



## GENERAL TERMS AND CONDITIONS APPLICABLE TO IT SERVICE CONTRACTS ENTRUSTED TO YPTO NV

By accepting an order placed by NV, with registered office in 1070 Brussels, rue des Deux Gares 84A, registered in the register of legal entities in Brussels, under number 821.220.410 and with VAT number BE 0821.220.410 (hereinafter referred to as "**Ypto**"), the Service Provider accepts these General Terms and Conditions and ignores its own conditions. The general or special conditions and terms of sale of the Service Provider are not binding upon Ypto, except when they were accepted in writing and expressly by Ypto. Ypto and/or the Service Provider may be individually designated as the "**Party**" and collectively as the "**Parties**".

Together with the Purchase Order signed by Ypto and the Service provider, these General Terms and Conditions shall contain the conditions and the stipulations on the basis of which the Service Provider shall perform the Assignment mentioned in the Purchase Order (the "**Contract**").

### 1. DEFINITIONS

1.1. In the General Terms and Conditions, capitalized terms and expressions shall have the meaning defined below, unless it is unquestionably clear from the context of a specific provision that that meaning does not apply in that context.

" <b>General Terms and Conditions</b> "	encompasses the articles 1 included 15 in this document;
" <b>Purchase Order</b> "	means the form in which the Service Provider and Ypto record the description of the Assignment;
" <b>Consultant</b> "	means: the appointees(s) employed by the Service Provider insofar as the Service Provider carries out the Assignment with its own staff.
" <b>Deliverables</b> "	refers to all items that are developed and/or delivered as output or results of the Services and/or as a result of the execution of the Assignment (including but not limited to all software, systems, reports, user manuals, work procedures, studies, drawings, specifications, programming tools, etc.);
" <b>Services</b> "	means the services, functions, responsibilities and results that the Service Provider provides and/or must provide under this Contract;
" <b>Service Provider</b> "	means the natural or legal person who carries out the Assignment for Ypto, as identified in the Purchase Order;

**"Intellectual Property Rights"**

means (a) all intellectual property rights, including but not limited to copyright, related rights, rights in computer programs, patents, brands, drawings and models, databases, internal developments, geographical indications and designations of origin, software rights, topographies of semiconductors, regardless of whether they are registered or not; (b) all applications for, all rights to apply for, and all grants for the protection of those rights and/or granting and renewing thereof; and (c) all similar rights or forms of protection or interests or including but not limited to commercial and industrial secrets and other know-how, existing or future, in any country in the world;

**"Annual Value of the Assignment"**

means for each assignment year the sum of the following amounts and fees under this Assignment: (i) all payments already invoiced, (ii) the value of all payments for Services and Deliverables that have already been performed but not invoiced, and (iii) all remaining and/or expected payments until the end of the current assignment year;

**"Assignment"**

encompasses the nature and scope of the assignment described in the Purchase Order;

**"Damage"**

means all damage, losses, costs, claims, demands, actions, procedures, fines, penalties, awards, liabilities, compensations, settlements, outlays and/or professional costs and/or charges;

**"Common Industry Standards"**

means exercising the highest level of skill, care, caution, efficiency, consideration and timeliness that can reasonably be expected from a competent, experienced and skilled supplier of services that are similar to the Services and the Assignment;

**"Confidential Information"**

means any information disclosed by or on behalf of a Party to the other Party, designated in writing as confidential or considered confidential by a reasonable person, and which relates to the business activities of that Party, including its products, transactions, processes, plans or intentions, developments, trade secrets, know-how, design rights, market opportunities, staff, suppliers and/or customers; all Ypto Data; all information derived from the above; and the provisions of these Terms and Conditions and the thereto-related negotiations;



**"Legislation"**

means all applicable laws, decisions, ordinances, rules and regulations (including any requirements or notifications from any regulatory body), guidelines, code of practice or guidelines, delegated or subordinate legislation in force from time to time;

**"Personal Data Law "**

means the General Data Protection Regulation 2016/679 (GDPR), the Privacy and Electronic Communications Directive 2002/58/EC (or its future equivalent), where relevant, and the applicable national laws implementing and/or supplementing the legislative instruments (including in particular the Belgian privacy law) together with the equivalent legislation of any other applicable jurisdiction and all other applicable legislation, regulations and codes of conduct in each relevant jurisdiction regarding the processing of Personal Data and privacy, including the guidelines and codes of practice issued by a relevant regulator;

**"Ypto Data"**

means all data, information, documents, text, statistics, analysis and other materials in any form that relates to Ypto or Ypto affiliated companies (and/or their respective customers), customers, suppliers or business operations;

- 1.2. In the event of a conflict or ambiguity between the various parts of this Contract, these General Terms and Conditions take precedence over the Purchase Order, unless the Purchase Order expressly deviates from these General Terms and Conditions with a specific reference to the article which is the subject of the derogation.

**2. Execution of the SERVICES AND ASSIGNMENT by the Service provider**

- 2.1. The Service Provider provides the Services, Deliverables, software and/or hardware in accordance with the agreements and procedures laid down in writing with Ypto as well as in accordance with the Legislation and Common Industry Standards.
- 2.2. The Service Provider undertakes to execute the Assignment in its entirety in good faith and to fully, punctually and accurately fulfil its obligations under this Assignment.
- 2.3. As part of the Assignment and the Services, the Service Provider performs all services, functions and responsibilities (including any incidental services, functions and responsibilities) that are not expressly specified yet are reasonably and necessarily required for, or related to, the execution of the Assignment and the Services.
- 2.4. If the Assignment is entered into with a view to being performed by one specific person, the Service Provider is not entitled to replace this person with one or more persons with the same and/or similar qualifications without the prior written permission of Ypto.
- 2.5. The Service Provider undertakes to cooperate with, and provide assistance to, other Ypto service providers and suppliers and any third party designated by Ypto if such collaboration or assistance is reasonably required or desirable to allow such service providers, suppliers and third parties to provide their services and products to Ypto. The Service Provider undertakes in particular to cooperate with, and offer assistance to, those third parties if the services depend on, or are connected to, the products or services that those third parties provide to Ypto, or with the activities of such third parties in order to generate a technically sound and safe whole with the other Ypto products and systems that are not part of the services.
- 2.6. If the Service Provider finds shortcomings in the products and systems that are not part of the Services, it must notify Ypto immediately.
- 2.7. The specific qualifications, knowledge and experience that the Service Provider and, if applicable, the Service Provider's Consultants have, constitute an element of overriding importance for Ypto when selecting the Service Provider for the execution of the Assignment. Therefore, only the Service Provider himself/herself (insofar as this is a natural person) or the Consultant(s) of the Service Provider(s) expressly listed on the Purchase Order may perform the Assignment. The Service Provider guarantees that it and its Consultants have the required qualifications, knowledge and experience that were expressly requested by Ypto or can reasonably be expected from such experts, and are necessary for the correct and timely execution of the Assignment. Should, before or during the execution of the Assignment, it turn out that the Service Provider and/or its Consultant(s) do not (any longer) have the required qualifications, knowledge and experience, Ypto will be able to terminate the Assignment extrajudicially and with immediate effect, without having to pay any termination fee. The

Service Provider shall perform the Assignment with complete independence and autonomy, with its own company resources and according to its own professional insights and findings.

- 2.8. In order to ensure the correct execution of the Assignment, the Service Provider shall inform Ypto beforehand and in time of any period during which it and/or its Consultants will not be available to provide the services under the Assignment. Moreover, the Service Provider undertakes to coordinate with Ypto whenever possible its leave periods and those of its Consultants and to take the wishes of Ypto into account as much as possible.
- 2.9. The Service provider and its Consultants shall not receive any direct instructions from Ypto regarding the organization of the work, nor shall Ypto exercise all or part of an employer's authority over the Service Provider or its Consultants. The Service Provider and its Consultants shall not behave or regard themselves as an employee of Ypto or one of its customers. The Service Provider confirms and acknowledges that it is not Ypto's exclusive service provider and that Ypto can fulfil the Assignment itself at any time and/or have it carried out by third parties.
- 2.10. Without prejudice to the aforementioned, Ypto will, however, be entitled (in accordance with Article 31§1 of the Law of 24 July 1987) to provide general guidelines on the execution of the Assignment by the Service Provider and its Consultants, but the scope of the guidelines shall be limited to the actual execution of the Assignment, without in any way detracting from the fact that the Consultants shall at all times perform the Assignment under the authority and guidance of the Service Provider or without in any way undermining the employer's authority for employees who are employed by the Service Provider. Ypto may at any time, insofar as legally permitted, request the Service Provider to replace a Consultant for compelling reasons and without additional costs for Ypto.
- 2.11. Ypto is entitled to give the following instructions, provided that the nature, frequency and form of the instructions may vary depending on the Assignment or the Deliverables that are carried out in the context of the relevant Assignment:
- planning of the Assignment and the intermediate results;
  - opening and closing hours of Ypto's premises and facilities or those of its customer and possible periods of business interruption, without however extending to instructions regarding legislation on working hours for which only the Service Provider is authorised;
  - rules of access to Ypto's premises and facilities or to those of its customer (e.g. badges, login system, etc.);
  - circumstances, work procedures and practices at Ypto or its customer, to be taken into account during the execution of the Assignment (e.g. existing security instructions, confidentiality requirements, personal data protection procedures, data leak prevention and reporting, codes of conduct concerning the use of, and connecting with, IT infrastructure in the broadest sense, project management tools, other ongoing works that determine the timeline of the Deliverables in the context of this Assignment and, if

necessary, require a change in the Assignment's planning, circumstances requiring a change in the implementation terms of the Assignment, etc.);

- technical instructions relating to the use and/or maintenance of machines, equipment and/or processes, including the occasional training and instruction necessary to the execution of the Assignment and specific to Ypto or to its customer (e.g. the mandatory use of certain maintenance products, user manuals for machines, etc.);
- technical instructions relating to the use and/or maintenance of facilities, infrastructures and/or processes, including the occasional training and instruction necessary to the execution of the Assignment and specific to Ypto or to its customer (e.g. selected programming language, etc.);
- urgent interventions to prevent or limit economic losses (e.g. interruption of the work due to misuse), however without including the imposition of disciplinary sanctions which remain the exclusive competence of the Service Provider.

2.12. If the Service Provider or its Consultants do not or insufficiently heed Ypto's instructions at work, and if the Service Provider fails to rectify this negligence within a reasonable time after being informed of the fact by Ypto, Ypto will be entitled to remedy this negligence on behalf of the Service Provider after informing the latter of its intention to take remedial action.

2.13. Both the Service Provider and its Consultants undertake to act in accordance with the prevailing professional standards in the sector while carrying out the Assignment. The Service Provider and its Consultants will also respect the relevant Legislation, current practices and customs. The Service Provider shall ensure that it complies with all applicable tax, social law and other legal obligations, concerning the employment of its Consultants, among other aspects, in accordance with the applicable Legislation. For the execution of the Assignment, the Service Provider and/or its Consultants will comply with the rules applicable to external service providers at Ypto, in particular the Code of Conduct for Contractors, the privacy policy and information about Ypto's safety policy. The Service Provider undertakes to have its Consultants comply with these standards. Ypto notifies the Service Provider of any concerns regarding disciplinary matters involving Consultants so that the Service Provider may take appropriate action. The Service Provider has exclusive competence to assess disciplinary matters.

2.14. In the event of an infringement, Ypto is entitled to immediately take the necessary steps to safeguard its interests and those of its collaborators, customers and other stakeholders; such as, for example, (temporary) denying access to systems, blocking data, etc.

2.15. For the execution of the Assignment, the Service Provider may only involve Consultants whom the Service Provider can prove they meet the following cumulative conditions:

- Have a right of residence in Belgium;
- Have a work permit (for employees) or a professional card (for self-employed persons) valid for every location where services are provided, or be able to provide documents proving that they are exempt from this obligation;

- For whom a declaration of employment ("Dimona declaration") has been filed or who are affiliated with a social insurance fund for self-employed persons, or who can prove by means of an A1 form that they subscribe to the social security system of another European Union Member State or a comparable document under a social security treaty concluded between Belgium and the other state concerned; and
  - For whom, prior to the provision of services on Belgian territory, the notification provided for in Article 137 et seq. of the Program Law (I) of 27 December 2006, the so-called "Limosa declaration", was filed (this can be done on the website <http://www.limosa.be>), or persons who can prove that they would not be subject to this declaration obligation if they were to provide services on Belgian territory.
- 2.16. For every Consultant the Service Provider appoints for the performance of the Assignment, the Service Provider shall, at Ypto's first request, provide proof that the cumulative conditions of clause 2.15 have been met.
- 2.17. The Service Provider shall perform its obligations by the proposed date or within the applicable term, as indicated in the Purchase Order. If no schedule has been drawn up, the Assignment will be executed by the Service Provider as quickly as possible and in any case within a reasonable period of time.
- 2.18. The Service Provider shall inform Ypto of any payment arrears or, more generally, of any failure, whether or not intentional, on the part of the Service Provider to meet any of the aforementioned obligations. This notification shall be given within 15 (fifteen) calendar days of the shortcoming.
- 2.19. Should the Service Provider fail to comply with any of its obligations as defined above, even outside the scope of this Assignment, or should Ypto be informed by a public authority of such (alleged) non-compliance or in the event of a failure to meet specific information obligations as defined above, Ypto is entitled to temporarily suspend the execution of the Assignment in a discretionary way, as-of-right and without any prior notice, pending the resolution of the situation by the Service Provider. Ypto can do so within maximum 15 (fifteen) calendar days following written notice to the Service Provider. During the suspension period, Ypto is entitled to execute the agreed Assignment in whole or in part or to have it performed by a third party of its choice. In the meantime, the Service Provider shall remain on standby to resume the Assignment at any time when given notice to do so by Ypto.
- 2.20. Should the situation not be resolved within the period granted, Ypto reserves the right to apply other sanctions, including termination of the Agreement, without any further warning, any notice or compensation. The application of any sanction shall not affect Ypto's right to also claim compensation for the loss suffered as a result of one or more of the Service Provider's shortcomings.

### **3. OBLIGATIONS OF YPTO**

- 3.1. Ypto undertakes to collaborate with the Service Provider and to provide the latter with information and documentation it has and that is reasonably required in the context of the performance of the Assignment and to the extent necessary for the execution of the Assignment.
- 3.2. If the Assignment must be executed on the site of Ypto or its customer, Ypto or its customer shall make available the necessary office space and infrastructure to ensure that the Assignment can be properly performed by the Service Provider.
- 3.3. If functionally required for the execution of the Assignment, the Parties agree that the Assignment will be executed in physical presence of the Consultant during a number of days per week specified in the Purchase Order.

### **4. SECURITY, USE OF PREMISES AND EQUIPMENT**

- 4.1. The Assignment shall be performed by the Service Provider at the location(s) mentioned in the Purchase Order. The Service Provider must ensure, among other things, that the Services that need to be performed pursuant to the Assignment at the premises of Ypto or of its customer will be provided while taking into account the business hours and time schedules of Ypto or its customer and that the performance of the Services is organised in such a way that it interferes as little as possible with the activities of Ypto or its customer.
- 4.2. If the Service Provider is permitted to use the premises and infrastructure designated by Ypto in the context of the Assignment, the Service Provider undertakes to use the premises in good faith as a prudent and reasonable person and to comply with the safety and health regulations applicable within these premises and provided in writing.
- 4.3. The Service Provider undertakes to establish and maintain safety measures and procedures in accordance with Common Industry Standards. Moreover, the safety measures and procedures must at least be in accordance with the measures and procedures that apply at Ypto and/or at the premises designated by Ypto.
- 4.4. If applicable, Ypto will provide the Service Provider's Consultants with a badge to allow them to access areas which are necessary for the execution of the Assignment. These badges remain the property of Ypto and will be returned to Ypto at the end of the Assignment.
- 4.5. Ypto will provide laptops to the Service Provider's Consultants for the performance of the Assignment. These laptops remain the property of Ypto. The Service Provider undertakes that Consultants will use these laptops as a prudent and reasonable person. The laptops will be returned to Ypto at the end of the Assignment reasonably in the same condition as they were



received. If (any of) the laptops are returned in a poor condition, the Service Provider will owe a penalty of 1,000 euros per damaged laptop to SNCB. This penalty shall be deducted by the Service Provider from the last invoice for the services provided. If all laptops are not returned within 14 days of the end of the Assignment, Ypto will suspend payment of the final invoice until after all laptops have been received. If (one of) the laptops is not returned, the Service Provider shall pay, in addition to the fine of 1,000 euros, the residual value of the relevant laptop (determined at the time of receipt of the laptop by the Consultant) to SNCB.

## **5. FEES, INVOICING AND PAYMENTS**

- 5.1. If project staff is hired, payment of fees shall be determined on the basis of the number of days performed by the Service Provider and its Consultants for the execution of the Assignment, as registered in the time registration system, which will be discussed in the section below. The fee for time-based Assignments is calculated on the basis of the applicable daily rate stated in the Purchase Order. A day's work comprises 8 working hours. Half-day's work will be paid based on a half-day rate. Performance covering neither a full day nor half a day will be paid on a pro rata basis. Saturday, Sunday and holiday work shall be paid at the normal daily rate, without any bonus.

In order to accurately record the time worked by the Service Provider and its Consultants for the execution of the Assignment, the Service Provider and its Consultants will use Ypto's time registration system, a copy of which was provided to the Service Provider. The use of the time registration system is solely intended for invoicing purposes and for Ypto analytical accounting functions. The Service Provider shall attach to the relevant invoice the timesheet generated on the basis of the time registration system. The Service Provider undertakes to ensure that it/its Consultants will use Ypto's time registration system correctly and that the services supplied and the time worked will always be recorded under the appropriate job code.

- 5.2. In the case of a fixed-price Assignment, the Purchase Order shall state a pre-agreed fixed fee for the Assignment. The fee will be paid in accordance with the payment plan as stated in the Purchase Order, or where there is none, based on the progress stages of the Assignment.
- 5.3. Unless expressly agreed otherwise, all costs that are directly or indirectly related to the performance of the Assignment are deemed to be fully included in the price. Are in any case included: (i) all costs of any kind and non contractual caused by or necessary for the actual performance of the Assignment and its coordination; (ii) all transportation and travel costs; (iii) all administration and telecommunication costs; (iv) all security and prevention measures and all cooperation, information and coordination obligations arising from the applicable legal, regulatory and contractual provisions imposed on the Service Provider; and (v) aspects of the performance of the Assignment that were not included in the Purchase Order and are however necessary or indispensable to ensure the proper performance of the Assignment.

- 5.4. Ypto has the right to suspend a payment as long as the reason for its protest is not remedied by the Service Provider.
- 5.5. Payment by Ypto shall in no way be construed as an acknowledgment or a waiver of rights on Ypto's part with regard to the manner in which the Service Provider is performing the Assignment.
- 5.6. The fee, to which the applicable VAT rate will be added, shall be invoiced to Ypto by the Service Provider once a month has ended and after receiving an approved timesheet for the time worked in that past month, unless expressly stated otherwise in the Purchase Order. This Purchase Order lists all the details of the Assignment in question which allow Ypto to check the invoice. With regard to the fixed price Assignments, all the terms shall be included in the Purchase Order.
- 5.7. All invoices sent to Ypto by the Service Provider shall be issued in euros and payable within thirty (30) calendar days of receipt of the regularly issued invoice.
- 5.8. All payments shall be made in euros to a bank account in the name of the Service Provider, indicated on the invoice..

## **6. CONFIDENTIALITY**

- 6.1. The Service Provider undertakes to regard any information received in the context or as a result of this Assignment as Confidential Information and to keep this information strictly confidential. The Service Provider warrants that this obligation will also be fulfilled by its Consultants.
- 6.2. Each Party undertakes to make every reasonable effort to protect the confidential nature of the Confidential Information, including by: (i) using this Confidential Information only in the context of the performance of the Assignment; (ii) not distributing or making it available, in whole or in part, orally or in writing, except to those of its Consultants who are involved in the performance of the Assignment and who must know it directly for the performance of the Assignment (these Consultants shall be informed of the confidentiality obligations under this Agreement); (iii) not distributing or making it available to third parties, unless authorised to do so with the prior written consent of the other Party, or unless stipulated in the Agreement; and (iv) returning it to the other Party or destroying it, including all copies, notes, electronic records, memoranda and other documents, when no longer required in the context of the Assignment or on the other Party's simple request.
- 6.3. If Confidential Information is to be made public or made available to third parties due to legal regulations or a court order, the Party disclosing it shall inform the other Party beforehand and in writing.

- 6.4. The confidentiality obligation applies for the entire duration of the Agreement and for a period of five (5) years after its termination, for whatever reason.
- 6.5. Is not considered Confidential Information:
- information disclosed by Ypto or its customer in the past;
  - information to be released by one of the Parties in the context of a dispute settlement, arbitral or legal proceedings, or in compliance with a law, decree or regulation;
  - information released into the public domain without violation of the confidentiality obligations of this Contract by the Parties, their appointees or agents;
  - information which has been developed or discovered totally independently by a Party, provided that this can be conclusively demonstrated by the Party claiming it; or
  - information lawfully obtained through a third party who did not infringe a confidentiality obligation by disclosing it.

## 7. YPTO DATA

- 7.1. The Service Provider acknowledges and accepts that all Ypto Data is and remains the property of Ypto. Ypto retains all rights in Ypto Data that may exist at any time.
- 7.2. Should, during the Assignment, the Service Provider need to gain access to Ypto Data, the Service Provider undertakes only to store, copy, use or otherwise process Ypto Data to the extent strictly necessary for the Assignment. Without the prior written consent of Ypto, the Service Provider is not entitled to disclose Ypto Data to third parties and/or process it outside the EU. For the sake of certainty, any change regarding the location of Ypto Data made by the Service Provider requires the Ypto's express prior written approval. To the extent that the Service Provider no longer needs Ypto Data (including Confidential Information and Ypto personal data) to perform the obligations under the Assignment, the Service Provider shall destroy Ypto Data (including Confidential Information and Ypto personal data) (together with all copies, reproductions, summaries and other records thereof) in the possession of the Service Provider and its Consultants, at its own expense and according to Ypto's choice, within one (1) month (providing a certificate of destruction issued by an independent third party) or return it to Ypto in a file format specified by Ypto.
- 7.3. The Service Provider undertakes to introduce the necessary procedures and take measures to ensure that unauthorised persons do not have access to Ypto Data. For the purposes of this Article, the term "unauthorised persons" includes, inter alia, any person who has not received written permission from Ypto to access Ypto Data.
- 7.4. If the Service Provider suspects or finds that any Ypto Data has been lost, altered, destroyed or damaged in any way, or has been distributed, released or made accessible without Ypto's permission, the Service Provider shall take all necessary measures to minimize the negative



consequences, immediately inform Ypto of the fact and let Ypto know which measures it has taken to restore the Ypto Data or to minimize the negative effects of the situation.

## 8. PROCESSING OF PERSONAL DATA

8.1. The terms "**Data Subject**", "**Personal Data Breach**", "**Personal Data**", "**Data Processor**", "**Data Controller**" and "**Processing**" have the same meaning as the meaning attributed to them by the personal data legislation.

8.2. If, in the context of this Assignment, the Service Provider processes Personal Data on behalf of Ypto, an Ypto supplier or customer, the Service Provider will do so in the capacity of Data Processor (or sub-Processor). The Service Provider will only process the Personal Data on behalf of Ypto and according to Ypto's instructions and will not Process the Personal Data in any other way.

The Purchase Order specifies which categories of Personal Data the Service Provider will Process and for which processing purposes.

The Service Provider shall respect the personal data legislation and Process the Personal Data in a proper, careful and transparent manner.

The Service Provider may not involve other persons or organisations (sub-Processors) in the Processing of Personal Data without Ypto's prior written consent. If the Service Provider involves sub-Processors with the permission of Ypto, they must at least meet the requirements contained in these Agreements and the Service Provider must be able to prove this.

8.3. When Ypto receives a request from a Data Subject who wishes to exercise his or her rights under the personal data legislation, the Service Provider will cooperate immediately and within 2 working days at most. These rights may consist of a request to view, correct, supplement, delete or block data, object to the Processing of Personal Data or a request for Personal Data portability.

8.4. If Ypto requires information from the Service Provider to perform a data protection impact assessment and requests the Service Provider to provide the relevant information, the Service Provider shall provide Ypto with the requested information immediately and within 2 working days at most.

8.5. The Service Provider shall ensure that the Personal Data is adequately protected. The Service Provider shall take appropriate technical and organisational measures to prevent loss and unlawful Processing. These measures shall be commensurate with the Processing risk, in accordance with Ypto's Acceptable Use Policy.

8.6. For verification purposes, once a year the Service Provider shall send a report to Ypto free of charge which will describe the security measures taken and any areas requiring attention

and/or improvement. This may be a policy explaining which measures have been taken to ensure enforcement.

- 8.7. Ypto may conduct or have an inspection or audit of the Service Provider performed to determine whether the Processing of the Personal Data by the Service Provider complies with the personal data legislation, the Acceptable Use Policy and the agreements contained in these General Terms and Conditions and the Purchase Order. The Service Provider will cooperate in this respect, including by providing access to buildings, systems, databases and log files and making all relevant information available.
- 8.8. The costs for conducting this audit shall be borne by the Service Provider if the audit demonstrates a breach of the personal data legislation and/or this Contract.
- 8.9. In addition to the audit possibility stipulated in the aforementioned article, the Personal Data processing check performed by the Service Provider may also take the form of a self-assessment. In this case, the Service Provider shall provide a report in which it demonstrates compliance with the personal data legislation and the provisions of these General Terms and Conditions and the Purchase Order. This report will need to be signed by one of the Service Provider's executives.
- 8.10. If either Party considers that the security measures to be taken need to be modified, both Parties will discuss the change in consultation. The costs of changing the security measures shall be borne by the Party incurring such costs.
- 8.11. The Service Provider may neither transfer the Personal Data to a country outside the European Economic Area without Ypto's prior express written consent, nor grant access to the Personal Data to persons or entities located in a country outside the European Economic Area.
- 8.12. Should a Personal Data breach be discovered, the Service Provider shall inform Ypto of the breach as soon as it is aware of it. The Service Provider must notify Ypto of any intentional or unintended infringement or disclosure of the Confidential Information (incl. Personal Data) processed in the context of the execution of the Assignment, by itself and/or the Consultants, as soon as it learns about it, and must take all necessary measures, in accordance with Ypto, to minimize the consequences of that infringement or disclosure.  
The Service Provider will inform Ypto by telephone (24/7) on the number +32 2 528 3300 and by e-mail at: [DPO-YPTO@belgiantrain.be](mailto:DPO-YPTO@belgiantrain.be).
- 8.13. After reporting a Personal Data Breach to Ypto, the Service Provider will keep Ypto informed of new developments regarding the Personal Data Breach and take measures to mitigate and contain the impact of the Personal Data Breach and prevent a similar incident from reoccurring in the future.

- 8.14. In the event of a Personal Data Breach, the Service Provider will take every measure and action to ensure that Ypto can comply with its legal obligations to notify the competent supervisory authority and the Data Subjects. The Service Provider will refrain from making such reports, unless otherwise agreed in writing with Ypto. If requested, the Service Provider will assist Ypto with such notifications.
- 8.15. The Service Provider shall take any remedial action to resolve a Personal Data Breach and be able to prevent it in the future, bearing the costs of such measures.
- 8.16. The Personal Data that the Service Provider processes will be destroyed by the Service Provider once the statutory retention period has come to an end and/or at Ypto's request. A statutory retention period may be the period during which the Service Provider must keep the Personal Data for tax reasons, for example.
- 8.17. Once the Personal Data has been returned and/or destroyed, the Service Provider shall provide Ypto with a written declaration stating that the Personal Data has been deleted.
- 8.18. The Service Provider is aware that and expressly agrees with the fact that Ypto processes its Personal Data and/or that of its Consultants in the Ypto databases within the framework of and to the extent necessary for the proper management of the company. This also implies that this Personal Data may be passed on to Ypto's customers and suppliers that the name, profile and photograph of the Service Provider and/or its Consultants may be recorded in an address book that will be available to Ypto, its customers and suppliers, their staff and assignees. The Service Provider warrants that - if applicable - these provisions were communicated to and accepted by its Consultants.
- 8.19. The Service Provider is fully liable for all Damage resulting from non-compliance with its obligations under this Article 8(*Personal Data*) and will indemnify Ypto and/or its customer against all losses, Damage and expenses of any kind resulting from the non-compliance with its obligations under this Article 8(*Personal data*).
- 8.20. The Service Provider shall be held liable for the administrative fine imposed on it by the supervisory authority if the Damage suffered is the result of unlawful or negligent acts by the Service Provider.

## 9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. The Deliverables and all Intellectual Property Rights in the Deliverables shall become the exclusive property of Ypto from their origin or creation worldwide, irrevocably, unconditionally and in the broadest sense as permitted by applicable law. If Ypto decides, without having any obligations of any kind in this area, to request the registration of certain Intellectual Property Rights in relation to a Deliverable, the Service Provider undertakes, upon Ypto's first request, to

offer its own and its Consultants' efficient collaboration to that end, and to provide and sign all documents to allow, facilitate or speed up applications for registration.

- 9.2. The fee paid by Ypto for the delivery of the Services includes the fee for transferring these Intellectual Property Rights.
- 9.3. The Service Provider shall guarantee that it possesses all necessary rights and permissions to transfer the Intellectual Property Rights described above.
- 9.4. The Service Provider shall ensure that every person/Consultant who is involved in the execution of the Assignment will respect the provisions of this article and that the Intellectual Property Rights that such person might hold will be transferred to Ypto.
- 9.5. The Service Provider shall ensure that the rights granted in connection with the Deliverables will not infringe the intellectual and other rights of a third party, and indemnify Ypto and its customers against any third-party claim based on the premise that the Deliverables are infringing any Intellectual Property Rights of that third party. On Ypto's first request, the Service Provider shall assume responsibility for any proceedings that may be brought against Ypto in connection with the alleged infringement. The Service Provider shall indemnify Ypto against all damages and costs arising from such a claim for Ypto, including the costs of legal support from Ypto (whether or not in legal proceedings, mediation or arbitration), including Ypto's reasonable lawyers' fees. Under no circumstances shall the Service Provider enter into an amicable settlement or settlement with a third party without Ypto's prior written permission.
- 9.6. Where appropriate, the Service Provider shall also bear the costs of:
  - Acquiring, on behalf of Ypto or its customer, the right to continue to use the Deliverables;
  - Replacing qualitatively the contentious (elements of the) Deliverables with non-contentious quality (elements of the) Deliverables offering at least the same functionalities;
  - Modifying qualitatively contentious (elements of the) Deliverables while maintaining at least the same functionalities so that they no longer infringe the rights of third parties.

## **10. TERM OF THE ASSIGNMENT**

- 10.1. The work completion deadline of the Assignment is laid down in the Purchase Order. The Assignment shall begin on the date stated in the Purchase Order or, where not indicated, on the date the Purchase Order is signed by both Parties.
- 10.2. If and insofar as the Parties have agreed on a fixed term, the Assignment shall be concluded for the duration agreed between the Parties. Otherwise, the term shall be indefinite.

## **11. CANCELLATION, DISSOLUTION AND TERMINATION**



- 11.1. The Contract may be unilaterally terminated by registered letter by either Party without incurring any cancellation fee, provided that a notice period of one (1) month is observed and, in the case of the Service Provider, provided that the correct and complete knowledge transfer to Ypto is guaranteed. In the event of early termination of the Contract, Ypto shall only pay for the Services that were actually supplied by the Service Provider before the end of any applicable notice period.
- 11.2. Without prejudice to its other rights and means of redress under the Contract and applicable Legislation, only Ypto has the right, without judicial intervention and without incurring any termination fee, to dissolve immediately the Assignment, in whole or in part, by written notice and at the expense of the Service Provider, if:
- (i) the Service Provider fails to comply with one or more of its obligations under the Agreement and the Service Provider, upon written notice by Ypto, fails to take noticeable steps to remedy the breach within fourteen (14) days from the date of such notice and/or the breach is not remedied within thirty (30) days from the date of such notice; or
  - (ii) the Service Provider fails to comply with obligations under the Agreement in the first 30 days after commencement of the Assignment as stipulated in article 10.1;
  - (iii) the Service Provider fails to fulfil obligations under the Agreement after 2 warnings by Ypto;
  - (iv) the Service Provider is in breach of one or more of its obligations under the Agreement and such breach cannot be remedied;
  - (v) the Service Provider fails to comply with a material obligation under the Agreement; or
  - (vi) (iv) the Service Provider has acted fraudulently.
- 11.3. Without prejudice to its other rights and means of redress under the Contract and applicable Legislation, Ypto has the right, without judicial intervention and without incurring any termination fee or any other compensation, to terminate immediately the Assignment, in whole or in part, if: (i) the Service Provider is found to be insolvent under the law applicable to the Service Provider, to the extent permitted by applicable Legislation; (ii) the Service Provider is subject to a change of control that has a material and/or harmful impact on the delivery of services, hardware and/or software; and/or (iii) due to gross negligence on the part of the Service Provider (iv) Ypto has the right to terminate the Contract due to force majeure.
- 11.4. Regardless of the manner in which the Assignment was terminated, the Service Provider undertakes, upon termination, to return without delay to Ypto all the documents and records, including all Deliverables and Personal Data, including all copies, that it and/or its Consultants may have in their possession as a result of the performance of this Assignment.

## 12. FORCE MAJEURE



- 12.1. A Party shall not be held liable for any delay or shortcoming in the performance of the obligations of the Assignment, if this delay or shortcoming was caused by force majeure.
- 12.2. Force majeure is any event which is independent of the will of one of the Parties, that could have neither been foreseen nor prevented, and which makes it totally impossible to execute (part of) the Contract.
- 12.3. In the event of force majeure, the Parties are entitled to suspend the fulfilment of their obligations in whole or in part for the duration of the force majeure, without being required to pay any compensation.
- 12.4. If the force majeure lasted longer than seven (7) calendar days, or if it can already be predicted with reasonable certainty that it will last longer than seven (7) calendar days, then Ypto is entitled to terminate the Contract or the relevant part thereof without having to pay the Service Provider any compensation.

### **13. LIABILITY**

- 13.1. Except in the event of fraud, gross negligence or intent, Ypto's full liability under and in connection with the Assignment shall be limited to seventy-five (75) percent of the Annual Value of the Assignment.
- 13.2. Except as stipulated in Article 13.5, the Service Provider's full liability under and in connection with the Assignment shall be limited to one hundred (100) percent of the Annual Value of the Assignment. The Service Provider shall be held liable for all Damage suffered by Ypto or its customer that is due and/or related to the Service Provider's default or defective hardware, software and/or Services supplied under the Assignment.
- 13.3. Without prejudice to Article 13.1, no party shall be held liable for damage to the reputation, loss of clientele and loss of opportunity.
- 13.4. The Service Provider shall not be held liable for non-compliance with its obligations only if and to the extent that this is directly due to force majeure or to Ypto's non-compliance with its obligations; the Service Provider shall nevertheless have endeavoured to limit the impact of the non-compliance and to deliver the hardware, software and/or Services; and the Service Provider shall have notified Ypto of the situation without delay. Such notification shall at least state the affected Services, hardware and/or software, the cause of the non-compliance and details of the expected duration of the non-compliance. This notification is not binding on Ypto unless Ypto confirms in writing that it accepts its content.
- 13.5. Nothing in these General Terms and Conditions excludes or limits the liability of the Service Provider in the case of (i) fraud, intent or gross negligence; (ii) death or physical Damage; (iii)



any breach of the Articles concerning (*Confidentiality*), 8(*Personal Data*) and 9(*Intellectual Property Rights*); and/or (iv) any indemnification obligation of the Service Provider under the Contract.

#### **14. INSURANCES**

- 14.1. The Service Provider undertakes to be sufficiently insured for the duration of the Assignment and for at least two (2) years thereafter to cover its responsibility under this Assignment.
- 14.2. On Ypto's simple request, the Service Provider shall provide Ypto with written proof of its insurance policies and insurance conditions and proof of payment of insurance premiums.

#### **15. GENERAL PROVISIONS**

- 15.1. The Service Provider shall abstain from recruiting or attempting to recruit, directly or indirectly, Ypto personnel or assignees, and shall refrain from inciting Ypto employees or agents to terminate their relationship with Ypto, as employees or in another capacity. Nor shall the Service Provider incite an Ypto supplier or customer to terminate a contract and/or business relationship with Ypto or to modify the terms and conditions of such relationship in such a way that they are detrimental to Ypto, or to supply services to an Ypto customer that are comparable to, or a substitute for the services that Ypto supplies or may provide by virtue of its activities.
- 15.2. Should any provision of the Contract become null or void, this shall not affect the validity of the other provisions of the Contract. In that case, the Service Provider and Ypto shall engage in consultations to draw up new provisions to replace the null or void provisions.
- 15.3. The Service Provider is not entitled to transfer, encumber or otherwise transfer to any third Party any of its rights or obligations under this Contract without Ypto's prior written consent. Ypto has the right to transfer, encumber or otherwise transfer rights or obligations under this Contract to a partner without the Service Provider's consent.
- 15.4. Any amendment to the Contract shall not be binding for the Parties, unless it is laid down in writing, expressly amending this Contract and signed by authorised representatives of each Party.
- 15.5. Any notification issued by the Service Provider shall be submitted by registered letter addressed to Ypto's contact person as mentioned in the Purchase Order.
- 15.6. Should a Party fail to exercise a right granted under the Contract, this shall not constitute a waiver of that right and shall not affect that Party's right to invoke that right. A waiver of rights with regard to a breach of the Contract must be in writing, and does not constitute a waiver of rights with regard to previous or future breaches of the Contract.



- 15.7. The provisions of the Contract which, because of their nature and scope, are meant to remain in effect, shall be maintained once the Contract has been terminated, has expired, has been performed in full or become invalid.
- 15.8. None of the provisions of the Contract aims to set up a partnership, joint venture or any other legal relation which holds a Party liable for the operations or failures of the other Party, or which gives one Party the right to act as an agent for the other Party.
- 15.9. The Service Provider shall not disclose (including in press releases or announcements) any matter related to the Assignment without Ypto's prior written consent.
- 15.10. All documents, websites or other information to which a reference is included in the Contract or to which reference is made in the Contract, but which are not attached to this Contract, are not part of this Contract.
- 15.11. The contractual relationship between Ypto and the Service Provider shall be governed and interpreted in accordance with Belgian law.
- 15.12. All disputes shall be settled by the competent courts and tribunals in Brussels, which have complete jurisdiction in this respect.

Drawn up in Brussels on 24 November 2022 and will be valid from 1 January 2023.

**For Ypto NV**

Name: Pierre-André Rulmont

Position: CEO Ypto