

GENERAL

1. Definitions

- 1.1 **Agreement:** the arrangements, agreed in a written and/or digital recording, on the basis of which Agile Cockpit performs Service(s) for the benefit of Client and to which these terms and conditions apply.
- 1.2 **Client:** any (legal) entity or person who has concluded an Agreement with Agile Cockpit, or as the case may be responds to or requests an offer or quotation.
- 1.3 **Consultant:** (IT) professional who possesses (a part of) the required (software) knowledge and skills and who is deployed by Agile Cockpit in the performance of the Agreement.
- 1.4 **Consultancy Services:** services in which the professional focuses on advising Client regarding the utilisation of information technology, in which the tasks consist of providing advice and implementation. The performance of training courses at the location of Client is not included in Consultancy Services, and is instead designated as Training Services.
- 1.5 **In-Company Training Courses:** training courses which are arranged by Agile Cockpit at the location of Client.
- 1.6 **Open Schedule Training Courses:** training courses which will be provided at the location of Agile Cockpit or at a location to be determined by Agile Cockpit.
- 1.7 **Personal Data:** information that can be used to directly or indirectly identify an individual in connection with services under the Agreement. Personal Data does not include individual business contact data received by Agile Cockpit as a controller. **Process / Processing:** collecting, recording, or otherwise accessing Personal Data under the Agreement.
- 1.8 **Process / Processing:** collecting, recording, or otherwise accessing Personal Data under the Agreement.
- 1.9 **Training Services:** services in which Agile Cockpit focuses on education in the field of information technology. Advising Client with regard to the performance of Training Services is not included in the Training Services but is instead designated as Consultancy Services.

2. Application of the terms and conditions

- 2.1 These general terms and conditions ("Terms and Conditions") of Agile Cockpit B.V. ("Agile Cockpit") shall apply to all order confirmations and any arrangements agreed in a written and/or digital recording, on the basis of which Agile Cockpit and/or its contractors perform certain service(s) for the benefit of the Client (the "Agreement(s)") between Agile Cockpit and the Client.
- 2.2 If any part of the general section of these terms and conditions conflicts or is incompatible with any of the provisions of any specific section of these terms and conditions agreed between Agile Cockpit and the Client, then the provisions of the specific section shall prevail.
- 2.3 The applicability of any of the Client's purchasing or other conditions is expressly rejected.

3. Offers

- 3.1 For the avoidance of doubt, all offers and other statements issued by Agile Cockpit shall be subject to these Terms and Conditions, except where specified otherwise in writing by Agile Cockpit. No party shall have any obligation to enter into an Agreement with the other and each party is entitled to refuse to enter into an Agreement without being obliged to specify the reasons for such refusal.
- 3.2 The Client shall guarantee the accuracy and completeness of the information that it submits to Agile Cockpit and on which Agile Cockpit bases its offer.

4. Price and Payment

- 4.1 Agile Cockpit shall invoice the Client in accordance with the invoicing schedule set forth in the Agreement. Except where agreed otherwise, all service fees shall be in US Dollars and the Client shall effect all payments by Electronic Funds Transfer, Ideal Payment or Credit Card, or, if stated otherwise, in accordance with the terms of the invoice and in US Dollars. All service fees are exclusive of any taxes, value added tax ("VAT"), and other levies that may be imposed. The Client is solely responsible for the payments of any taxes attributable to the services performed by Agile Cockpit or its contractors.

- 4.2 The Client may under no circumstances derive any rights or expectations from any cost estimates or budgets issued by Agile Cockpit. An available budget made known by the Client to Agile Cockpit shall under no circumstances apply as a (fixed) price agreed between the parties for the service to be provided by the Supplier.
- 4.3 If the Client consists of more than one natural person or legal entity, each such person or entity shall be jointly and severally liable with respect to any obligations, including payment of any amounts due to Agile Cockpit, as set forth in the invoice or in the Agreement.
- 4.4 The relevant documents and information from Agile Cockpit's administration or systems shall be conclusive evidence of the service provided by Agile Cockpit and the amounts payable by the Client in return for such services, without prejudice to the Client's right to submit evidence to the contrary.
- 4.5 All invoices will be paid by Client in accordance with the payment terms stated in the invoice. In the absence of specific conditions Client will make the payment within ten (10) calendar days from the invoice date. The Client shall not be entitled to suspend any payments or to offset any amounts due.
- 4.6 Any late service fees will accrue the maximum interest rate allowed under applicable law until such payment is made in full.
- 4.7 If the Client fails to pay the amounts due or to pay the amounts due in a timely manner, statutory commercial interest shall be payable by the Client on the outstanding amount without a demand or notice of default being required. If the Client still fails to pay the amount owed after receiving a demand or notice of default, Agile Cockpit may refer the debt for collection, in which case the Client shall also be obliged to pay all in- court and out-of-court expenses in addition to the total amount due, including all costs charged by external experts.
- 5. 5. Confidentiality**
- 5.1 The Client and Agile Cockpit acknowledge that each party will receive and have access to certain confidential and proprietary information of the other party, whether oral, written, or electronically stored ("Confidential Information") in connection with the performance of the Agreement. Each party agrees that it shall ensure and use reasonable efforts to safeguard such Confidential Information received from the other party that is known or should reasonably be known to be confidential in nature. Each party shall use the other party's Confidential Information solely for the purpose of fulfilling its obligations in the Agreement and these Terms and Conditions. Confidential Information shall be regarded as confidential if it is designated as such by one of the parties. Neither party will disclose, in whole or in part, the other party's Confidential Information to any person, except to such party's employees or contractors who require access to such information to fulfil the purposes of the Agreement.
- 5.2 Each party acknowledges that any unauthorized use or disclosure of the Confidential Information may cause irreparable damage to the other party. If an unauthorized use or disclosure occurs, such party will take at its expense, all steps which are necessary to recover the other party's information and to prevent subsequent unauthorized use or dissemination, including availing itself of actions for seizure and injunctive relief. If such party fails to take these steps in a timely and adequate manner, the other party may take them at such party's expense.
- 5.3 In the event the Client is required by a governmental authority to disclose any Confidential Information of Agile Cockpit, the Client shall, upon receiving such request unless prohibited by law, promptly notify Agile Cockpit in writing of such request to enable Agile Cockpit to take all necessary measures it deems convenient at its sole discretion to ensure confidential treatment of such Confidential Information, including seeking a protective order with respect thereto or waiving compliance with the provisions of this Section 5. In any event, the Client shall only disclose the part of the Confidential Information which is legally required to be disclosed and shall use its best efforts to cooperate in obtaining confidential treatment of such disclosed part of the Confidential Information.

5.4 Upon the termination of the Agreement, each party shall immediately return to the other party, or promptly destroy (and not retain any copies) any and all Confidential Information of the other party.

5.5 “Confidential Information” shall not include any information that (i) is known by a party prior to the disclosure by the other party without breaching any confidentiality or similar agreement; (ii) is independently developed by a party without use of or reference to the other party’s Confidential Information; (iii) is acquired by a party from a third party without breaching any confidentiality or similar agreement with respect to such information; or (iv) is or becomes publicly available through no breach of these Terms and Conditions.

6. Personal data

6.1 The full responsibility for the data processed through the use of the service by the Client shall rest with the Client. The Client shall guarantee Agile Cockpit that the data is not (processed) illegal and does not infringe the rights of third parties. The Client shall indemnify Agile Cockpit against claims by third parties, of whatever nature, in relation to the processing of this data or the execution of the Agreement.

6.2 It is the responsibility of the Client to enter into a data processing agreement with Agile Cockpit. Both parties acknowledge that Agile Cockpit, while executing the Agreement, needs to be considered as a data processor as referred to in the General Data Protection Regulation (2016/679) (GDPR).

6.3 Agile Cockpit will implement appropriate technical and organizational measurements to secure the data against any loss or unauthorized modification or processing, taking into account the state of art, the costs of the implementation and the confidentiality of the data.

6.4 The client will only make data available if it has ensured that the necessary security measures are in place. The client is responsible for monitoring the compliance to the agreements on security of both parties.

6.5 The data that Agile Cockpit will process during the Agreement will be considered confidential and will be handled in compliance with the applicable privacy regulations. Personal data will not be shared with any third party unless this is necessary for the execution of the Agreement.

6.6 Agile Cockpit will not store personal data longer than necessary. Unless agreed otherwise, the maximum retention period for personal data in a not-pseudonymised or anonymised form will be seven (7) years after the expiry date of the Agreement. After this period Agile Cockpit will destroy the data of Client.

7. Intellectual Property

7.1 The Client acknowledges that all rights, title and interests in all copyrights, trademarks, patents, software, websites, source code, computer programs, data files, hardware or other materials such as analyses, designs, documentation, reports, quotations, any related preliminary material, and all intellectual property and proprietary rights developed for or made available to the Client (the “IP”) on the basis of the Agreement shall remain exclusively vested in Agile Cockpit, its licensors or its suppliers. The Client agrees to execute the instruments that may be appropriate or necessary to give full legal effect to this Section 7.1. Nothing in these Terms and Conditions shall be construed as conferring any right, title or interest in the IP to the Client. The Client shall only acquire those rights of use that are explicitly granted to the Client in the Agreement. Any rights of use granted to the Client shall be non-exclusive, non-transferable, non-sublicensable, limited and freely revocable.

7.2 The Client agrees not to disparage the value of, remove, modify, or amend (or arrange for the removal, modification, or amendment of) any IP that is developed or made available to the Client under the Agreement. Even if the Agreement does not explicitly provide for such authority, Agile Cockpit shall be permitted to install technical provisions for the purpose of protecting the software, hardware, data files, websites and alike in relation to an agreed restriction on the content or the term of the right of the Client to use such IP. The Client shall, under no circumstances, remove or circumvent such technical provisions or arrange for the removal or circumvention to be carried out.

- 7.3 To the best knowledge of Agile Cockpit its software, websites, data files, hardware or other materials do not infringe intellectual property rights of third parties. Agile Cockpit shall indemnify, defend and hold harmless the Client against any claims that the IP or other materials developed by Agile Cockpit infringes the intellectual property rights of any third party. The Client agrees to promptly notify Agile Cockpit in writing upon receiving notice of any such claim. The Client agrees that Agile Cockpit shall solely control the defense or settlement of such claim and shall provide Agile Cockpit with the powers of attorney, information and cooperation that it requires to defend itself, and where necessary in the name of the Client, against these claims. This obligation to indemnify the Client shall not apply if the alleged infringement relates to (i) materials made available to Agile Cockpit by the Client for the purpose of use, adaptation, processing or incorporation, or (ii) changes made by Agile Cockpit, or by a third party on behalf of the Client, to the IP without Agile Cockpit's prior written consent. If it is irrevocably established in court that the software, websites, data files, hardware or other materials developed by Agile Cockpit itself constitute an infringement of any intellectual property right vested in a third party or if Agile Cockpit believes that there is a good chance that such an infringement may occur, Agile Cockpit shall, where possible, ensure that the Client can continue to use the software, websites, data files, hardware or materials delivered, or functionally similar alternatives. All other or further-reaching obligations to indemnify on the part of Agile Cockpit shall be excluded.
- 7.4 The Client warrants that no rights of third parties preclude the provision to Agile Cockpit of software, hardware, material intended for websites (visual material, text, music, domain names, logos, hyperlinks etc.), data files or other materials, including draft materials, for the purpose of use, adaptation, installation or incorporation (e.g. in a website). The Client shall indemnify Agile Cockpit and its respective affiliates, from and against all claims by third parties based on the assertion that such provision, use, adaptation, installation or incorporation constitutes an infringement of any rights of the third party in question.
- 7.5 Agile Cockpit is never obliged to perform data conversion unless doing so has been explicitly agreed in writing by the parties.
- 8. Cooperation**
- 8.1 The parties acknowledge that the success of activities in the field of information and communication technology generally depends on proper and timely mutual cooperation. In order to facilitate the proper execution of the Agreement by Agile Cockpit, the Client shall at all times provide Agile Cockpit with all personnel, and data or information that Agile Cockpit deems to be useful, necessary and desirable, and to give its full cooperation in a timely manner. All personnel, employees, and agents deployed by the Client shall have the necessary knowledge, expertise and experience.
- 8.2 The Client shall bear the risk of the selection, the use, the application and the management within its organisation of the software, hardware, websites, data files and other products and materials and of the services to be provided by Agile Cockpit. The Client shall arrange for the correct installation, assembly and commissioning and for the application of the correct settings to the hardware, software, websites, data files and other products and materials. The Client guarantees that all licenses or approvals that Agile Cockpit may require in relation to these resources shall be obtained.
- 8.3 If the Client fails to comply with Section 8.1, or if the Client fails to meet its obligations in any other way, Agile Cockpit shall be entitled to suspend the performance of the Agreement in part or in full (as applicable) and shall also be entitled to invoice the resulting costs in accordance with its standard rates, without prejudice to Agile Cockpit's right to exercise any other remedy available to it under law or equity.
- 8.4 The Client shall be solely responsible for selecting the correct resources for the purposes of fulfilling its obligations under this Section 8 and for ensuring that these are available in full and in a timely manner, with the exception of those facilities that fall under the direct use and management of Agile Cockpit. Agile Cockpit shall under no circumstances be liable for losses or costs arising as a result of transmission errors, breakdowns or the non-availability of the Client's resources or Agile Cockpit's facilities, unless, solely in the case of the non-availability of Agile Cockpit's facilities, the Client is able to demonstrate that such losses or costs are the result of intentional acts or deliberate recklessness on the part of Agile Cockpit's management.

9. Terms

- 9.1 Agile Cockpit shall make reasonable efforts to comply to the greatest extent possible with the terms and delivery periods and/or dates and delivery dates, whether or not these are firm deadlines and/or dates, that it has specified or that have been agreed between the parties. The interim dates and delivery dates specified by Agile Cockpit or agreed between the parties shall always apply as target dates, shall not bind Agile Cockpit and shall always be indicative.
- 9.2 If a term is likely to be exceeded, Agile Cockpit and Client shall consult with each other about the consequences of the term being exceeded in relation to further planning.
- 9.3 In all cases, therefore also if the parties have agreed firm deadlines and delivery periods or dates and delivery dates, Agile Cockpit shall only be in default as a result of a period of time being exceeded after the Client has declared Agile Cockpit to be in default in writing and a reasonable term that the Client granted to Agile Cockpit to remedy the breach has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Agile Cockpit the opportunity to respond adequately.
- 9.4 If it has been agreed that the work under the contract is to be performed in phases, Agile Cockpit shall be entitled to postpone the start of a phase's work until the Client has approved the results of the preceding phase in writing.
- 9.5 Agile Cockpit shall not be bound by a date or delivery date or term or delivery period, whether or not final, if the parties have agreed an amendment to the content or scope of the contract (additional work, a change of specifications and so on) or a change in approach with respect to performance of the contract, or if the Client fails to fulfil its obligations arising from the Agreement or fails to do so on time or in full. The need for or occurrence of additional work during performance of the Agreement shall never constitute a reason for the Client to give notice of termination or to rescind (in Dutch: 'ontbinden') the Agreement.

10. Termination of the Agreement

- 10.1 Agile Cockpit may at any point in time immediately terminate the Agreement for any reason whatsoever upon written notice to the Client. Agile Cockpit shall have no obligation to state the reasons for such termination. All payments made to Agile Cockpit for services not yet performed shall be refunded to the Client. The Client remains liable for any payments for services that were already delivered and performed prior to termination of the Agreement by Agile Cockpit.
- 10.2 Each party may terminate the Agreement immediately upon notice to the other party, if (i) the other party materially breaches any of its obligations hereof or in the Agreement; provided that the non-breaching party provides written notice to the other party (containing a detailed description of the breach) and the other party fails to remedy such breach to the non-breaching party's reasonable satisfaction within thirty (30) days after receiving such notice or (ii) the other party becomes insolvent or bankrupt (or becomes subject to any legal proceeding relating to insolvency, reorganization or the protection of creditors rights), assigns all or a substantial part of its business or assets for the benefit of creditors, or ceases to conduct business in the normal course. The Client's payment obligations and all other obligations to cooperate imposed on the Client or on a third party to be engaged by the Client shall in all cases be regarded as fundamental obligations arising from the Agreement. The Client remains liable for any payments for services that were already delivered and performed prior to termination of the Agreement and such payments shall remain due in full and shall become immediately due and payable at the time of termination.
- 10.3 Except in the event of uncured material breach, the Client shall under no circumstances be entitled to terminate an Agreement regarding the provision of services that has been entered into for a fixed term before the end of the term.
- 10.4 Upon termination in accordance with Section 10 of these Terms and Conditions, any rights granted to the Client in the IP shall immediately terminate.
- 10.5 The provisions of Sections 5, 7, 10, 14.1, 14.8, and the last sentence of Section 10.2 above shall survive the termination of the Agreement.

11. Liability

11.1 11.1. Subject to Section 11.3, in no event will the aggregate liability that Agile Cockpit, its subcontractors and their related persons may incur whether due to a failure to perform the Agreement or any other reason, explicitly including any failure to comply with a guarantee obligation agreed with the Client, exceed the sum stipulated for the delivery of services for the previous twelve (12) months (exclusive of VAT). Such liability shall be limited to direct damages only. This limitation of liability shall apply mutatis mutandis to Agile Cockpit's obligation to indemnify referred to in article 7.4. The total liability of Agile Cockpit for direct damage or loss, for any reason whatsoever, shall, however, under no circumstances exceed the price paid for the delivery of services for the period of the then running calendar year and shall in any case be limited to the maximum amount that in applicable cases will be paid by the insurance company of Agile Cockpit.

11.2 11.2. The liability of Agile Cockpit for indirect damage or loss, consequential damages, loss of profit, loss of savings, reduced goodwill, loss due to business interruption, loss as a result of claims from the Client's customers, loss in connection with the use of items, materials or software provided by third parties that Agile Cockpit is instructed to obtain by the Client, loss in connection with the engagement of secondary suppliers by Agile Cockpit at the Client's instructions, and any punitive or like damages shall be excluded and are expressly disclaimed. The liability of Agile Cockpit due to the scrambling, destruction or loss of data or documents shall also be excluded.

11.3 11.3. Sections 11.1 and 11.2 shall not apply if and in so far as the loss is the result of intentional acts or deliberate recklessness on the part of Agile Cockpit or its respective employees and contractors. Section 11.1 and 11.2 shall also not apply when and to the extent that applicable law requires liability beyond and despite the foregoing limitation and disclaimer.

11.4 11.4. Agile Cockpit warrants that it will use its commercially reasonable efforts to perform the services in a timely and workmanlike manner. Except where performance by Agile Cockpit is permanently impossible, Agile Cockpit shall only be liable as a result of a failure to perform an Agreement if the Client gives Agile Cockpit immediate notice of default in writing, setting a reasonable term in which the breach can be remedied but in any event not less than thirty (30) days, and Agile Cockpit still fails to meet its obligations after this period. The notice of default must contain a comprehensive and detailed description of the breach to ensure that Agile Cockpit has the opportunity to respond adequately. ALL OTHER WARRANTIES WHETHER EXPRESSED OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR PARTICULAR PURPOSE OR NON-INFRINGEMENT) ARE HEREBY DISCLAIMED.

12. Force Majeure

12.1 If either party is prevented from fulfilling its obligations by reason of any supervening event beyond its control (including but not limited to legislative and/or political constraints relating to the manufacture, distribution and/ or sale of the products, war, national emergency, flood, earthquake, strike or lockout (other than a strike or lockout induced by the party so incapacitated)), the party unable to fulfil its obligations shall immediately give notice of this to the other party and shall do everything in its power to resume full performance.

12.2 On such notice being given, neither party shall be deemed to be in breach of its obligations under the Agreement or these Terms and Conditions.

12.3 If and when the period of incapacity exceeds three (3) months, then the Agreement and the applicability of these Terms and Conditions shall automatically terminate unless the parties first agree otherwise in writing.

13. Additional work

13.1 If Agile Cockpit performs other services that fall outside of the content or scope of the agreed work and/or services at the request or with the prior consent of the Client, such work or services shall be paid for by the Client in accordance with the agreed rates. If no rates have been agreed, Agile Cockpit's standard rates shall apply. Agile Cockpit shall under no circumstances be obliged to comply with such an additional request, and when it does comply, it may require the Client to enter into a separate written agreement for this purpose.

14. Miscellaneous

14.1 In the exercise of their respective rights and the performance of their respective obligations hereunder and in the Agreement, the parties are and shall remain independent contractors. Nothing in these Terms and Conditions or the Agreement shall be construed: (a) to give one party the right or power to direct or control the daily activities of the other party, (b) to create the relationship between the parties of principal and agent, franchiser and franchisee, partners, joint-ventures, co-owners or otherwise as participants in a joint undertaking, (c) to authorize either party to bind the other party to, or assume or create, any contract and obligation of any kind, express or implied, on behalf of either party or to any other person, or (d) to waive any right, interest or claim that one party has against another party.

14.2 These Terms and Conditions shall inure to the benefit of and bind the successors and permitted assigns of the parties. None of the rights or obligations of the Client may be assigned to or assumed by any other person or entity without the written consent of Agile Cockpit. The Client acknowledges and agrees that Agile Cockpit may freely assign or transfer, in whole or in part, its rights and obligations hereunder so long as such assignment is to an affiliate or subsidiary of Agile Cockpit.

14.3 In the event that any provision of these Terms and Conditions and/or the Agreement is declared to be void, illegal or otherwise unenforceable, such provision shall be severed and shall not affect the validity of the remaining provisions and the parties shall negotiate about an amendment of the Terms and Conditions and/or the Agreement in good faith in line with the spirit and intent of such severed provision and of the Agreement and/or these Terms and Conditions.

14.4 The failure of any of the parties to enforce at any time or for any period of time any provision of these Terms and Conditions or the Agreement shall not be construed as a waiver of such provision or the right thereafter to enforce each and every provision herein or therein contained.

14.5 All notices required by, permitted by or made pursuant to these Terms and Conditions and the Agreement shall be in writing and shall be sent to the receiving party by facsimile, email, courier service, or by registered, first-class mail, return receipt requested and postage prepaid, to the address on file with the sending party, or at such other address as the receiving party may supply to the sending party in writing.

14.6 These Terms and Conditions and the Agreements set forth the entire understanding of the parties and supersedes all prior written agreements, arrangements and communications, whether oral or written, pertaining to the subject matter hereof. No waiver of any provisions of these Terms and Conditions or the Agreement shall be effective or enforceable unless agreed to in writing by each of the parties.

14.7 Agile Cockpit shall have the right to list the Client as one of its customers in public announcements and sales brochures provided the Client's name is no more prominently displayed than Agile Cockpit's other clients in such materials. The Client agrees it will reasonably cooperate in the issuance of a press release regarding the Client's relationship with Agile Cockpit when each significant Agreement is executed and again upon the completion of such Agreement, subject to the Client's prior written approval of such press release which will not be unreasonably withheld or delayed.

14.8 The Client agrees that during the term of the Agreement and for a period of two (2) years following its termination or expiration, it will not, directly or indirectly hire, retain, solicit or otherwise engage the services of any person that was employed by Agile Cockpit or its contractors that the Client knew or had reason to know was engaged in the performance of the services under the Agreement.

15. Amendment of the terms and conditions

15.1 Agile Cockpit may at any time amend these Terms and Conditions. Amendments to these Terms and Conditions will be promptly communicated to the Client. In the event that the Client does not agree to the amended Terms and Conditions it may terminate the Agreement upon three (3) months written notice to Agile Cockpit during which term the old Terms and Conditions will continue to apply. The notice of termination must be served within ten (10) days of the notification of the amendment of these Terms and Conditions. The last sentence of Section 10.2 of these Terms and Conditions shall apply to the termination of the Agreement in accordance with this Section 15.1.

16. Governing law & disputes

16.1 The Agreements between Agile Cockpit and the Client shall be governed by the laws of the Netherlands. The application of the Convention on Contracts for the International Sale of Goods 1980 is excluded.

16.2 Any disputes arising out of or in connection with the Agreement shall be exclusively referred to the court of Rotterdam.

SOFTWARE AS A SERVICE

17. Definitions

- 17.1 The term 'Software as a Service' shall be understood to refer to: the 'remote' placing and maintaining at the disposal of the Client of software by Agile Cockpit via the internet or another network, without providing the Client with a physical data medium on which the software in question is stored.
- 17.2 The term 'Computer Service' shall be understood to refer to: the automatic processing of data using software and hardware managed by Agile Cockpit.

18. Price

- 18.1 Delivery of services by Agile Cockpit shall first commence when payment is received. In the event that the Client reverses or cancels payment Agile Cockpit is entitled to immediately suspend the delivery of services.
- 18.2 All prices are applicable for the period of 1 January until 31 December of the same calendar year. Changes in prices for the following year shall be made available to the client no later than one month prior to the expiry of the calendar year. Prices agreed for the services at the commencement of the Agreement shall apply for the duration of the Agreement to the services purchased in that calendar year. In the event that the Client purchases additional services during the term of the Agreement but after the 1st of January then the prices applicable as of the 1st of January shall apply.

19. Software as a Service

- 19.1 Agile Cockpit shall provide the Client with the service specified in the Agreement in the field of Software as a Service, as well as the other services agreed between the parties. Agile Cockpit shall not be responsible for the purchase and/or correct functioning of the Client's infrastructure.

- 19.2 Except where agreed otherwise in writing, the Client shall be responsible for the management, which includes monitoring settings, the use of the service and the manner in which the results obtained through the use of the software are used. The Client shall also be responsible for training given to and use by users, regardless of whether or not there is a relationship of authority between the Client and these users. If no explicit agreements have been made in this regard, the Client itself shall install, set up, parameterize and tune the (auxiliary) software required on its own hardware and adapt the hardware used, other (auxiliary software) and operating environment where necessary, as well as achieving the interoperability desired by the Client.
- 19.3 Except where agreed otherwise in writing, Agile Cockpit shall not be obliged to carry out data conversion.
- 19.4 If the Agreement stipulates that the service provided to the Client shall also include the provision of support to users, Agile Cockpit shall issue advice by telephone or e-mail on the use and operation of the software referred to in the Agreement and on the use of the service. Agile Cockpit may impose conditions in relation to the qualifications and the number of contacts who are eligible for support. Agile Cockpit shall deal with properly substantiated requests for support within a reasonable period of time. Agile Cockpit cannot guarantee the accuracy, completeness or timeliness of responses or support provided. Except where agreed otherwise in writing, support shall only be provided on working days during Agile Cockpit's standard business hours.
- 19.5 Agile Cockpit is not responsible of the creation of backups of data. The Client is exclusively responsible for creation of backups of data.
- 19.6 Agile Cockpit shall only be obliged to have a backup centre or other backup facilities if this has been explicitly agreed in writing.

20. Method of service

20.1 Agile Cockpit shall make every effort to ensure that the services are provided with due care and in accordance with the arrangements and procedures agreed in writing with the Client where applicable. Agile Cockpit shall provide all services on the basis of a best efforts obligation, unless and in so far as Agile Cockpit has explicitly undertaken in the written Agreement to achieve a specific result and the result in question is sufficiently determined.

20.2 Agile Cockpit shall only perform the service on behalf of the Client. If Agile Cockpit carries out work relating to the Client's data or that of its employees or users pursuant to a request or an authorized order from a government agency or in connection with a statutory obligation, the Client shall be invoiced for all of the associated costs.

20.3 Agile Cockpit may make adjustments to the content or scope of the service. If such adjustments result in a change in the procedures that apply to the Client, Agile Cockpit shall notify the Client as soon as possible and the costs of this change shall be borne by the Client. In this case, the Client may terminate the Agreement in writing with effect from the date on which the change takes effect, unless this change is related to changes in relevant legislation or other regulations issued by competent authorities, or if Agile Cockpit bears the costs of this change.

20.4 Agile Cockpit may continue to provide the service using a new or amended version of the software. Agile Cockpit shall not be obliged to maintain, change or add certain features or functionalities of the service or the software specifically for the Client.

20.5 Agile Cockpit may temporarily suspend the service in full or in part for the purpose of carrying out preventive, corrective or adaptive maintenance ("Service Window"). Agile Cockpit shall give a minimum of twenty four hours advance notice to the Client of such Service Windows. Agile Cockpit shall not suspend the service for longer than necessary.

20.6 If Agile Cockpit is providing services on the basis of information to be provided by the Client, this information shall be prepared and supplied by the Client in accordance with the conditions to be imposed by Agile Cockpit. The Client shall bring the data to be processed to, and collect the results of the processing from, the location at which Agile Cockpit is providing the service. Transport and transmission, in any form whatsoever, shall take place at the risk and expense of the Client, even if this is carried out or organized by Agile Cockpit. The Client shall at all times guarantee that all materials, information, software, procedures and instructions that it makes available to Agile Cockpit for the purpose of providing the services is accurate and complete and that all data carriers issued to Agile Cockpit meet Agile Cockpit's specifications.

20.7 All hardware, software and items used by Agile Cockpit in providing the service shall remain the property or the intellectual property of Agile Cockpit or its own suppliers, even if the Client pays a fee in respect of the development or purchase of these by Agile Cockpit.

20.8 Agile Cockpit shall under no circumstances be obliged to provide the Client with a physical data carrier containing the software to be made and kept available to the Client within the context of Software as a Service.

21. Help Desk

21.1 Support will be delivered by the helpdesk ("Helpdesk") on a best effort basis.

21.2 The Helpdesk can be reached at the Support Hours at: support@agilecockpit.com.

21.3 Non Customer specific incidents at Agile Cockpit are outside the scope of any form of support and will be resolved by Agile Cockpit at its own cost.

21.4 The entitlement to support ends at the same day that the Agreement expires and/or is terminated.

22. Duration

22.1 The service shall be delivered for the term of one year from the date set out in the Agreement. The term of the Agreement shall be extended automatically by the term of the original period each time, unless the Client terminates the Agreement in writing with due observance of a notice period of one month prior to the expiry of the Agreement.

22.2 Payments made to Agile Cockpit shall not be refunded to the Client.

22.3 In the event that the Client purchases additional services during the term of the Agreement the Agreement for these additional services will expire on the date referred to under 22.1 above.

23. Warranty

23.1 Agile Cockpit does not warrant that the software to be made and kept available to the Client within the context of Software as a Service is free of defects and will operate without interruptions. Agile Cockpit shall endeavour to fix any defects in the software within a reasonable period of time and Agile Cockpit has received detailed notification in writing of the defects in question. As and when necessary, Agile Cockpit may postpone the fixing of defects until such time as a new version of the software is brought into use. Agile Cockpit shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software.

23.2 Agile Cockpit shall not be responsible for checking the accuracy and completeness of the results of the service and the data generated through the use of the service. The Client itself shall regularly check the results of the service and the data generated through the use of the service.

23.3 Under no circumstances shall Agile Cockpit be responsible for the recovery of scrambled or lost data.

23.4 Agile Cockpit shall not guarantee that the software to be made and kept available to the Client within the context of Software as a Service will be adapted according to changes in relevant legislation and regulations in a timely manner.

24. Personal Data

24.1 The Client shall guarantee that all of the requirements in respect of the lawful processing of personal data input by the Client in the software to be made and kept available to the Client within the context of Software as a Service, and the software used by Agile Cockpit, are met.

24.2 All data input by the Client in the software will be the responsibility of the Client.

24.3 The data will be processed in India. Client approves by using the services that it agrees with the transfer of data outside EU provided this is done on the basis of a Standard Clauses Agreement.