**ARTICLE A.7. TERMS OF PAYMENT**

- A.7.1. Data Access Europe will invoice the amounts owed by the Client to the Client. Data Access Europe may send electronic invoices to the e-mail address of the Client known to Data Access Europe. Data Access Europe has the right to periodically charge amounts due prior to the provision of the Services.
- A.7.2. The payment term of an invoice is thirty (30) days after the invoice date, unless otherwise agreed in writing.
- A.7.3. If the Client has not paid in full after fourteen (14) days after the payment term, it will automatically be in default without notice of default being required.
- A.7.4. In the event of late payment, the Client is, in addition to the amount due and the interest accrued thereon, obliged to pay full compensation for the extrajudicial and judicial costs, including full lawyer's fees.
- A.7.5. In the event that the Client fails to comply with any obligation under the Agreement, Data Access Europe shall be entitled, without any notice of default being required, to take back delivered Works, without prejudice to Data Access Europe's right to compensation for damage, loss of profit and interest.
- A.7.6. The claim for payment is immediately due and payable in the event that the Client is declared bankrupt, applies for a suspension of payment, a total attachment is levied on the Client's assets, the Client goes into liquidation or is dissolved.
- A.7.7. In the above cases, Data Access Europe also has the right to terminate or suspend performance of the Agreement or any part thereof that has not yet been performed, without notice of default or judicial intervention, and without the Client being entitled to compensation for damage that may arise as a result.
- A.7.8. If the Client is of the opinion that an invoice is not or not entirely correct, the Client must submit a motivated objection to this to Data Access Europe within the payment term. Data Access Europe will then investigate the disputed part of the invoice. However, this does not release the Client from the obligation to pay undisputed parts of the invoice within the original payment term.
- A.7.9. Data Access Europe is always entitled, before executing or continuing with the Agreement, to demand that the Client provides sufficient security that it can and will fulfill its payment obligations. Security can be provided by means of, but not limited to, establishing a right of pledge in favor of Data Access Europe or in the form of a guarantee for six (6) months of services.

**ARTICLE A.8. ADDITIONAL WORK**

- A.8.1. All changes to the Service, either at the request of the Client or as a result of the fact that a different performance is absolutely necessary due to unforeseen external circumstances, will be regarded as Additional Work if additional costs are involved. These will be invoiced accordingly to the Client.
- A.8.2. A condition for the right from the previous paragraph is that Data Access Europe has timely informed the Client about the circumstances and additional costs referred to there. If the Client cannot agree with the additional costs concerned, it has the right to cancel the part of the Additional Work that has not yet been performed, however without the right to a refund or remission of the costs of Additional Work already performed.

**ARTICLE A.9. DELIVERY OF STANDARD SOFTWARE**

- A.9.1. If the delivery of Standard Software forms part of the Agreement, the following provisions apply.
- A.9.2. Data Access Europe hereby grants a License to the Client for the use of the Standard Software for the duration and under the conditions of the Agreement. The delivery and use of the Standard Software may be subject to further conditions. Data Access Europe will make these further terms and conditions known to the Client prior to delivery.
- A.9.3. The Client is entitled to use the Standard Software under the License for the Client's company or institution. The limitations, including but not limited to the number of user accounts and available functions, are stated in the license terms and/or the Agreement.
- A.9.4. The Client is expressly prohibited from selling, renting, transferring, granting or otherwise making available to third parties any rights to the Standard Software. Contrary to the above provisions, the Client is permitted to make the Standard Software available to end users for the purpose of using the Standard Software.
- A.9.5. It is also not allowed:
- a. reverse engineer the source code of the Standard Software or decompile the Standard Software, except to the extent permitted by mandatory law;
  - b. to provide a copy of the Standard Software to third parties;
  - c. sublicense or make available to third parties the Standard Software through rental, Software-as-a-Service constructions or otherwise;
  - d. make changes to the Standard Software, except insofar as this is permitted by mandatory law;
  - e. to remove or make illegible any indications of Data Access Europe and/or its licensors as the owner of the Standard Software or parts thereof.
- A.9.6. The Client will impose at least the same conditions as included in the present Agreement on the end users with regard to the use of the Standard Software.
- A.9.7. Unless otherwise agreed in writing, the Client is fully responsible for the hardware, software and network environment, as well as the installation of the Standard Software.
- A.9.8. Data Access Europe can provide support for the installation of the Standard Software, but is at all times entitled to charge costs for this in accordance with Article A.8.
- A.9.9. The choice, purchase and management of the hardware, software and network environment is the sole and full responsibility of the Client. Data Access Europe can provide instructions about the desired configuration. If the designated environment does not meet the requirements of Data Access Europe, Data Access Europe is not responsible for the non-functioning of the Standard Software.
- A.9.10. If necessary for the support, the Client will, at the request of Data Access Europe, provide employees and auxiliary persons of Data Access Europe with all necessary access to the environment to enable installation, configuration, maintenance and adjustments of the Standard Software. Physical access to hardware will only take place if this is necessary, and only after prior consultation with the Client.

**ARTICLE A.10. CONSULTANCY AND PROJECT MANAGEMENT**

- A.10.1. Data Access Europe will carry out consultancy and project management to the best of its ability, with due care and professionalism.
- A.10.2. The parties will determine in advance which components are part of the consultancy and/or project management. If necessary, this will be adjusted in joint consultation during the supervision. Data Access Europe has the right to charge any additional costs, which will be made known to the Client in advance insofar as possible.
- A.10.3. Consultancy and project management are at all times a best efforts obligation in the context of the Agreement, unless agreed otherwise in writing.
- A.10.4. The Client is aware that following the advice of Data Access Europe is entirely at the risk of the Client. Data Access Europe is only liable for damage suffered insofar as this arises from the Agreement.
- A.10.5. Data Access Europe will, insofar as possible, inform the Client in advance of the time and costs related to the work to be performed. The time required for the relevant work depends on various factors, including the cooperation of the Client.
- A.10.6. In addition to the previous paragraph, Data Access Europe depends on the information provided by the Client. Data Access Europe is under no circumstances responsible or obliged to verify this information.

**ARTICLE A.11. INTELLECTUAL PROPERTY RIGHTS**

- A.11.1. Unless agreed otherwise in writing, all Intellectual Property Rights to all Works developed or made available by Data Access Europe under the Agreement are vested exclusively in Data Access Europe or its licensors.
- A.11.2. The Intellectual Property Rights with regard to the open source software and/or other Works used by Data Access Europe lie with the developer of those Works or another entitled party. Such rights can under no circumstances be transferred to the Client. The Client is responsible for compliance with the open source software licenses and indemnifies Data Access Europe against claims from third parties regarding compliance with these licenses.
- A.11.3. The Client will only acquire the rights of use and powers explicitly granted in writing in these General Terms and Conditions, the Agreement or otherwise, and the Client will not otherwise reproduce or publish the Works. The aforementioned is subject to an exception if it is unmistakable by mistake that the Client has failed to expressly grant such a right. However, delivery of source code and/or source files of Works is only mandatory at all times if explicitly agreed in writing.
- A.11.4. If and insofar as agreed otherwise in writing, the Client is not permitted to remove or change any indication regarding Intellectual Property Rights from the Works, including indications regarding the confidential nature and secrecy of the Works.
- A.11.5. Data Access Europe is permitted to take technical measures to protect its Works. If Data Access Europe has secured these Works by means of technical protection, the Client is not permitted to remove or evade this protection, except if and insofar as the law stipulates the contrary.



**ARTICLE A.12. LIABILITY**

- A.12.1. The liability of Data Access Europe for direct damage suffered by the Client as a result of an attributable shortcoming in the fulfillment by Data Access Europe of its obligations under the Agreement, expressly including any shortcoming in the fulfillment of a guarantee obligation agreed with the Client, or due to an unlawful act by Data Access Europe, its employees or third parties engaged by it, per event or a series of related events is limited to an amount equal to the fees that the Client owes per year under this Agreement (excluding VAT). However, in no case will the total compensation for direct damage exceed EUR 10,000 (excluding VAT).
- A.12.2. The total liability of Data Access Europe for damage due to death or physical injury or for material damage to property will in no case exceed EUR 50,000 per harmful event, whereby a series of related events counts as one event.
- A.12.3. Liability of Data Access Europe for indirect damage, including consequential damage, lost profit, missed savings, mutilation or loss of (company) data and damage due to business interruption, is excluded.
- A.12.4. Apart from the cases referred to in Article A.12 paragraph 1 and A.12 paragraph 2, Data Access Europe has no liability whatsoever for compensation, regardless of the grounds on which an action for compensation would be based. The exclusions and limitations referred to in Articles A.12.1 to A.12.3 will lapse if and insofar as the damage is the result of intent or willful recklessness on the part of Data Access Europe's management.
- A.12.5. The liability of Data Access Europe due to an attributable shortcoming in the fulfillment of the Agreement only arises if the Client immediately and properly declares Data Access Europe in default in writing, stating a reasonable term to remedy the shortcoming, and Data Access Europe is also attributable after that term. continues to fail in the fulfillment of its obligations. The notice of default must contain as detailed a description as possible of the shortcoming, so that Data Access Europe is able to respond adequately.
- A.12.6. Data Access Europe is never liable for damage caused by force majeure. See article A.13 for force majeure.
- A.12.7. A condition for the existence of any right to compensation is always that the Client reports the damage to Data Access Europe in writing within 30 days of its occurrence.
- A.12.8. The Client indemnifies Data Access Europe against all claims from third parties (including clients of the Client), with regard to compensation for damage, costs or interest, related to this Agreement and/or the Service. The Client will also indemnify Data Access Europe against non-compliance with licenses by the Client and/or third parties (its end users).

**ARTICLE A.13. FORCE OF THE MAJORITY**

- A.13.1. None of the parties can be held to fulfill any obligation if a circumstance beyond the control of the parties and which could not or should not have been foreseen when the Agreement was concluded, nullifies any reasonable possibility of performance.
- A.13.2. Force majeure also includes (but is not limited to): disruptions of public infrastructure that is normally available to Data Access Europe, and on which the provision of the Services depends, but over which Data Access Europe cannot exercise actual power or contractual performance obligation, disruptions in infrastructure and/or Services of Data Access Europe that have been caused by computer crime, for example (D)DOS attacks or successful or unsuccessful attempts to circumvent network security or system security; shortcomings of suppliers of Data Access Europe, which Data Access Europe could not foresee and for which Data Access Europe cannot hold its supplier



liable, for example because the relevant supplier was (also) subject to force majeure; Unavailability of staff members / seconded persons (due to illness or otherwise); government measures; general transportation problems; strikes; wars; terrorist attacks and internal disturbances.

- A.13.3. If a force majeure situation lasts longer than sixty (60) days, each of the parties has the right to dissolve the Agreement in writing. In that case, what has already been performed on the basis of the Agreement will be settled pro rata, without the parties owing each other anything else.

**ARTICLE A.14. CONFIDENTIALITY**

- A.14.1. Parties will treat information that they provide to each other before, during or after the performance of the Agreement as confidential if this information is marked as confidential or if the receiving party knows or should reasonably suspect that the information was intended to be confidential. Parties also impose this obligation on their employees as well as on third parties engaged by them for the implementation of the Agreement.
- A.14.2. Data Access Europe will not take cognizance of data that the Client stores and/or distributes via the systems of Data Access Europe, unless this is necessary for the proper performance of the Agreement or Data Access Europe is obliged to do so pursuant to a statutory provision or court order. In that case, Data Access Europe will endeavor to limit the knowledge of the data as much as possible, insofar as this is within its power.
- A.14.3. The obligation of secrecy also continues after termination of the Agreement for whatever reason, and for as long as the disclosing party can reasonably claim the confidential nature of the information.

**ARTICLE A.15. STAFF**

- A.15.1. The Client will provide employees of Data Access Europe who perform work at the offices of the Client for the provision of Works and/or Services with all necessary support for the performance of their activities.
- A.15.2. As long as the relationship between the Client and Data Access Europe continues, as well as one year after the end thereof, the Client is not permitted to employ employees of Data Access Europe or have them work for it in any other way, directly or indirectly, without prior written consent of Data Access Europe. In this context, employees of Data Access Europe are understood to mean persons who are employed by Data Access Europe or by one of the companies affiliated with Data Access Europe, and persons who have been employed by Data Access Europe no longer than 6 (six) months ago.

**ARTICLE A.16. MODIFICATION OF AGREEMENT**

- A.16.1. Data Access Europe is entitled to change these General Terms and Conditions, provided that it announces the intended changes to the Client no later than thirty (30) days in advance. Changes of minor importance can be implemented at any time, without the right of the Client to terminate the Agreement.
- A.16.2. If the Client objects to the changes in a timely manner, Data Access Europe will reconsider and withdraw the changes if it considers the objection justified.
- A.16.3. However, if Data Access Europe goes ahead with the changes despite the Client's objection, the Client will be entitled to terminate the Agreement as soon as the changes come into effect.

**ARTICLE A.17. OTHER PROVISIONS**

- A.17.1. Dutch law applies to the Agreement. All disputes that may arise as a result of the Agreement will be submitted to the competent Dutch court for the district in which Data Access Europe is located.
- A.17.2. In these General Terms and Conditions, "in writing" also includes communication by e-mail, provided that the identity of the sender and the integrity of the content are sufficiently established.
- A.17.3. If any provision of the Agreement proves to be null and void, this will not affect the validity of the entire Agreement. In that case, the parties will adopt (a) new provision(s) as a replacement, which will give shape to the intention of the original Agreement and General Terms and Conditions as far as legally possible.
- A.17.4. Information and announcements, including price indications, on the Website and quotations are subject to programming and typing errors. In the event of any inconsistency between the Website and the Agreement, the Agreement shall prevail.
- A.17.5. The log files and other electronic or non-electronic records of Data Access Europe constitute full proof of statements made by Data Access Europe and the version of any (electronic) communication received or stored by Data Access Europe is considered authentic, unless the Client provides evidence to the contrary.
- A.17.6. The parties will always inform each other immediately in writing of any changes in name, postal address, e-mail address, telephone number and, if requested, bank or giro number.
- A.17.7. Data Access Europe is entitled to transfer its rights and obligations under the Agreement to a third party that takes over the service or relevant business activity from it. The Client is only entitled to transfer its rights and obligations under the Agreement to a third party who takes over the service or relevant business activity from it with written permission from Data Access Europe.

## **MODULE B – WEBSITE AND SOFTWARE DEVELOPMENT**

If the Service (also) serves to develop, configure and/or adapt Works such as websites, applications, (audio)visual productions, house styles, lay-out, data files, software, documentation, advice, reports, analyses, designs, the stipulations in this module also apply.

### **ARTICLE B.1. DEVELOPING WORKS**

- B.1.1. Prior to development, the parties jointly discuss which specifications form the basis of the Works to be developed. The method of development and the Works to be realized will be described as much as possible in the offer.
- B.1.2. If the development requires that the Client supplies source materials to Data Access Europe, the Client guarantees at all times that it has all licenses necessary for the provision to and the intended use by Data Access Europe. The Client indemnifies Data Access Europe against claims from third parties regarding violation of these rights.
- B.1.3. Data Access Europe is entitled, but never obliged, to investigate the correctness, completeness or coherence of the source materials, requirements or specifications made available to it and to suspend the agreed work in the event of any imperfections until the Client has corrected the relevant imperfections. has taken away.
- B.1.4. Data Access Europe has the right, unless otherwise agreed, to use images, software and components of third parties, including stock photos and open source software, in the development, configuration or modification of Works.
- B.1.5. Data Access Europe will make every effort to provide high-quality support for the Works developed by it. However, Data Access Europe offers no guarantees about response times or level of support, unless otherwise agreed in the quotation by means of an SLA designated as such.
- B.1.6. Data Access Europe will remain available for a reasonable level of remote customer support by phone and email, during regular business hours, unless an applicable SLA provides otherwise.
- B.1.7. Data Access Europe is permitted to include an attribution in the Work. If the Client objects to this, Data Access Europe will remove this attribution free of charge.

### **ARTICLE B.2. TESTS AND TEST ENVIRONMENT**

- B.2.1. Prior to delivery, the Client will be given the opportunity to test the Works in a test environment, unless the nature of the Works is not suitable for such a test environment. Data Access Europe will provide the Client with access to this test environment by sending a location (URL) and, if necessary, the login details.
- B.2.2. Access to this test environment is strictly bound to the Client. The Client is not permitted to provide third parties with access to this test environment by forwarding the location (URL) and/or the login details to the third party.
- B.2.3. The Client is aware that the test version is not suitable for production purposes, in any form whatsoever. It is therefore not permitted to use the test environment for these purposes.
- B.2.4. Data Access Europe is not obliged to move the data stored in the test environment to a production environment, unless otherwise agreed in writing.
- B.2.5. Data Access Europe is under no circumstances liable for loss and/or disclosure of the data stored in the test environment.
- B.2.6. The Client is aware that the Work can send communication (for example e-mail) to specified addresses. Data Access Europe is not liable for this communication sent.

- B.2.7. Data Access Europe gives no guarantees regarding the availability, completeness and correct functioning of the test environment. In addition, no guarantees can be derived from an already concluded SLA with regard to the test environment.

**ARTICLE B.3. DELIVERY AND ACCEPTANCE**

- B.3.1. Data Access Europe will deliver the Works or parts thereof to be developed or modified if, in its professional opinion, they meet the specifications or are suitable for use.
- B.3.2. Delivery takes place by making it available in a test environment as referred to in Article B.2, unless agreed otherwise.
- B.3.3. The Client must then evaluate and approve or reject the delivered goods within fourteen (14) Working Days after delivery. There is acceptance of the delivered Works if:
- a. The Client uses the delivered Work for production purposes, including but not limited to transferring the Works to a production environment;
  - b. The Client does not reject the delivery within a period of fourteen (14) Working Days, has not requested a revision round or has not objected to delivery;
- B.3.4. If a Work is delivered in phases, the Client must, after completion of each phase, give the approval or rejection of the part of the Work of that phase in the manner as stipulated in the previous paragraph. The Client may not base an approval or rejection in a later phase on aspects that were approved in an earlier phase.
- B.3.5. If the Client rejects the delivery in whole or in part, Data Access Europe will endeavor to remove the reason for rejection as quickly as possible. Data Access Europe can do this by revising the result or rejecting the reason with motivations. The Client then has a period of ten (10) Working Days to approve or reject the revision or motivation.
- B.3.6. If, after the first revision or motivation, the Client has rejected the delivery in whole or in part, a reasonable number of revision rounds will follow in the opinion of Data Access Europe.
- B.3.7. If a party indicates that further revisions are not (any longer) useful, both parties are entitled to terminate the Agreement with regard to the rejected. In that case, the Client will reimburse the hours actually worked by Data Access Europe, with a maximum of the amount quoted for the rejected offer. However, the Client is not entitled to use the rejected product in any way whatsoever. Data Access Europe can only cancel after having indicated in a revision or motivation that this is the last one and the Client also rejects this in whole or in part.
- B.3.8. After acceptance of the delivery, any liability for defects in the delivery will lapse, unless Data Access Europe knew or should have known about the defect at the time of acceptance. In any case, any liability for defects in a Work lapses one month after acceptance of the delivered Works.
- B.3.9. Desired changes to Works must be submitted point by point in writing by the Client. Data Access Europe then assesses whether these activities fall within the Agreement or are quoted separately as Additional Work.

**ARTICLE B.4. INSTALLATION**

- B.4.1. If this forms part of the Agreement, Data Access Europe will install and configure the Works or software or other data to be agreed upon in a hardware, software and network environment to be designated by the Client. The choice, purchase and management of this hardware, software and network environment is the sole and full responsibility of the Client. Data Access Europe will provide instructions on the desired configuration. If the designated environment does not meet the requirements of Data Access Europe, Data Access Europe is entitled to refuse installation or configuration.
- B.4.2. At the request of Data Access Europe, the Client will provide employees and auxiliary persons of Data Access Europe with all necessary access to the environment to enable installation, configuration, maintenance and adjustments of the software. Physical access to hardware will only take place if this is necessary, and only after prior consultation with the Client.
- B.4.3. Data Access Europe will inform the Client of system requirements upon request, but can under no circumstances be held responsible or liable for the functioning or non-functioning of the delivered Works on the systems of the Client or a third party engaged by the Client (including a hosting provider). In addition, Data Access Europe will not be obliged to make adjustments to the Works for the purpose of correct operation on the aforementioned systems of the Client. However, Data Access Europe will provide assistance in finding a suitable solution, insofar as it deems this reasonable. This is at the discretion of Data Access Europe.

**ARTICLE B.5. ADDITIONAL WORK**

- B.5.1. Changes as a result of new or changed insights that have arisen during the development process are considered Additional Work. This is entirely at the discretion of Data Access Europe.
- B.5.2. Data Access Europe will indicate clearly and in advance which activities should be regarded as Additional Work. In addition, Data Access Europe will state the costs associated with the Additional Work.

**MODULE C – HOSTING AND RELATED SERVICES**

If the Service (also) serves the purpose of storing and/or passing on material supplied by the Client to third parties, such as in the case of web hosting, virtual servers, or making rack space available for the Client's own equipment, the provisions of this module also apply.

**ARICLE C.1. PERFORMANCE OF THE SERVICE**

- C.1.1. Data Access Europe will make every effort to realize high-quality and uninterrupted availability of the Service and associated systems and networks, and to realize access to data stored by the Client. However, Data Access Europe offers no guarantees about quality or availability, unless otherwise agreed in the quotation by means of an SLA designated as such.
- C.1.2. Data Access Europe will remain available for a reasonable level of remote customer support by phone and email, during regular Business Days, unless an applicable SLA provides otherwise.
- C.1.3. The Client hereby grants Data Access Europe an unlimited license to distribute, store, pass on or copy all materials distributed by the Client via the systems of Data Access Europe in any manner deemed appropriate by Data Access Europe, but only insofar as this is reasonably necessary for the fulfillment of the Agreement by Data Access Europe.
- C.1.4. All changes with regard to the Service, either at the request of the Client or as a result of the fact that a different implementation is necessary due to any circumstances whatsoever, will be regarded as Additional Work if this involves additional costs and, insofar as this results in fewer costs, as Additional Work. less work. These will be invoiced accordingly to the Client.
- C.1.5. The Client is not permitted to resell the Service to third parties, unless agreed otherwise in writing.
- C.1.6. Data Access Europe will not take cognizance of data that the Client stores and/or distributes via the systems of Data Access Europe, unless this is necessary for the proper execution of the Agreement or Data Access Europe is obliged to do so pursuant to a statutory provision or court order. In that case, Data Access Europe will endeavor to limit the knowledge of the data as much as possible, insofar as this is within its power.

**ARICLE C.2. CODE OF CONDUCT**

- C.2.1. The Client is prohibited from using the Service to violate Dutch or other laws or regulations applicable to the Client or Data Access Europe or to infringe the rights of others.
- C.2.2. It is prohibited (whether legally or not) by Data Access Europe to offer or distribute materials using the Service that:
  - a. are obviously primarily intended to assist others in violating the rights of third parties, such as websites with (exclusively or mainly) hacking tools or explanations about computer crime that are apparently intended to enable the reader to commit the described criminal behavior ( do) commit and not to be able to defend against it;
  - b. are manifestly libelous, defamatory, abusive, racist, discriminatory or hateful;
  - c. contain child pornography or bestiality pornography or appear to be aimed at helping others find such materials;
  - d. result in a violation of the privacy of third parties, including in any case but not limited to the distribution of personal data of third parties without permission

- or necessity or the repeated harassment of third parties with undesired communications;
  - e. contain hyperlinks, torrents or references to (locations of) material that clearly infringes copyrights, neighboring rights or portrait rights;
  - f. contains unsolicited commercial, charitable or non-commercial communications; or
  - g. contains malicious content such as viruses or spyware.
- C.2.3. The Client shall refrain from hindering other customers or internet users or causing damage to systems or networks of Data Access Europe or other customers. The Client is prohibited from starting up processes or programs, whether or not via the systems of Data Access Europe, of which the Client knows or can reasonably suspect that this will hinder or damage Data Access Europe, its customers or internet users.
- C.2.4. If, in the opinion of Data Access Europe, nuisance, damage or any other danger arises for the functioning of the computer systems or the network of Data Access Europe or third parties and/or the services via the internet, in particular due to excessive sending of e-mail or other data, (distributed) denial-of-service attacks, poorly secured systems or activities of viruses, Trojans and similar software, Data Access Europe is entitled to take all measures it reasonably deems necessary to avert this danger or to prevent. Data Access Europe may recover the costs that are reasonably necessary associated with these measures from the Client.

#### **ARTICLE C.3. COMPLAINT PROCEDURE**

- C.3.1. When Data Access Europe receives a complaint about a violation of the previous article by the Client, or itself establishes that this appears to be the case, Data Access Europe will inform the Client of the complaint or violation as soon as possible. The Client will respond as soon as possible, after which Data Access Europe will decide how to act.
- C.3.2. If Data Access Europe is of the opinion that there has been a violation, it will block access to the relevant material, but without permanently removing this material (unless this proves technically impossible, in which case Data Access Europe will make a backup). Data Access Europe will make every effort not to affect any other materials. Data Access Europe will inform the Client of measures taken as soon as possible.
- C.3.3. Data Access Europe is at all times entitled to report established criminal offenses. Furthermore, Data Access Europe is entitled to provide the name, address and other identifying data of the Client to a third party who complains that the Client is infringing its rights or these General Terms and Conditions, provided that the correctness of that complaint is reasonably plausible and the third party has a clear interest in the disclosure of the data.
- C.3.4. Although Data Access Europe strives to act as reasonably, carefully and adequately as possible after complaints about the Client, Data Access Europe is never obliged to pay compensation for damage as a result of measures as referred to in this article.
- C.3.5. In the event of repeated complaints about the Client or the information stored by the Client, Data Access Europe is entitled to terminate the Agreement.



**ARICLE C.4. STORAGE AND DATA LIMITS**

- C.4.1. Data Access Europe can set a maximum to the amount of storage space that the Client may use per month in the context of the Service.
- C.4.2. Unused storage space, bandwidth and/or data traffic cannot be transferred to a subsequent month, unless agreed otherwise in writing.
- C.4.3. Should the Client exceed the applicable limits, Data Access Europe may charge an additional amount per data unit (eg MB or GB) equal to the amount exceeded, in accordance with the amounts agreed with the Client.
- C.4.4. The log files and the administration of Data Access Europe count as compelling evidence of the actual consumption by the Client and are therefore decisive, subject to evidence to the contrary by the Client.
- C.4.5. There is no liability for the consequences of not being able to send, receive, store or change data if an agreed limit for storage space or data traffic has been exceeded.
- C.4.6. When an excessive amount of data traffic is caused by an external cause (such as in the case of a (distributed) denial-of-service attack), Data Access Europe is entitled to charge the costs reasonably to the Client.

**ARICLE C.5. COLOCATION AND RELATED SERVICES**

- C.5.1. If the Service (also) extends to services relating to rack space for installing and keeping equipment installed, the provisions of this article also apply.
- C.5.2. The Client will be granted access to the rack space for the purpose of installing or removing equipment and carrying out maintenance thereon.
- C.5.3. The Client will act as much as possible in accordance with the regulations of the data center and the instructions of Data Access Europe when installing, maintaining and removing the equipment.
- C.5.4. The Client will not make any changes to the rack space itself and/or the existing equipment of Data Access Europe and/or the data center.
- C.5.5. Data Access Europe reserves the right to deny the Client or employees of the Client access to the Datacenter and/or the rack space (for a certain period of time).
- C.5.6. Data Access Europe gives no guarantees with regard to a permanent place within the data center. In addition, Data Access Europe reserves the right to change the location of the rack space.
- C.5.7. In the event of a change of location within the data center, Data Access Europe will inform the Client of the change no later than two months in advance. If Data Access Europe does this by e-mail, the Client will immediately send a confirmation to Data Access Europe after receipt. If Data Access Europe has not received a confirmation two weeks after sending, Data Access Europe will inform the Client again by registered letter. The parties will enter into reasonable consultation with regard to the organization of the move. The costs for the relocation are for the account of the Client, whereby the costs for the installation and delivery in the replacement rack space will not be charged.
- C.5.8. In the event of a change of location outside the data center, Data Access Europe will inform the Client of the change no later than three months in advance, whereby the other provisions of Article C.5.7 regarding relocation apply mutatis mutandis.
- C.5.9. The Client is and remains responsible at all times for the configuration and management of the equipment and the equipment installed in the rack space itself, unless otherwise agreed with Data Access Europe.
- C.5.10. The equipment to be installed must be suitable for the rack space. This means that it is suitable for a rack. Data Access Europe may, in the event of an established deviation from this, demand that the Equipment be modified or replaced by suitable equipment.

- C.5.11. Data Access Europe is entitled at all times to check the rack space whether the provisions regarding equipment or its use are being complied with.
- C.5.12. Data Access Europe offers support in the provision of the Service in the form of performing actions on the instructions of the Client. These actions are entirely at the risk of the Client and will be charged to the Client on the basis of subsequent calculation.

**ARICLE C.6. SOFTWARE AND UPDATES**

- C.6.1. Data Access Europe will endeavor to keep the software it uses up-to-date. However, Data Access Europe is dependent on its suppliers in this respect, and Data Access Europe is entitled not to install certain updates or patches if, in its opinion, this does not benefit the correct delivery of the Service.
- C.6.2. If necessary for a Service, Data Access Europe will grant the Client access to the (management) software by providing user names and passwords. Every action that takes place through a user's account is deemed to take place under the responsibility and risk of the Client. In the event of suspected misuse of an account, the Client must report this to Data Access Europe as soon as possible so that it can take measures.

**ARICLE C.7. AVAILABILITY, FAILURES AND MAINTENANCE**

- C.7.1. Data Access Europe will make every effort to realize uninterrupted availability of its Services, systems and networks, and to realize access to data stored by Data Access Europe, but offers no guarantees in this respect, unless otherwise agreed in the Agreement by means of an SLA. Insofar as not otherwise stipulated in such an SLA, the provisions of this article apply to availability.
- C.7.2. Only if this has been agreed in the Agreement or SLA will Data Access Europe regularly make backup copies of data stored by the Client on the systems of Data Access Europe and make these available to the Client upon request, against payment. These backup copies can be destroyed at any time after termination or dissolution of the Agreement. It is the Client's responsibility to request a back-up copy upon termination or dissolution.
- C.7.3. Data Access Europe will make every effort to ensure that the Client can use the networks that are directly or indirectly connected to the network of Data Access Europe. However, Data Access Europe cannot guarantee that these networks will be available at any time.
- C.7.4. Data Access Europe has the right to temporarily decommission its systems, including the Service, or parts thereof for the purpose of maintenance, adjustment or improvement thereof. Data Access Europe will try to have such a decommissioning take place outside Working Hours as much as possible and will endeavor to inform the Client in a timely manner of the planned decommissioning. However, Data Access Europe is never liable for compensation for damage in connection with such decommissioning.
- C.7.5. Data Access Europe has the right to modify its systems, including the Service, or parts thereof from time to time to improve functionality and to correct errors. If an adjustment leads to a significant change in the functionality, Data Access Europe will endeavour to inform the Client thereof. In the case of adjustments that are relevant to several clients, it is not possible to waive a certain adjustment for the Client alone. Data Access Europe is not obliged to pay any compensation for damage caused by such an adjustment.
- C.7.6. Data Access Europe will endeavour to inform the Client of the nature and expected duration of the interruption in the event of the Service being unavailable due to malfunctions, maintenance or other causes.

**ARTICLE C.8. PRIVACY AND SECURITY**

- C.8.1. The personal data to be processed by Data Access Europe in the performance of the Service fall under the Personal Data Protection Act (hereinafter: “PDPA”), whereby, according to the terminology of that law, the Client is the “responsible” and Data Access Europe is the “processor”.
- C.8.2. Data Access Europe will ensure an appropriate level of security in view of the risks associated with the processing and the nature of the personal data to be protected. However, this only if and insofar as these are located in the systems or infrastructure of Data Access Europe.
- C.8.3. Data Access Europe guarantees that anyone acting under the authority/on behalf of Data Access Europe, insofar as they have access to personal data for which the Client is responsible, will only process these on the prior written instructions of the Client, subject to deviating statutory obligations.
- C.8.4. If the Client has to change, delete or hand over data stored in Data Access Europe systems in the context of a legal obligation, for example under the PDPA, Data Access Europe will assist in this as much as possible. The costs for the additional work for this can be invoiced separately.
- C.8.5. As the responsible party within the meaning of the PDPA, the Client is at all times responsible for reporting a security leak and/or data leak (which is understood to mean: a breach of the security of personal data that leads to a significant chance of adverse consequences, or adverse consequences has, for the protection of personal data as referred to in Article 34a paragraph 1 of the PDPA) to the supervisor and / or data subjects. To enable the Client to comply with this legal obligation, Data Access Europe will inform the Client within a reasonable period of a security leak and/or data leak involving personal data of the controller.
- C.8.6. The obligation to report in any case includes reporting the fact that there has been a leak. In addition, the reporting obligation includes:
- a. a. what is the (alleged) cause of the leak;
  - b. what the (as yet known and/or expected) consequence is; and
  - c. what the (proposed) solution is;
  - d. what are the measures already taken.

**ARTICLE C.9. PROCEDURE AFTER TERMINATION**

- C.9.1. After termination of the Agreement, as a result of cancellation or dissolution, all data stored for the Client will be kept available for a week after termination, so that the Client can download the data itself and possibly continue it with another service provider. After this period, all data of the Client will be deleted, regardless of whether the Client has downloaded it or not, unless otherwise agreed in writing.
- C.9.2. All work performed by Data Access Europe in the context of the continuity of the information provision of the Client after termination of the Agreement will be charged on the basis of subsequent calculation at the rates applicable at that time.