



General Terms and Conditions

Date	Version
15 March 2024	1.4

0. Definitions

In these General Terms and Conditions, in addition to the definitions in the Agreement, the following definitions apply:

“General Terms and Conditions”: these general terms and conditions and any future versions thereof.

“Services”: the ICT services taken by the Client under the Agreement and provided by the Contractor.

“Client”: The party with whom the Contractor enters into an Agreement.

“Contractor”: The private limited company Databalance Services B.V., located at Hopbrouwer 18, 5253 RE, Nieuwkuijk, the Netherlands, represented for this purpose by Mr. N.E. Malih.

“Agreement”: Any agreement, oral or written, concluded between Contractor and Client, as well as any amendments or supplements thereto.

“SLA” or “Service Level Agreement”: The Service Level Agreement is part of the Agreement and contains the agreements regarding the Service Levels of the Services to be provided.

1. General Terms and Conditions, Offer and Agreement

- 1.1 These General Terms and Conditions apply to every Agreement and all offers, legal relationships, and contracts whereby the Contractor provides Services of any kind to the Client.
- 1.2 Deviations from and additions to these General Terms and Conditions are only valid if expressly agreed upon in writing.
- 1.3 All offers and other statements by the Contractor are without obligation, unless explicitly stated otherwise by the Contractor in writing.
- 1.4 The Client guarantees the accuracy and completeness of the requirements and specifications for the performance, as well as all data provided to the Contractor by or on behalf of the Client, on which the Contractor bases its offer.
- 1.5 The applicability of purchase or other terms and conditions of the Client is expressly rejected.
- 1.6 If any provision of these General Terms and Conditions is nullified or declared void, the remaining provisions shall remain fully in force.



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2. Delivery of Services

- 2.1 The Contractor may temporarily suspend the delivery of Services due to (preventive) maintenance without the Client having any right to (damages) compensation or refund. The Contractor will, as much as possible when planning, take the interests of the Client into account. The Client is obliged to actively cooperate if necessary.
- 2.2 Given the nature of the Services, the Contractor cannot guarantee that they will operate without interruptions or errors. The Client acknowledges that the use of internet connections involves risks, which may lead to loss of privacy, confidential Information, and property.

3. Delivery timelines

- 3.1 All delivery timeframes mentioned or agreed upon by Contractor are determined to the best of their knowledge based on the information available to Contractor at the time the Agreement was concluded. Contractor will make every reasonable effort to comply with the agreed delivery timeframes. However, delivery timeframes are always indicative. A single exceeding of any stated or agreed delivery timeframe does not constitute a breach by Contractor. Contractor is not bound by delivery timeframes that cannot be met due to circumstances beyond its control that occurred after the Agreement was entered into. If it appears that any timeframe will be missed, Contractor and Client will consult as soon as possible.

4. Use of Services

- 4.1 The Client shall comply with all applicable laws, regulations, conditions, and usage instructions that apply at the time for the use of the network and the Services.
- 4.2 The Client is obligated to take reasonable security precautions themselves.
- 4.3 The Client shall not use the network or the Services of the Contractor for unlawful, improper, or irresponsible actions or to promote such actions, including unauthorized access to or unauthorized use of data, systems, or networks. This includes any attempts to probe, explore, or test the vulnerability of a system or network, collecting or using email addresses, login credentials, or other user identifications without permission of the identified person, or obtaining or using information without the consent of the information owner.
- 4.4 The Client is not allowed to publish, display, or distribute content via the network and equipment of the Contractor that infringes any legal regulation or is otherwise offensive, misleading, disruptive, inciting, or prohibited.
- 4.5 The Client is expressly forbidden from sending spam activities from IP addresses belonging to or referring to the Contractor's network. Spamming may lead to disconnection.
- 4.6 The Client shall not cause disruption of the Contractor's network or third-party networks and/or their interconnection by the content of the data traffic or by acts or



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omissions. The Client shall not use the shared systems provided or made available by the Contractor in such a way that the normal operation of the shared system is unnecessarily hindered or an unreasonable portion of system resources is used.

- 4.7 If, in the reasonable opinion of the Contractor, a risk arises to the functioning of the Contractor's network, systems, and/or the services to the Contractor's customers, the Contractor may issue reasonable instructions to the Client, which must be executed within the given timeframe.
- 4.8 The Client will be in default without further notice if the instructions referred to in the previous clause are not complied with and/or if the content of the data traffic or the acts or omissions of the Client directly cause disruption to the functioning of the Contractor's network, third-party networks, or the interconnection between these networks.
- 4.9 The Client indemnifies and shall hold the Contractor harmless against any claim, lawsuit, or legal proceedings resulting from non-compliance with the provisions of this article.

5. Additional Work

- 5.1 Work performed by the Contractor that, in consultation with the Client—whether or not documented in writing—is carried out during the execution of the Agreement in addition to the explicitly agreed-upon tasks in the order confirmation shall be considered additional work. Additional work also includes, at the Contractor's discretion, necessary adjustments and/or modifications to already performed work due to agreed changes during execution in the approach, method, scope, and duration of the assignment.



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6. Price and Payment

- 6.1 Unless otherwise stated, all prices are in Euros and exclusive of value-added tax (VAT) and other government-imposed levies.
- 6.2 The payment terms and invoice periods are specified in the Agreement, failing which the following applies:
 - a) One-time fees: payable after order confirmation
 - b) Recurring fees: payable monthly in advance via B2B direct debit
- 6.3 In the absence of a specific arrangement, the Client shall pay invoices within fourteen days of the invoice date. The Client is not entitled to set off or suspend any payment.
- 6.4 If the Client fails to pay the amounts due on time, the Client shall be in default by operation of law, without the need for a notice of default or reminder. From that moment, the Client owes the statutory commercial interest, and the Contractor is entitled to charge the Client for all judicial and extrajudicial costs incurred in collecting the due amounts, in addition to the Contractor's other rights and remedies.
- 6.5 Any dispute concerning (part of) an invoice must be reported in writing and as detailed as possible to the Contractor immediately, but no later than two weeks after receipt of the invoice. In the event of a dispute, the Client is only entitled to withhold payment of the disputed part of the invoice if there is a legitimate reason. The Contractor is entitled to suspend all its obligations under the Framework Agreement as long as the Client is in default.
- 6.6 In the absence of a specific provision, the Contractor is entitled to adjust its prices and rates annually.

7. Risk and Reservation of Ownership and Rights

- 7.1 The risk of loss, theft, or damage to goods, products, software, or data subject to an agreement shall transfer to the Client at the moment these come into the actual control or possession of the Client or a third party acting on behalf of the Client.
- 7.2 All goods delivered to the Client remain the property of the Contractor until all amounts agreed upon for these goods, as well as any other amounts owed by the Client due to failure to meet payment obligations, have been fully paid to the Contractor.
- 7.3 Rights, where applicable, are granted or transferred to the Client on the condition that the Client timely and fully pays the agreed remuneration.



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8. Products and Services of Third Parties

- 8.1 If and insofar as the Contractor makes products and/or services of third parties available to or delivers them to the Client, the terms and conditions of those third parties shall apply to those products and/or services, notwithstanding the provisions of the Agreement and these General Terms and Conditions. The Client accepts the said third-party terms and conditions, and upon request, the Contractor will provide the Client with a copy of them.
- 8.2 The liability of the Contractor for products of third parties shall in no event exceed the amount that can be recovered from the relevant third party(ies).

9. Subcontractors

- 9.1 If the Contractor uses subcontractors for the agreed Services, the Contractor is responsible for all work performed by the subcontractors, and all agreements between the Parties shall also apply to the appointed subcontractors.
- 9.2 The Contractor shall inform the Client of any use of subcontractors and their role in the service delivery at the start of the service provision or if this is deemed necessary during the execution of the Agreement.
- 9.3 The Contractor guarantees the good quality of the subcontractors and ensures the enforcement of other agreements with the subcontractors concluded in the context of the Agreement with the Client.

10. Cooperation by the Client

- 10.1 The Client shall always timely provide the Contractor with all useful and necessary data or information for the proper execution of an Agreement and shall fully cooperate, including granting access to its premises. If the Client deploys its own personnel in the context of cooperating with the execution of an Agreement, such personnel shall have the necessary knowledge, experience, capacity, and quality.
- 10.2 The Client bears the risk for the selection, use, and application within its organization of the products delivered and services provided by the Contractor, and is also responsible for the control and security procedures and adequate system management.
- 10.3 Software, websites, materials, data, or information provided by the Client to the Contractor shall comply with the specifications necessary for the execution of the work.
- 10.4 If the Client fails to provide, not timely or not in accordance with agreements, the data, equipment, software, or personnel necessary for the execution of an Agreement, or otherwise fails to meet its obligations, the Contractor has the right to wholly or partially suspend the execution of that Agreement and may charge the resulting costs according to its usual rates, without prejudice to the Contractor's right to exercise any other legal rights.



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- 10.5 If Contractor's employees perform work on the Client's premises, the Client shall, at no cost, provide the reasonably requested facilities for those employees, such as a workspace with adequate computer equipment and tele- and data communication facilities. The Client shall allow Contractor's employees to reasonably implement measures to prevent occupational diseases. The Client indemnifies the Contractor against claims from third parties, including the Contractor's employees, who suffer damage related to the execution of an Agreement caused by acts or omissions of the Client or unsafe situations in its organization. The Client shall timely communicate its internal house and security rules to Contractor's employees to be deployed.
- 10.6 If telecommunication and/or data communication facilities, including the internet, are used in the execution of an Agreement, the Client is responsible for their proper selection and timely and adequate availability. The Contractor will reasonably adhere to Client's instructions regarding such use. The Contractor shall never be liable for damage or costs resulting from transmission errors, failures, or unavailability of these facilities, without prejudice to other provisions in these General Terms and Conditions.

11. Intellectual and Industrial Property Rights

- 11.1 All intellectual and industrial property rights in all products and/or Services developed or made available under an Agreement exclusively belong to the Contractor or its licensors. For this article, 'product' includes, but is not limited to, analyses, designs, documentation, reports, quotations, equipment, software, websites, data files, and preparatory materials thereof. Neither the Agreement nor these General Terms and Conditions entail any transfer of ownership or intellectual property rights.
- 11.2 Unless otherwise specified in an Agreement, the Client receives a non-exclusive, perpetual right of use for products specifically developed by the Contractor for the Client's organization, including the source code thereof, including the right to make or have made modifications to these products.
- 11.3 The Contractor shall indemnify the Client against any legal claims alleging that works made available by the Contractor infringe intellectual or industrial property rights valid in the Netherlands, provided the Client immediately informs the Contractor in writing about the existence and content of the claim and leaves the handling of the case, including any settlements, entirely to the Contractor. The Client shall grant the necessary power of attorney, information, and cooperation to the Contractor so that the Contractor may defend itself, if necessary in the name of the Client, against such claims. The indemnity obligation lapses if and insofar as the infringement relates to modifications made by the Client or third parties.
- 11.4 The Client guarantees that no third-party rights oppose the provision to the Contractor of equipment, software, website materials (images, text, music, domain names, logos, etc.), data files, or other materials, including design materials, for the purpose of use, processing, installation, or incorporation (e.g., into a website). The Client indemnifies



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the Contractor against any action based on claims that such provision, use, processing, installation, or incorporation infringes any third-party rights.

- 11.5 The indemnity provided in this article 11 constitutes the full liability and obligation of the Contractor and the sole remedy of the Client regarding any infringement or alleged infringement of intellectual property rights caused by the Services or any part thereof.

12. Confidential Information and Privacy

- 12.1 All information provided by one party to the other party, of which the other party knows or reasonably should know that it is of a confidential nature, including but not limited to all products made available by the Contractor to the Client as referred to in article 11.1, shall be considered confidential information. The party receiving confidential information shall only use this information for the purpose for which it was provided.
- 12.2 Each Party undertakes not to disclose confidential information of the other Party, of which the Party knows or reasonably should be assumed to know is confidential and must therefore be kept secret, regardless of whether that information is marked as “confidential” and regardless of the moment at which that information became known to the Party, unless this information (i) is publicly known without the breach of this confidentiality obligation; (ii) was known by the receiving Party without a confidentiality obligation prior to receipt from the disclosing Party; (iii) was independently developed by the receiving Party without use of or access to the disclosing Party’s confidential information; or (iv) was lawfully obtained by the receiving Party from a third party without breach of the Agreement or confidentiality obligation by that third party. The receiving Party shall keep this confidential information secret and confidential and only use it for the execution of the Framework Agreement. Parties mutually undertake not to disclose confidential information of the other Party, wholly or partially, to third parties unless expressly permitted in this article. A Party may disclose confidential information of the other Party to its personnel who need to know such confidential information for the performance of the Agreement, provided these persons are subject to the same obligation as described in this article and the Parties remain responsible for any breach committed by these persons.
- 12.3 Parties shall not disclose to third parties the existence and content of the Framework Agreement unless written permission has been obtained from the other Party.
- 12.4 A Party may disclose confidential information of the other Party insofar as this confidential information must be disclosed pursuant to law, by a governmental agency or other regulatory body, or by a court or other competent authority, provided that, insofar as legally permitted, the other Party is notified of such disclosure as much as possible.
- 12.5 The Client indemnifies the Contractor against claims from persons whose personal data are registered or processed within the context of a personal data registration held by



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the Client or for which the Client is otherwise responsible under the law, unless the Client proves that the facts underlying the claim are solely attributable to the Contractor.

- 12.6 If it is determined that the Client has abused identification data, addressing data and/or codes or that the Client has not complied with the instructions referred to in this article, the Client shall be immediately in default and liable to compensate all damages suffered by the Contractor as a result of the misuse..

13. Liability; Indemnification

- 13.1 The Contractor accepts statutory obligations for compensation of damages only insofar as this is evident from this article.
- 13.2 The total liability of the Contractor due to an attributable failure in the performance of the Agreement or on any other grounds, including any warranty obligations, is limited to compensation for direct damage up to a maximum amount equal to the fee agreed upon for that Agreement (excluding VAT) for the work to be performed by the Contractor. If the Agreement is primarily a continuous contract, the total liability of the Contractor per year is limited to the total fees (excluding VAT) agreed upon for the work to be performed by the Contractor for one year. In no event shall the total compensation for direct damages exceed the amount paid out under the Contractor's professional or business liability insurance in the relevant case, plus the amount of the deductible.
- 13.3 Liability of the Contractor for indirect damage, including but not limited to consequential damage, lost profits, missed savings, diminished goodwill, damage due to business interruption, damage arising from claims by the Client's customers, mutilation or loss of data, damage related to the use of items, materials, or third-party



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software prescribed by the Client to the Contractor, damage related to the engagement of suppliers prescribed by the Client to the Contractor, is excluded.

- 13.4 The maximum amounts referred to in this article shall not apply if and insofar as the damage results from intent or deliberate recklessness of the Contractor or its senior management.
- 13.5 A condition for the entitlement to any compensation is that the Client reports the damage to the Contractor as soon as possible after its occurrence, but in any event no later than two weeks after the damage occurs, in writing and as detailed as possible.
- 13.6 The Client is obliged to indemnify the Contractor against claims from third parties, including its employees, for compensation of damage arising from any cause whatsoever.
- 13.7 Parties shall at all times sufficiently insure and keep insured their liability risks for their own account as far as possible during an Agreement.

14. Force Majeure

- 14.1 Neither party is obliged to fulfill any obligation under an Agreement if it is prevented from doing so due to force majeure. Force majeure also includes force majeure of the Contractor's suppliers, failure to properly fulfill obligations of suppliers prescribed by the Client to the Contractor, as well as defects in goods, materials, or software from third parties whose use has been prescribed by the Client to the Contractor.
- 14.2 If a force majeure situation lasts longer than ninety days, or is expected to last longer than ninety days, each party has the right to terminate the Agreement by written notice. In that case, what has already been performed under the Agreement will be settled proportionally, without either party owing anything further to the other.

15. Duration and Termination of the Agreement

- 15.1 Termination of an Agreement is only possible if and to the extent provided for in these General Terms and Conditions and/or the Agreement.
- 15.2 Each Party is entitled to dissolve an Agreement only if the other Party, after a proper and as detailed as possible written notice of default in which a reasonable period is set to remedy the breach, culpably fails to perform essential obligations under that Agreement, unless performance has become impossible.
- 15.3 Each Party may dissolve an Agreement in whole or in part with immediate effect and without notice of default by written notice if the other Party is granted suspension of payments, whether provisional or not, if bankruptcy is applied for against the other Party, or if its business is liquidated or terminated other than for the purpose of reconstruction or merger of businesses. The Party terminating the Agreement as described shall never be obliged to refund any amounts already received or pay



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damages. In case of bankruptcy of the Client, the right to use the products made available to the Client shall lapse by operation of law.

- 15.4 In case of termination or dissolution, the right to use the products and/or Services made available to the Client shall lapse by operation of law.
- 15.5 If the Client has already received services under the Agreement at the time of dissolution, these services and the associated payment obligation shall not be subject to reversal unless the Client proves that the Contractor is in default regarding those services. Amounts invoiced by the Contractor prior to the dissolution for services already performed or delivered shall remain due and payable, subject to the preceding sentence, and shall become immediately payable at the time of dissolution.

16. Exit Arrangement

- 16.1 If an Agreement ends for any reason whatsoever (including prematurely), the Contractor commits, at the Client's request, to do what is reasonably necessary to ensure that the Client can transfer the services they have purchased to another provider.
- 16.2 The Contractor is entitled to impose conditions on how the support and transfer are organized, provided that these conditions only serve to protect the Contractor's other activities and are not intended to frustrate the transfer.
- 16.3 The Client owes the Contractor compensation for all work related to the support mentioned in the previous clause, in accordance with the Contractor's applicable commercial rates for the respective work.
- 16.4 The Contractor will return all documents, records, and other data provided by the Client to the Contractor that were made available solely for the execution of the Agreement.

17. Disclosure and Non-Solicitation

- 17.1 The Client hereby grants the Contractor permission to disclose the services of the Contractor chosen by the Client and their nature. After prior written consent from the Client, the Contractor is permitted to publicize the implemented or to-be-implemented solution and may prepare and disclose a high-level description of the reasons why the Client chose the Contractor's solution, as well as the benefits arising therefrom for the Client.
- 17.2 Neither Party shall, without the consent of the other Party, during the term of the Agreement and for one year after its termination, employ, approach for employment, or otherwise engage employees of the other Party who have been involved in the execution of that Agreement, either directly or indirectly.



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18. Interpretation, Applicable Law and Disputes

- 18.1 These General Terms and Conditions and any Agreement between the Contractor and the Client, as well as any further agreements arising therefrom, shall be governed by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG, Vienna Sales Convention 1980) is excluded.
- 18.2 All disputes which may arise between the Contractor and the Client shall be submitted exclusively to the competent court in 's-Hertogenbosch, without prejudice to the right to request provisional relief in summary proceedings before another competent court or arbitral tribunal.
- 18.3 This English-language General Terms and Conditions is an automatic translation of the corresponding Dutch-language document, from which no rights can be derived. In case of discrepancies, the Dutch version shall always prevail over this English version.