

1. DEFINITIONS

Where capitalized in these General Terms and Conditions, the following terms have the meanings set forth hereafter:

**"Actuals"**: Actuals is a trade name of Actuals B.V., a private limited liability company, with statutory seat in Amsterdam, The Netherlands, and trade registration number 80279457;

**"Agreement"**: the relevant executed agreement between Actuals and Client, including an executed SO and other agreements;

**"Back end"**: the real time component of the IRVP, such as the customer transactional data recorder;

**"Confidential Information"**: information disclosed under these GTCs by the Discloser to the Recipient, which information is either marked as "confidential" or would reasonably under the circumstances be considered confidential information. It does not include information that the Recipient already rightfully knew, that becomes public through no fault of the Recipient, that was independently developed by the Recipient, or that was lawfully provided to the Recipient by a third party;

**"Consulting services"**: the provisions of time-rated consulting services;

**"Client"**: the Client with which Actuals has entered into an Agreement;

**"Discloser"**: the Party disclosing Confidential Information to the Discloser;

**"Fees"**: the fees payable or paid by Client for the use of the Services and/or provision of Consulting by Actuals to Client;

**"Front end"**: the non-real time component of the IRVP, such as the sftp server, the web based client interface and reporting modules;

**"GTCs"**: the terms and conditions set forth in this document "General Terms and Conditions", as amended from time to time by Actuals;

**"IRVP"**: the Independent Revenue Validation Platform software of Actuals;

**"Parties"**: Client and Actuals jointly;

**"Party"**: Client or Actuals, as the context requires;

**"Personal Data"**: any information relating to an identified or identifiable natural person as defined under art. 4.1 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016;

**"Recipient"**: the Party receiving Confidential Information from the Discloser;

**"Services"**: the availability of the IRVP including Support services;

**"SO"**: a "Service Order", being the detailed document describing the provision of the Services agreed between Parties;

**"Support"**: the provision of i) help desk support in response to reported incidents regarding the performance of the Services, ii) corrective, perfective and preventive maintenance on the IRVP, iii) enhancements to the IRVP, and iv) on-line documentation related to the IRVP.

2. APPLICABILITY AND OFFERS

21. These GTCs apply to all offers, orders, SO's, Agreements and legal relations under which Actuals supplies or may supply Services and/or Consulting services to Client.
22. The applicability to offers, orders, SO's, Agreements and legal relations of deviations from these GTCs shall require explicit prior written consent from Actuals.
23. These GTCs remain in force for as long as the relation between the Parties lasts, including in the situation that no reference would be made to these GTC in future correspondence, for example in the context of new orders.
24. The applicability of any purchase or other terms and conditions of Client is expressly rejected and these other terms and conditions do not bind Actuals, unless and in so far as they have been explicitly and specifically accepted in writing by Actuals.

25. Offers are not binding and are valid for a period of 30 days after date of the offer; thereafter the offer shall be deemed automatically cancelled, unless Parties agree to an extension of the offer.
26. Orders made by Client are subject to Actuals' written acceptance. Actuals reserves the right to not accept an order for any or no reason. Until Actuals has accepted Client's order, Actuals shall not be obligated to deliver under such order. Upon acceptance by Actuals of the order, an Agreement between the Parties on the use of the Services and/or Consulting services shall be in place.
27. Notwithstanding the provisions of art. 6:225 sub 2 of the Dutch Civil Code, Actuals shall not be bound by any deviations in the acceptance by Client of the offer from Actuals.
28. Any amendments of the T&Cs and any related agreements shall only be valid if done via an amendment signed by both parties.

3. LICENSE TO USE THE SERVICES

31. Upon commencement of the relevant Agreement and provided payment of the Fees due and further for the duration of the agreed term for the Services, Client is granted, and Client accepts, the non-exclusive, non-assignable, non-transferable, temporal, worldwide, limited right to use the Services, solely for Client's internal use and benefit and for volume, usage and time parameters agreed and paid for.
32. Actuals reserves all rights not specifically granted to Client.

4. INTELLECTUAL PROPERTY RIGHTS AND INDEMNIFICATION

- 4.1 Actuals or in so far as applicable its licensor(s) shall own and retain all right, title, and interest in the Services, Consulting services and any materials developed for Client under Services and Consulting services, such as source code, executables, data processing algorithms, interfaces, analyses, designs, documentation, reports, as well as preparatory materials (however excluding the data processed from, or generated for, Client) and all intellectual property rights inherent therein, including without limitation all changes and improvements made, requested, or suggested by Client. Any unauthorized use of the Services will deemed to be a material breach of the Agreement between Actuals and Client.
- 4.2 Actuals and its licensors may take technical measures to protect the use of the Services. If the Services is secured by technical protection, Client shall not remove or evade such security features.
- 4.3 Actuals shall defend or settle, at its expense, any claim, suit or proceeding brought or made against Client alleging that the Services infringe any patent, copyright or trade secret of any third party in the USA or Europe, and will pay all costs, damages and reasonable attorneys' fees attributable to such claim that are awarded against Client; provided however, that (i) Client shall have given Actuals prompt written notice of such claim, suit or proceeding, (ii) Client shall

- reasonably cooperate with Actuals in the defense and settlement thereof, and
- (iii) Actuals shall have control of the defense of such claim, suit or proceeding and any settlement or compromise thereof.
- 4.4 Client shall defend, indemnify and hold harmless Actuals from and against all damages, liabilities, losses and expenses, including reasonable attorneys' fees and expenses, resulting from any third-party claim, suit or proceeding that arises from Client's use of the Services.
5. PERFORMANCE, SERVICE LEVELS AND WARRANTY
- 5.1 Actuals shall use commercially reasonable efforts to perform and provide the Consulting services and help-desk Support with due care. The Consulting services provided or performed under any Agreement shall be of a good and workmanlike manner, consistent with generally accepted industry standards for the performance of services of a similar nature.
- 5.2 Actuals further:
- a. warrants that the Services will perform substantially in accordance with the specifications in the Agreement;
- b. warrants that the Front End will be accessible to Client 99.5% of the time in any given calendar month, excluding any reasonable maintenance windows announced at least 72 hours in advance. Actuals warrants that the Back End run with an uptime of 99.95% during the period agreed in a SO or other relevant Agreement. Notwithstanding the foregoing, Actuals does not guarantee network availability between Client and the hosting servers from or used by Actuals, as such availability can involve numerous third parties and is beyond the control of Actuals. Actuals will not be liable for nor provide any service credits hereunder for any downtime caused in whole or part by a third party data center provider nor for any downtime that Client experiences as a result of Client's own network connectivity issues.
- c. will use commercially reasonable endeavors to provide help desk Support if Client experiences a Services outage and is unable to access the Services. Client must then immediately contact Actuals's help desk, providing any/all necessary information that may assist Actuals in determining the cause of the outage. Actuals will determine in good faith whether the outage was within Actuals's reasonable control. If Actuals determines that a timely reported outage was attributable to Actuals, then Actuals will credit Client 1 day of Services Fees for every 2 hours of downtime Client experienced, up to a maximum of half of that month's Services Fees. This shall be Client's sole remedy, and Actuals's sole liability, for Actuals's failure to provide the guaranteed availability set forth in this Article 5;
- d. will use commercially reasonable endeavors to provide non-help desk Support, meaning regular and general provision of corrective, perfective and preventive maintenance on the Services, enhancements to the Services, and documentation related to the Services;
- 5.3 In the event that the Services provided by Actuals do not meet the agreed-upon specifications, Actuals shall be held accountable. Actuals will either correct the deficiencies at no additional charge, provide a proportionate fee reduction, or, if these options are unsatisfactory, the client may terminate the agreement with reasonable notice. Actuals will compensate for any direct damages incurred due to non-compliance, up to the amount paid for the deficient Services. All claims must be submitted within ninety (90) days of identifying the deficiency, accompanied by detailed documentation.
- 6 CLIENT OBLIGATIONS AND AUDIT RIGHTS
- Client shall not modify, adapt, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Services, unless and in so far as explicitly permitted under the Agreement or applicable law.
- 6.1 Client agrees not to, and not to allow third parties to use the Services: to violate, or encourage the violation of, the legal rights of third parties; to engage in, promote or encourage illegal activity; for any unlawful, invasive, infringing, defamatory or fraudulent purpose; to intentionally distribute viruses, worms, Trojan horses, corrupted files, hoaxes, or other items of a destructive or deceptive nature; to interfere with the use of the Services, or the equipment used to provide the Services; to disable, interfere with or circumvent any aspect of the Services; or, to generate, distribute, publish or facilitate unsolicited mass email, promotions, advertisings or other solicitations.
- 6.2 Actuals may audit Client's use of the Services in order to verify compliance with the applicable terms of these GTCs and the Agreement at any time during the term of the Agreement or 1 year thereafter.
- 6.3 If any audit by Actuals yields any deficiency in the amounts paid to Actuals, Client shall promptly remit payment to Actuals of such amounts plus interest calculated at the maximum rate allowed under applicable law.
- 7 FEES AND PAYMENT
- 7.1 All Fees are in Euros unless specified otherwise and are exclusive of sales tax, withholding tax, value added tax (VAT) and any other taxes and levies.
- 7.2 The Fees will be separately agreed in the Agreement. Actuals will provide an invoice to Client for the appropriate Fees.
- 7.3 Client shall pay the Fees not later than 30 days after date of invoice, by default of which Client shall be due, without notice of default from Actuals required, payment to Actuals of the applicable statutory trade interest rate from the date of invoice, in addition to the main sum due.
- 7.4 If following a notice of default Client still fails to pay an invoice within 14 days of such notice of default, Actuals may engage a collection agency, in which case Client shall be due all judicial and extrajudicial costs in full, including but not limited to all costs charged by (external) experts and/or mediators in addition to the costs determined at law related to collection of this claim or of enforcement otherwise, the amount of which is a minimum of 15% of the total amount due.
- 7.5 Client is not entitled to set-off or suspend payments.
- 8 LIABILITY
- 8.1 To the extent permitted by applicable law, the liability of each party under any Agreement or in case of tort shall not exceed the Fees paid or payable to the other party in the 12 months preceding the event giving rise to the liability, with a maximum of €25,000 for either party.

8.2 Notwithstanding the foregoing, to the extent permitted by applicable law, in no event shall either party be liable to the other or any third party for any incidental, consequential, special, or punitive damages, whether in tort or in contract, including lost profits, lost savings, reduced goodwill, damage caused by interruption of business operations, lost or damaged data, or other incidental or consequential damages, even if either party has been notified of the possibility of such damage.

8.3 The liability of either party on account of breach in performance of the Agreement arises only if the breaching party is given immediate and proper written notice of default by the non-breaching party, with a reasonable term to remedy the breach and the breaching party is still in breach of its obligations after that term.

## 9 CONFIDENTIAL INFORMATION

9.1 The Recipient will not disclose the Confidential Information received from Discloser, except to affiliates, employees, agents or professional advisors who need to know it and who have agreed in writing to keep it confidential. The Recipient will ensure that the Confidential Information will exclusively be used to

exercise rights and fulfill obligations under these GTCs. The Recipient will use the same degree of care, but at least a reasonable degree of care, to keep the Confidential Information confidential. The Recipient may also disclose Confidential Information to the extent required by applicable competent court, provided that the Recipient uses reasonable efforts to: (i) promptly notify the Discloser of such disclosure before disclosing; and (ii) comply with Discloser's reasonable requests regarding its efforts to oppose the disclosure.

## 10 OWNERSHIP, PROCESSING AND PROTECTION OF DATA

10.1 All data provided by or on behalf of Client to Actuals for the purpose of processing by Actuals, shall remain the exclusive property of Client. Actuals shall have no other right than the limited right to process the data on behalf of Client.

10.2 Actuals is ISAE 3402 certified and if deemed necessary, will involve only service providers (including but not limited to hosting parties), who are also ISAE 3402 certified.

10.3 Actuals shall immediately notify Client of any (planned) permanent or temporary transfer of Client data to a country outside of the European Union without an adequate level of protection and shall only perform such a (planned) transfer after obtaining the prior written consent of Client.

10.4 Actuals shall implement appropriate technical and organisational measures to protect the data stored, transmitted or otherwise processed, against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access. Actuals shall immediately notify Client of any breach with regard to aforementioned data protection obligation. Actuals shall at all times cooperate with Client and shall follow Client's instructions with regard to such breach in order to enable Client to perform a thorough investigation into the breach, to formulate a correct response and to take suitable further steps in respect of the breach.

10.5 In case the performance of a SO involves processing by Actuals of Personal Data from, on behalf of, or for Client, Parties shall negotiate and agree on

the terms governing the processing and protection of such Personal Data on the basis of the standard Actuals Data Processing Agreement. In addition, Actuals shall execute a personal data sub processing agreement with any party that is involved by Actuals as sub processor for such Personal Data.

## 11 TERMINATION AND SUSPENSION

11.1 Either Party has the right to terminate the Agreement with immediate effect by registered letter, without any requirement to observe a notice period, if the other Party:

- a. has committed any material breach of its obligations under the Agreement and has failed to cure such breach within 30 days of written notice by the non-breaching Party specifying in reasonable detail the nature of the breach (or, if such breach is not reasonably curable within 30 days, has failed to begin and continue to work diligently and in good faith to cure such breach); or
- b. applies for suspension of payments, reaches a settlement with creditors, or is declared bankrupt; or
- c. wishes to enter into a composition with its creditors or execution is levied on all its assets or otherwise loses control of its assets, or
- d. discontinues its operations or decreases its operations substantially, or a resolution has been passed to wind up or liquidate such other Party.

11.2 Either Party has the right to terminate for convenience the Agreement: a. in case no expiration date is agreed: upon 12 months' written notice to the other Party; b. in case an expiration date is agreed: at least 3 months' prior written notice, by absence of which the then current term will automatically be extended for the same period.

11.3 Actuals has the right to suspend its obligations under an Agreement if Client defaults on its payment obligations towards Actuals, provided that notice is given to the Client.

11.4 In the event of termination of an Agreement other than by the expiration of it, the Services already rendered by Actuals at the time of termination of the Agreement and the related payment obligation cannot be revoked unless Client proves that Actuals is in default with regard to those Services. Any amounts invoiced by Actuals before termination in connection with the Services already duly provided under the Agreement will remain payable in full with due observance of the provisions contained in the preceding sentence and will become immediately payable upon termination.

11.5 Upon termination of an Agreement, Client shall immediately seize the use of the Services related to such Agreement.

## 12 FINAL PROVISIONS

12.1 Actuals and Client are independent contractors and nothing related to the performance of the Agreement shall be construed to create any agent, employee or similar relationship between Client and Actuals.

12.2 Both Client and Actuals shall not solicit or hire any personnel of each other until at least 12 months after the termination of the Agreement.

12.3 Neither Party shall be liable for non-performance or delay in performance caused by acts of God, wars, riots, strikes, fires, floods, earthquakes, government restrictions, or other causes beyond its reasonable control. If such force majeure events continue unabated for a period exceeding 45

days, either Party may terminate the Agreement. Upon termination under this clause, the Client shall have no further payment obligations except for services already rendered prior to the occurrence of the force majeure event.

124 Neither Party has the right to transfer the rights and obligations under this Agreement to any third party in any manner whatsoever without the prior written consent of the other Party. Such consent shall not be unreasonably withheld or delayed.

125 If any provision of the Agreement is null and void or is declared void, the other provisions of the Agreement will remain fully effective and Parties will consult to agree on a new provision to replace the void provision, which purpose and purport should be approximated as much as possible.

126 Any Agreement as well as these GTCs is governed exclusively by the laws of The Netherlands and Parties shall submit to the applicable court in The Netherlands.