



## EVERY GENERAL CONTRACT TERMS AND CONDITIONS – SERVICES

**ACCEPTANCE OF THESE TERMS – THE RECIPIENT OF THESE TERMS AND CONDITIONS MUST READ THE FOLLOWING: If the Customer or any other recipient of these General Contract Terms and Conditions does not accept all or parts of the terms and conditions, or does not accept that the terms and conditions will govern deliveries from EVERY, EVERY must be notified in writing immediately or at the latest at commencement of the services from EVERY. If such notice is not received, EVERY will act as if the terms and conditions have been accepted, and will consider that an agreement has been entered into on the basis of these terms and conditions.**

The following General Contract Terms and Conditions form part of and govern the Agreement entered into between the Customer, as defined below, and EVERY, as defined below:

### 1. DEFINITIONS

The following definitions shall apply in the Agreement:

**Agreement** shall mean these General Contract Terms and Conditions and other contract terms and conditions including any attachments, schedules or appendices which describe the performance, obligations and rights of the parties.

**Contract Price** shall mean the consideration payable by the Customer for the Services.

**Customer** shall mean the recipient of these General Contract Terms and Conditions or the party which is stated to be the Customer elsewhere in the Agreement, such as the front page of the contract, or in any appendices included in the Agreement.

**EVERY** is the company in the EVERY Group of companies the Customer has had contact with and which the Agreement is entered into with.

**Third Party** shall mean any party other than EVERY (including its sub-contractors) and the Customer, unless otherwise clearly evident from the context.

**Third Party Software** shall mean computer software with documentation which a Third Party holds the intellectual property rights to.

**Services** is the services that EVERY shall deliver to the Customer as specified in the Agreement.

### 2. THE AGREEMENT, THE SERVICES AND DELIVERY

These General Contract Terms and Conditions regulate general contractual factors such as compensatory damages, change management, delays, defects, confidentiality and dispute resolution. Any variation to these conditions shall only be valid if explicitly stated in the Agreement.

The Services includes the functionality and performances described in the Agreement at the time the Agreement was entered into. After this time, any new functionality and performances will be offered in return for additional payment. Amendments to the Services, inclusive upgrades and replacement of underlying software, may be performed by the EVERY provided that the Services are delivered as described in the Agreement. Any errors, omissions, etc. in the underlying software with regard to requirements, functionality, etc. which is not described or specified in the Agreement, shall not be regarded as a breach of agreement.

Unless any specific acceptance criteria are agreed, delivery shall be regarded as having taken place when the Services are made available for use by the Customer. If a time of delivery is not agreed, EVERY shall make the Services available for the Customer as soon as commercially reasonable.

The documentation provided by EVERY, and communication with EVERY, may be in English, Norwegian, Swedish and/or Danish.

### 3. USE OF SUB-CONTRACTORS, RELATIONSHIPS TO THIRD PARTIES

#### 3.1 Use of sub-contractors

The parties may use sub-contractors for all or parts of their contractual obligations, including the transfer of personal data for storage and processing to sub-contractors, cf. Section 10. The use of sub-contractors shall not affect the party's contractual responsibility pursuant to this Agreement towards the other party.

#### 3.2 Co-operation with Third Parties

The parties shall co-operate with Third Parties to the extent this is required for the duties of the parties under the Agreement. A party is relieved from such co-operation if it becomes apparent that the co-operation may result in substantial disadvantage for the party. The scale of co-operation with Third Parties shall be agreed prior to commencing the co-operation, and is to be invoiced in accordance with the rates that apply at the time.

#### 3.3 Other services by Third Parties

EVERY has no responsibility or liability for services performed by Third Parties (inclusive software) unless the parties explicitly agree that EVERY shall deliver or accept liability for such services.

The said applies also for Third Party deliverances (inclusive Third Party Software) which are delivered under the Agreement, hereunder for errors, omissions, or functionality with regard to Third Party deliverances and integration with Third Party deliverances. EVERY is only responsible for the interface on its own Services, and is not responsible for any errors/bugs which may be related to interface on Third Party solutions or software or other services/solutions provided by third parties which are not subcontractors of EVERY. EVERY does not have a Single Point of Contact (SPOC) responsibility if not explicitly agreed comprising remuneration for such responsibility.

Amendments to the Services by a Third Party, or configuration services performed by a Third Party, shall take place only according to instructions from EVERY. The

Customer is liable for any damage or loss caused by non-compliance with this provision.

#### **4. BREACH OF CONTRACT**

##### **4.1 Notifications and complaints**

If either party has reason to believe that its duties or obligations hereunder will not be performed in accordance with the Agreement, that party shall notify the other party within the time limits and in the manner agreed.

If the Customer chooses to continue with the Delivery despite the delay, EVERY shall be subject to a new deadline of the time it has notified the Customer that delivery will take place (extended deadline). If the Customer does not within 10 business days of receipt of information on the revised Delivery date object in writing to the expected Time of Delivery, the extended deadline shall be regarded as accepted.

##### **4.2 Complaints/notice of objection**

Unless otherwise agreed in writing, the parties must issue written notice of complaint regarding any claim of breach of contract (delay/defect) without undue delay, and at the latest within three months from the time when the cause of the breach was discovered or should have been discovered.

Notwithstanding the above requirements, notice of complaint must be issued at the latest 12 months after the cause of the breach of contract arose. However, the preceding sentence will not prevent either party from pursuing a claim for breach of contract if the other party was aware that there were grounds for such complaint.

If one of the parties issues a notice of complaint regarding a defect or other circumstance that the other party must investigate through examination, fault localization, or otherwise, and it is established that no defect or other circumstance for which the notified party is responsible exists, the notified party is entitled to claim compensation for work and other expenses caused by the unfounded notice of complaint, in accordance with its current rates.

##### **4.3 Breach of contract on the part of EVERY**

###### *4.3.1. Delay*

A delay exists if the Services takes place in whole or part later than the agreed delivery date, and this is caused by circumstances for which EVERY is responsible.

If the delay represents a material breach of contract, the Customer may terminate the Agreement related to the part of the Services that cannot be taken into use by giving 30 calendar days' written notice, and/or claim damages in accordance with Section 6 if the conditions therein are met.

###### *4.3.2. Defects*

A defect exists if the Services does not fulfil the requirements specified in the Agreement.

EVERY is obliged and entitled to remedy all defects that are identified within a reasonable time, and at the latest within three months from the commencement of the Services, at no extra cost to the Customer. Remedies may consist of rectification, replacement or additional delivery. If the parties have entered into a maintenance agreement that includes fault rectification, the maintenance agreement shall prevail.

Any errors, omissions etc. in the underlying software to the Services shall be notified to the software provider by

EVERY, and the Customer shall be notified on the status on rectification by the software provider. EVERY is however not liable or responsible for rectification of any errors, omissions, etc. in the underlying software.

To the extent Customer participation is necessary, EVERY may require the Customer to contribute to the remedying of the defects. If the defect is caused by EVERY, the Customer may claim reasonable compensation for its direct expenses in this connection from EVERY.

EVERY's liability for defects shall not include defects caused by circumstances arising after Delivery, and that arise as a result of circumstances for which the Customer carries the risk, such as:

- a) erroneous use or use in breach of contract by the Customer or someone for whom it is responsible,
- b) inadequate internal employee training in the use of the Services by the Customer,
- c) failure to follow instructions, guidelines, recommendations and requirements from EVERY,
- d) defective maintenance for which the customer is responsible, or
- e) errors due to data in the Services which the Customer is responsible for.

###### *4.3.3. Price discounts*

If, despite repeated attempts, EVERY does not succeed in rectifying a defect within a reasonable time period, the Customer may claim a proportional price discount based on the relative reduction in value between the agreed Services and what was actually delivered.

If the defective Services is subject to a specific Service Level Agreement by which a financial credit system is agreed, the Customer cannot demand a separate price discount. This shall apply irrespective of whether the defect in question forms the basis for compensation for a shortfall in the service level.

###### *4.3.4. Termination and damages*

In the event of a material defect that has not been remedied in accordance with Section 4.3.2, the Customer may, instead of a price discount, give 30 calendar days' written notice to terminate the Agreement and claim compensatory damages in accordance with Section 6, provided the conditions therein have been met. If by the end of the deadline the defect has been remedied to the extent that it is no longer material, the Customer may not terminate the Agreement.

###### *4.3.5. Sole remedy*

The provisions of Section 4.3 and 6, and the provisions agreed in any separate Service Level Agreement which is part of the Agreement, comprise the Customer's sole remedy in respect of defects in EVERY's Delivery.

###### *4.3.6. Compensated withdrawal*

If the Services is not delivered in full and further fulfilment would be disproportionately burdensome, EVERY may elect to compensate the Customer for its direct costs and losses instead of completing the Delivery.

#### **4.4 Breach of contract on the part of the Customer**

##### *4.4.1. Change of delivery date*

The Customer is obliged to collaborate in the performance of the Services in a timely and competent manner, and as stipulated in the Agreement. Any failure to provide such collaboration that affects the delivery

time or quality of the Services, shall entitle EVERY to change the delivery date and/or the consideration for the Services so that it reflects the breach by the Customer.

#### 4.4.2. Termination and compensatory damages

If the Customer commits a material breach of its obligations under the Agreement, EVERY is entitled to terminate the Agreement by giving 30 calendar days' written notice, and shall be entitled to claim damages according to Section 6 provided its conditions are met. Late payment exceeding 30 days shall be considered as a material breach. Upon repeatedly late payments, EVERY may require sufficient security for payment for further deliverances under the Agreement. Late payment exceeding 30 days shall be regarded as material breach. If continuously late payments by the Customer, EVERY may require satisfactory security for the payment as condition for continuing the delivery under the Agreement.

### 5. EFFECT OF TERMINATION

Upon the effective date of termination of the Agreement, the parties' rights and obligations are revoked. If the Agreement has been fulfilled in whole or in part, EVERY shall be reimbursed for the work it has carried out, and the parties shall to the extent possible return the Services received that are in excess of such reimbursement.

In the case of termination of ongoing services, each party's duties under the Agreement are repealed and there is no return of received Services or remuneration for the Services.

Termination has no effect on the contractual terms relating to confidentiality, dispute resolution or the parties' rights and duties resulting from the termination.

### 6. DAMAGES

#### 6.1 Grounds for liability

The aggrieved party may claim compensation for documented, direct losses it has suffered due to negligence by the other party. Costs may not be claimed from EVERY for correction or improvement by reconstruction of data if such actions substantially exceed the significance of the data and the data can be restored or recreated by easier or less costly means than reconstruction.

#### 6.2 Scope of liability

Unless otherwise agreed, the total liability of each of the parties is limited to 50% of the Contract Price excluding value added tax as set forth in the Agreement for the year the cause of the loss arose, but shall under no circumstances exceed MNOK 10 in total.

The above limitations do not apply, however, if it can be established that the party causing the damage has shown wilful misconduct or gross negligence.

#### 6.3 Indirect losses

The parties are under no circumstance liable for indirect loss, including operating loss, loss of earnings, loss on the part of a Third Party or any other consequential damages.

#### 6.4 Other sanctions' effect on compensation

Any other sanctions either paid or calculated shall be deducted from any damages awarded or credited under this Section 6.

#### 6.5 Sole remedy

The parties shall not be liable for any damages other than as specified in this Section 6.

### 7. CONSIDERATION AND PAYMENT

#### 7.1 Consideration

All prices in the Agreement are stated excluding value added tax.

Upon work based on hourly charges, shall an additional charge apply on work performed after normal business hours (i.e. after 16:00) of 50% of the hourly rates. Upon work after 20:00 and in weekends or national holidays, an additional charge of 100% of the hourly rates shall apply.

Travel and subsistence costs shall be paid pursuant to the Government Travel Allowance Scale applicable at any given time, unless otherwise agreed. Travel time apply with 50% of the hourly rates upon travel distance exceeding 30 km from the Supplier's office address.

#### 7.2 Invoicing

Services based on man-hours shall be invoiced the month following the services provided. Ongoing services which are not based on man-hours shall be invoiced in advance monthly.

Goods as hardware and standard software, such as Third Party Software, are to be invoiced on delivery, i.e. when the Customer get custody of the goods.

On project deliveries to be invoiced on milestones in the project, the payment milestones shall correspond to the costs EVERY has in the in the project in order to comply with the principle on correspondingly contributions.

Agreed disbursement shall be compensated when invoiced.

#### 7.3 Price adjustments

Unless otherwise agreed in writing, all prices in the Agreement shall be adjusted annually in accordance with changes to Statistics Norway's consumer price index (the main index) and the index for hourly-based IT consultancy services for the hourly based services under the Agreement.

In the event of changes in foreign currency rates of exchange that affect the costs incurred by EVERY in performing the Services, EVERY shall be entitled to adjust the relevant prices by giving one month's written notice.

#### 7.4 Due dates

The Customer undertakes to pay within 21 calendar days of the invoice date.

#### 7.5 Late payment

If payment is late, the Customer shall pay interest on the overdue payment in accordance with the Act relating to Interest on Overdue Payments of 17 December 1976 no. 100 (Forsinkelsesrenteloven).

#### 7.6 Security for payment

EVERY holds hardware and software purchased by the Customer as security for any outstanding amounts and interest according to the rules in the Mortgage Act Section 3-14 if the Customer acquires hard- or software. The Customer acknowledges that, in accordance with the Mortgage Act, such items cannot be resold or pledged as collateral to third parties until the purchase amount has been paid in full.

## 8. RIGHTS TO SOFTWARE AND DOCUMENTATION

The Customer acquires no rights to software and/or documentation as the deliverables comprise of Services. With regard to user-documentation for the Services, the Customer acquires a limited and non-transferable licence for the Customer's internal use within its organization when the Agreement was entered into. If software developed by EVERY is delivered in addition to the Services, the Customer is granted the according right to this as for the documentation. The Customer's licence according to this provision is effective from delivery, as defined in Section **Error! Reference source not found.**, and until the Agreement is terminated, regardless of the reason for the termination.

If EVERY supply Third Party Software in addition to or in order to use the Services, the Customer is obligated to familiarize itself and to comply with the licence terms for the Third Party Software. If the use of the Software require use of Third Party Software not delivered by EVERY, the Customer is responsible for entering into the necessary agreements with relevant suppliers for Third Party Software and is solely responsible for all obligations associated with such Third Party software and services. EVERY shall, based on information from the Customer and to the extent this may reasonably be expected, inform the Customer before Services about which Third Party software is involved.

Error, faults, omissions, etc. in Third Party Software delivered by EVERY or acquired by the Customer which affects the functionality or availability of the Services is the sole responsibility of the Customer.

The Customer may not make use of Third Party Software which is delivered by EVERY until the software is invoiced by EVERY.

## 9. INTELLECTUAL PROPERTY RIGHTS

This Agreement does not transfer any rights in respect of copyright, databases or other intellectual property rights. This restriction also applies to, but is not limited to, systems, software, specifications, user documentation, formats, technical and user interfaces, technology, "know-how" and other matters related to the Services.

Upon payment in full of the Contract Price, the Customer acquires a perpetual, non-exclusive right to use the results of the Agreement within its own business without further payment.

## 10. PROCESSING OF PERSONAL DATA

If the Agreement, hereunder the Services, includes processing of personal data, the Customer is considered to be the Data Controller and EVERY is considered to be the Data Processor pursuant to the Personal Data Act. The Customer is responsible for ensuring sufficient legal grounds for processing personal data, in addition to any consents and concessions required. EVERY may use subcontractors to provide the Services, inclusive to process personal data for the Customer.

EVERY is not responsible for the Customer's data or any other data produced by a Third Party, including backups of such data, save where this is specifically provided for in the Agreement.

The parties are responsible for implementing planned and systematic measures to ensure satisfactory security of data with regard to confidentiality, integrity and availability in the processing of personal data, cf. Section

13 of the Personal Data Act (Personopplysningsloven). To achieve satisfactory security of data the parties shall properly document the information system and the security measures. The documentation shall be accessible to both parties in addition to the Data Inspectorate (Datatilsynet) and the Privacy Appeals Board (Personvernemda).

## 11. CONFIDENTIALITY

The parties and their directors, officers and employees shall maintain confidentiality regarding circumstances with the other party of which they become aware as a result of the Agreement (confidential information). The duty of confidentiality shall also be observed in any fault situations. Each of the parties has the responsibility for any incorrect information.

Both parties, and others for whom they are responsible, are obliged to protect information about the content of this Agreement and other information that is obviously of a confidential nature, or information that may damage or cause inconvenience to either of the parties if it becomes known, to ensure that the necessary precautions in relation to employees and others are taken so that the confidential nature of the information is not placed at risk, and to limit the access of persons to information of a confidential nature in scope and level of detail, based on the need for the person in question to be able to perform services as instructed or agreed (the "need-to-know" principle).

## 12. TRANSFER AND CHANGE OF PARTY

The parties may only assign their rights and obligations under the Agreement to another party with the written consent of the other party to the Agreement. Such consent may not be denied without due and reasonable cause. No such consent shall be required for transfers to other companies in the same group, where 'group' has the meaning defined in Section 1-3 of the Companies Act (aksjeloven)/the Public Limited Liability Companies Act (allmennaksjeloven).

The right to payment under the Agreement may be freely assigned. Such assignment does not release the party in question from its obligations and responsibility according to the Agreement.

## 13. CHANGES AND ADDITIONS

The Customer may not require the amending of services provided to several customers of EVERY because of request. The Customer may however issue request of change, which EVERY under its sole discretion may accept to implement in the Services.

If one party requests an amendment or addition to the Agreement (hereinafter a "Change") or an amendment or addition is necessary for other reasons, and such Change may under EVERY's sole discretion be implemented in the Services and the Agreement, the following procedure shall be followed:

- a) Request for the Change shall be forwarded to or made by EVERY in writing.
- b) If the request is made by the Customer, and EVERY accepts the request, EVERY shall prepare a change scope comprising at a minimum a description of the Change, the effect of the Change on the Contract Price, the effect on schedule and completion date, and the final date for the Customer to accept the change scope.



- c) If the Change and effect of the Change cannot be described as stipulated in item b) above, the Change and its effects must be reviewed further. In such a case, the change scope must comprise a description of the review, costs and remuneration for the review, time frame for the review, any effect the review might have on schedule/completion date under the Agreement, and final date for the Customer to accept the change scope after the review.
- d) The Customer may at its own discretion accept or reject the change scope or the change review by signing and return the change scope to EVERY within the stated date.

If the Customer requests a Change in a way other than as described above, and EVERY carries out the Change, EVERY shall nevertheless be entitled to remuneration in accordance with its current rates at the time.

The provisions in this Section 21 do not entitle either party to demand a change.

#### **14. FORCE MAJEURE**

In the event of circumstances which are not within a party's control and which a party may not have foreseen when the Agreement was entered into, and which the party may reasonably not be expected to overcome or prevent the consequences of, the parties' rights and duties are suspended for the duration of such event. Such events include strikes, lock-outs, pandemic, war, cable rupture, fire, water damage, acts of terror, break down of communications or similar. This shall also apply if such circumstances affect the party's subcontractors.

The party invoking force majeure under this provision shall give the other party prompt, written notice.

In case of force majeure, each party shall cover its own costs related to the force majeure situation.

In case of force majeure, this Agreement cannot be terminated without the consent of the party affected by force majeure unless the situation is on such a scale or duration that it is self-evidently unreasonable for the parties to continue to be bound by the Agreement.

#### **15. TERM, TERMINATION**

If the Agreement comprise ongoing Services, the Agreement is valid for 12 months. The duration of the Agreement shall thereafter be extended automatically by 12 months if not terminated in writing by one of the parties giving at least three months' written notice prior to the annual anniversary.

EVERY undertakes to assist the Customer on transition of the services to another supplier upon termination. EVERY shall be entitled to invoice time and material, use of

hardware, processing resources, etc. as agreed for such assistance. Upon termination of the Agreement, EVERY shall store the Customer's data for six months. EVERY may claim consideration for storage in this period. If the Customer has not entered into agreement with EVERY on storage or transfer of data within the said period of six months, EVERY may delete the data without further notice. EVERY shall be entitled to claim additional consideration for storage or transfer of the data in the said period. The Customer is obliged to make resources available from its own organization and from any other supplier to support EVERY in the said assistance.

EVERY shall not be responsible for the outcome of the transition of the services under the Agreement to another supplier. EVERY shall not be under any obligation to transfer rights, IPR or rights to documentation or to give any third party (such as a competitor of EVERY) access to such rights, documentation or know-how. If it is agreed that a third party shall have access to information, data etc. is it a precondition that such access is governed by separate agreement (with confidentiality provisions).

#### **16. REFERENCE**

EVERY may use the Customer as a reference, including using the Customer's corporate logo and visual identity in marketing. EVERY shall have the right to place a distinctive EVERY logo with associated brief text on the Services in a clear manner.

#### **17. NON-SOLICITATION**

During the delivery of services under the Agreement and for one year after the termination of the Agreement, regardless of reason, the Customer may not actively make efforts to employ or hire any of EVERY's personnel working on the services for the Customer or who are due to work on the services.

#### **18. CHOICE OF LAW AND DISPUTES**

The parties' rights and duties according to the Agreement are governed by Norwegian law.

If any disputes occur between the parties with regard to interpretation or the consequences of the Agreement, the parties shall try to solve the disputes by negotiation. If a dispute is not resolved by negotiations within one month, each party may initiate legal proceedings before the ordinary courts of Norway for final decision. Disputes based on claims exceeding MNOK 5 in total shall be resolved by arbitration in accordance with the Norwegian Arbitration Act of 2004 any subsequent equivalent Act. All parts of the proceedings in such arbitration shall be confidential, including the verdict.

Oslo is accepted as the legal venue.

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