

# GENERAL TERMS & CONDITIONS

## "CLOUD COMPUTING" VERSION 2010

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These general terms and conditions are intended to apply where the supplier provides a standardised and long-term Internet-based service.

These general terms and conditions constitute an appendix to a Agreement reached by the parties. If conflicting information occurs in the Agreement, the Agreement and appendices signed by the parties have priority over the general conditions.

These general terms and conditions are intended to be used for example when the supplier provides storage capacity, infrastructure or third party application for use by the customer within the framework of the Cloud Computing service. If the supplier is to provide the customer with an application that has been developed or is owned by the supplier for use by the customer within the framework for a Cloud Computing service, special conditions for Supplier's Application – Cloud Computing shall also apply. The special conditions may also apply to a third party's application for which the supplier assumes special responsibility according to the Agreement. In the event of a conflict between the content of the general terms and conditions and the special conditions, the special conditions shall have priority.

### 1.1. Definitions

Unless the context or the circumstances obviously otherwise require, the following words and concepts shall be deemed to have the meanings stated below.

#### Connection point

The point or points where the supplier connects the Service to a general electronic communications network, except where otherwise agreed.

#### User

Persons who are authorised to use the Service in accordance with point 6.3.

#### Agreement

The Agreement reached by the parties including the appendices and these general terms and conditions, and where applicable, the special conditions.

#### The Customer's Data

Data or other information that the customer or User, or other person acting on behalf of the customer or User, makes available to the supplier, and the result of the supplier's processing of data.

#### The Customer's Software

Software owned by the customer or that the customer is entitled to use under the terms of a licence agreement to use and which is used in the Service.

#### Product supplier

Company that grants a licence to and provides maintenance for the supplier in respect of a Third party application.

#### Specification

The Specification of the content of the Service which is stated in the Agreement or on the domain address stated in the Agreement and subsequent amendments thereto agreed in writing.

#### Commencement Day of the Service

The day on which the Service is available to the customer.

#### Supplementary services

Possible support services that are not specified in the Specification.

#### Service(s)

Each service that is made available via a public electronic communications network, and which is specified in the Agreement and later amendments thereto.

#### Third party application

The software a) for which the copyright obviously belongs to a company other than the supplier or a company that is part of

the same group as the supplier except where otherwise stated in the Agreement, or b) is stated in the Agreement to be a Third party application.

### 2. Supplier's undertakings

- 2.1 As of the respective agreed Commencement Day, the supplier shall provide Services at the Connection point and perform the agreed Supplementary services.
- 2.2 The supplier shall cooperate in the start of the Service, in accordance with point 4.
- 2.3 The supplier shall carry out his undertakings in a professional manner. Except where otherwise apparent from the Specification, the Service shall be carried out in accordance with the methods and standards the supplier normally applies to this type of service.

### 3. Customer's undertakings

- 3.1 In order for the supplier to be able to perform his obligations pursuant to the Agreement, the customer shall be responsible for the following:
  - a) The customer shall provide information for the supplier's work when the Service is started, review documents and report on decisions and otherwise provide such regular information as is necessary for the supplier to carry out his obligations under the terms of the Agreement.
  - b) The customer shall be responsible for communications between the customer and the Connection point, and shall ensure that the customer has the equipment and software that are required for the performance of the Service.
  - c) The Customer is liable for faults or non-conformities in the Customer's Software.
  - d) The customer shall ensure that (i) the Customer's Software is free of viruses, Trojans, worms or other harmful software or codes, (ii) the Customer's Software is in the agreed format, and (iii) that the Customer's Software cannot, in any other way, harm or adversely affect the supplier's system or the Service.
  - e) The Customer shall ensure that log-in information, security procedures, and other information, to which the supplier has access in order to use the Service, is treated as confidential information in accordance with point 18. The customer shall immediately inform the supplier in the event that any unauthorised person has obtained knowledge of information pursuant to this point

#### **4. Start of the Service**

- 4.1 The supplier is responsible for ensuring that the Service as made available to the customer as of the agreed Commencement Day. In good time before the agreed Commencement Day, the supplier shall provide the customer with the instructions that are necessary for the customer to start using the Service from the agreed Commencement Day. The supplier shall, as a Supplementary service, assist the customer with the upstart of the Service, provided the parties have agreed on this.
- 4.2 In the event of a delay in the Commencement Day in relation to the agreed Commencement Day, the customer is entitled to receive a penalty for each week of delay or part thereof of 1% of three monthly fees for the Service, subject to a maximum of 10% thereof. The customer is not entitled to any damages or other compensation as a result of a delay, except in the case of malicious intent or gross negligence.
- 4.3 The supplier is entitled to a reasonable extension of time if the delay is the result of circumstances for which the customer is responsible or of such circumstance as those indicated in point 20.1.
- 4.4 If the Commencement Day of the Service is delayed by two months in relation to the agreed Commencement Day, the customer shall give the supplier notice in writing of when a final and reasonable deadline for the Commencement Day shall be deemed to have occurred. If the supplier is delayed even beyond that deadline, the customer may give the supplier written notice that the Agreement has been cancelled. If the customer cancels the Agreement, the customer is entitled to damages to the extent the damage/loss is not covered by the compensation as in point 4.2, subject, however, to the limitation set forth in point 20.2.

#### **5. General about the Service**

- 5.1 The contents of the Service are listed in the Specification. Except where otherwise stated in the Specification, the supplier is not responsible for storage or back-up copying of the Customer's Data.
- 5.2 The supplier may engage sub-contractors for performance of the Service and other undertaking in accordance with the Agreement. The supplier has the same responsibility for work performed by sub-contractors for his own work.
- 5.3 The supplier may make available all or part of the Service from another country provided that the supplier otherwise satisfies the conditions in the Agreement.
- 5.4 The supplier may, without giving prior notice to the customer, modify the Service, or change the way in which the Service is provided, if this can be reasonably supposed not to inconvenience the customer. The supplier may make other modifications to the Service or the way in which the Service is provided three months after the customer has been informed thereof. The customer is then entitled to cancel the Service no later than when the modification comes into effect, as of the day the modification comes into effect, or as of such later date as is specified in the notice of cancellation, in any case no later than three months from when the modification

came into effect. The supplier's modifications shall not conflict with the agreed specifications for the Service.

#### **6. The Customer's use of the Service**

- 6.1 Except where otherwise agreed, the customer has a non-exclusive right to use the Service solely within the customer's own business.
- 6.2 The customer may not copy software that is included in the Service or permit any party other than the User to use the Service.
- 6.3 The customer is responsible for stating who is authorised to use the Service. The customer shall immediately inform the Supplier if a User is no longer authorised to have access to the Service. The customer is responsible for the User's use of the service.
- 6.4 The customer is required to follow the instructions provided by the supplier for use of the Service.

#### **7. Responsibility for content of the Customer's Data**

- 7.1 The customer is responsible, and shall indemnify the supplier, for ensuring that the Customer's Data that are processed within the Service, do not infringe the rights of third parties or conflict with applicable legislation in any other way.

#### **8. Use of Third party application in the Service**

- 8.1 Use  
In the event that the Service includes Third party application for use by the customer this point 8 shall apply. The customer may only use Third party application in accordance with the Product supplier's licence conditions to which the supplier has referred, and otherwise in accordance with information provided in point 6.
- 8.2 Scope  
The Supplier shall, as of the Commencement Day, make available the updates, versions or releases of the Third party application as referred to in the Agreement together with the changes that follow from point 8.4.  
The Service includes implementation by the supplier of the updates or new versions in the Third party application that are provided by the Product supplier within the framework of its maintenance, and to the extent the supplier considers it suitable for the Service. In the case of implementation of updates or new versions the content of point 5.4 shall apply. The supplier may, however, even if this involves inconvenience for the customer, implement updates in the Third party application in order to protect the Service and for other security-related reasons.
- 8.3 Documentation  
The Supplier provides, if such is available, necessary user documentation for use of the Third party application in the form of handbooks or other instructions. The user documentation shall be in Swedish or English

8.4 Faults in Third party application  
If there is a fault in the Third party application and the supplier is unable to rectify it himself, the supplier shall immediately report this to the Product supplier, and install any solution received from the Product supplier, if this can be done without having an adverse effect on the Service. The supplier shall also monitor the Product supplier to ensure that he fulfils his obligations according to the terms of agreement with the supplier. Over and above this the supplier has no liability for faults in the Third party application.

8.5 Changed fee for Third party application  
If a special licence fee has been mentioned in the Agreement for use of the Third party application, the supplier is entitled to change the licence fee after three months' notice to the same extent as the Product supplier changes the fee for use of the Third party application.

8.6 Infringements  
Notwithstanding what is stated in point 14, the supplier is responsible, with regard to a Third party application, only to put forward claims against the Product supplier. The Supplier, if so required, shall at the request of the customer assign to the customer his rights in relation to the Product supplier in respect of infringement of rights. If there is a definite case of infringement or if in the supplier's view, it is likely that such an infringement exists and the Product supplier does not take the necessary measures the supplier is entitled to cancel the Agreement with three months' notice.

## 9. Use of the Service for the provision of information or e-commerce

9.1 This point 9 only applies when the Act on Responsibility for Electronic Notice Boards and/or the Act on Electronic Commerce and Other Information Society Services apply. The point therefore does not apply to information that is intended solely for certain recipients, such as a customer, or for electronic mail.

9.2 The Customer is responsible for maintaining such control over the information that the customer can prevent the spreading of information in accordance with the requirements of applicable legislation.

9.3 The supplier is entitled to immediately prevent the continued spreading of information in the Service if there are reasonable grounds to suppose that further spreading would be in contravention of applicable legislation. The supplier is entitled to see all information that has been transferred or made available to the Service in order to fulfil this right. The supplier shall inform the customer in the event that this right has been exercised.

9.4 The supplier is entitled to prevent users who have provided information in contravention of applicable legislation from making further use of the Service. The customer shall be informed of the supplier's exercise of this right.

## 10. Limitation of access to the Service

10.1 In those cases where the use of the Service entails harm or risk of harm to the supplier, the supplier is entitled to

cut off or limit access to the Service. The supplier may, in so doing, not take any other action than is justifiable in the circumstances. The customer shall be notified about the limitation of access to the Service as soon as is possible.

10.2 The supplier is further entitled to limit access to the Service for Users in accordance with point 9.4.

## 11. Service level

11.1 The parties have agreed on service levels for the Service as provided in the appendix or the Specification.

11.2 Except where otherwise stated in the Agreement regarding contractual service levels, the supplier is entitled to take measures that affect the accessibility of the Service if this is required for technical, maintenance, operational or security reasons. The supplier shall take such measure promptly, and in such a way as to limit disturbances. The supplier undertakes to inform the customer within a reasonable period of time ahead of such measure and if possible arrange the planned measures at a time outside of normal working hours.

## 12. Contact persons

12.1 The parties shall each appoint a contact person who will have responsibility for the cooperation in accordance with this Agreement. The other party shall be notified regarding the choice of contact person. The contact person shall be authorised to act on behalf of the respective party, within the framework of the Agreement.

## 13. Compensation, fees and payment conditions

13.1 Fees  
The customer shall pay compensation as of the Commencement Day for the Service provided by the supplier as set forth in the appendix. The customer shall compensate the supplier for Additional services pursuant to the supplier's current tariff. In the event that an agreement has been reached on an hourly rate, invoices are raised on an à conto basis using the agreed hourly rates.

The fees are exclusive of VAT, other taxes and duties, and charges. Except where otherwise provided by the appendix, fixed fees shall be invoiced periodically in advance.

13.2 Change in fees  
The supplier is entitled, as of each new calendar year, to change all the fees once a year in accordance with Statistics Sweden's IT consultancy index, except where otherwise stated in the Agreement.

13.3 Other compensation  
Should the supplier be caused additional work or additional costs owing to circumstances for which the customer is responsible, the customer is liable to compensate the supplier for such additional work and such additional costs in accordance with the supplier's current tariff.

13.4 Final demand  
The supplier shall send an invoice to the customer, not

later than 12 months after each month of service has been completed, covering all remaining demands for the service month. If the supplier has failed to do this, the supplier loses the right to compensation for services provided or work performed, including such compensation as is referred to in point 13.3, except for the right to net off receivables.

#### 13.5 Delay

If the customer is late in making payment and the supplier has requested in writing that the customer shall pay the amount due, the supplier may, 30 days after giving written notice thereon to the customer, discontinue supply of the Service on the basis of this point

### 14. Intellectual property rights

14.1 The supplier and/or the supplier's licence provider is the owner of all rights including intellectual property rights to the Service and the programs it includes.

14.2 The supplier is liable for ensuring that the customer's use of the Service does not infringe another party's copyright, patent or other intellectual property rights. The supplier shall indemnify the customer for infringements on a third party's rights in respect of the Service. If a third party claims that the use of the Service infringes a third party's rights, the supplier is responsible for ensuring that the necessary rights are obtained or that another program is acquired without additional cost, with as little disturbance as possible to the customer's operations. Over and above what is stated in this point, the supplier has no liability to the customer as a result of infringement of a third party's intellectual property rights. Only point 8.6 is applicable concerning liability for infringement in respect of the customer's use of Third party application when such is provided by the supplier within the framework of the Service.

14.3 The supplier is responsible for ensuring the necessary rights are available for making use the Customer's Software within the framework of the Service. The customer shall indemnify the supplier for infringements of third party rights concerning the running of the Customer's Software within the framework of the Service. If a third party claims that the use of the Customer's Software is an infringement of a third party's rights, the customer is responsible for obtaining the necessary rights. Over and above what is provided in this point and point 7.1, the customer is not liable to the supplier for any infringement of a third party's intellectual property rights.

### 15. Rights to Customer's Data

15.1 As part of the customer-supplier relationship, the customer has all rights to the Customer's Data.

15.2 In the event that the supplier keeps a log over use of the Service, data from the log may only be used by the supplier for what is required to perform the Service, except where otherwise agreed. The supplier shall give the customer access to information that the supplier keeps a record of with regard to use of the Service in accordance with this point if this has been specifically agreed upon. The customer shall always be entitled to

have access to the personal data for which the customer has responsibility.

### 16. Personal data

16.1 The Customer is responsible for ensuring that the processing of data takes place in accordance with applicable legislation. With regard to personal data that are processed within the framework of the Service, the customer is controller for the personal data, and the supplier is an assistant. The supplier undertakes to only process personal data in accordance with the Agreement and the written instructions of the customer. The supplier shall carry out the technical and organisational measures that have been agreed upon. In the event that the supplier makes use of sub-contractors who process personal data, the supplier must, on behalf of the customer, sign an agreement with the sub-contractor according to which the sub-contractor undertakes, as personal data assistant to the customer, to comply with the provisions of this point 16.1.

16.2 If the performance of the Service means that personal data in the Customer's Data will be transferred to a country outside the EU/EEA the supplier shall ensure that the sub-contractor in question signs the EU's standard agreement clauses for the transfer of personal data to record keepers in a third country and that the supplier has the right, as a proxy for the customer, to sign the agreement

### 17. Safety

17.1 The supplier shall comply with the safety regulations that the supplier has published on the website or other accessible location that is referred to in the Specification. The supplier is entitled, after the Agreement has come into effect, to change the current safety regulations in accordance with the provisions of point 5.4.

### 18. Confidentiality

18.1 During the term of the Agreement and for a period of three years thereafter, each party undertakes not to disclose information to any third party regarding the other party's activities which may be deemed business or professional secrets without the other party's consent. Information which the party states to be confidential shall always be deemed to be a business or professional secret. The confidentiality obligation does not include such information which a party can prove has come to its knowledge in any other way than via the Service, or which is in the public domain. Nor does the confidentiality obligation apply when a party is statutorily required to disclose the information.

18.2 A party shall ensure that confidentiality as set forth above is observed by obtaining confidentiality understandings from personnel, or other appropriate measures. Each party is responsible for ensuring that engaged sub-contractors and their employees who are affected by the Service also sign confidentiality undertakings having equivalent content in favour of the other party.

## 19. Service responsibilities

19.1 In the event of a fault occurring in the Service for which the supplier is liable, the supplier shall rectify the fault with such promptness as the circumstances require, if such is possible.

In addition, where the customer is unable to use the Service to a significant extent as a result of a fault in the Service which has been caused by the supplier, the customer is entitled, for the period from when the fault was reported and while it has not been rectified, to receive a reasonable reduction of the fee relating to the Service. If the supplier has caused the fault by negligence, the supplier is liable in damages subject to the limitations set forth in this Agreement

19.2 If the parties have reached an agreement on contractual service levels, in the event of deviations therefrom, the supplier is only liable to a price reduction or penalty in accordance with what is stated in the conditions in the Appendix on the agreed service level. If the parties have not specifically agreed on such a price reduction or penalty the customer is entitled to a reasonable reduction in the fee as provided in point 19.1. Over and above this, the customer is not entitled to any damages or other compensation on account of deviations from the agreed service level, except in cases of malicious intent or gross negligence.

19.3 The customer is entitled to invoke the sanctions pursuant to point 19 only if the customer has given the supplier written notice thereof no later than 90 days after the customer has discovered, or should have discovered, the reason for the claim.

## 20. Limitation of liability

20.1 Should a party be prevented from fulfilling its obligations pursuant to this Agreement owing to circumstances beyond the party's control such as lightning, labour disputes, fire, amendments to rules issued by governmental authorities, intervention by the authorities, and faults or delays in services from sub-contractors due to such circumstances as are stated above, such circumstances shall constitute grounds for release involving a postponement of the time for performance and release from liability to pay damages and other penalties. If performance of a significant part of the Service is prevented for a period in excess of two months as a result of any of the above-stated circumstances, each party is entitled to cancel the Agreement without any liability to compensate the other party. In the event of cancellation of the Agreement pursuant to this point, point 24 will apply.

20.2 Should a liability to pay damages arise, except in cases as are referred to in points 7 or 14 and in the absence of malicious intent and/or gross negligence, a party's liability to pay damages per calendar year is limited to direct loss amounting to a total sum of 15% of the annual fee for the Service in question. However, in the absence of malicious intent and/or gross negligence, or in respect of the customer's liability in accordance with point 7, a party is not liable in any event for loss of profit or other indirect damage or loss, including any liability

of the other party to compensate a third party. However, the supplier is not liable for loss of data except to the extent the loss is caused by the supplier's failure to make backup copies in accordance with the Specification of the Service.

20.3 The supplier shall, in order not to lose his right to damages, submit a claim for damages to the supplier within six months of when the loss or damage occurred.

## 21. Principles of business ethics

21.1 The supplier undertakes to apply in its activities the principles of business ethics that are in accordance with the Swedish IT & Telecom Industries' basic principles of business ethics, appendix.

## 22. Term of the Agreement

22.1 This Agreement shall come into effect when the parties have signed it. The term of the Agreement, prolongations and notice of termination shall be stated in the Agreement. When the term of the Agreement is stated it shall be counted from the Commencement Day. Except where otherwise agreed notice of termination of the Agreement shall be given at least 90 days prior to the termination of the current term of the Agreement. Otherwise, the Agreement is prolonged on each occasion for each agreed term of prolongation. In the event that a term of the Agreement or Prolongation has not been agreed, the Agreement will continue until further notice subject to 90 days' notice for each party. The Agreement expires at the end of the calendar month that occurs after the expiry of the period of notice. Notice terminating the Agreement shall be given in writing.

## 23. Termination in advance

23.1 Each party is entitled to terminate the Agreement:

- a) if the other party materially breaches its obligations under the terms of this Agreement and such party has not rectified the breach within 30 days after written request has been sent to the other party with reference to this point, or
- b) if the counterparty is placed in bankruptcy, enters into negotiations regarding a settlement, or is subject to a financial reconstruction, or is otherwise insolvent.

23.2 The terminating party is entitled to give notice of termination of the Agreement with effect on the date stated in the notice, however not later than three months from the date of notice of termination.

23.3 Notice shall be given in writing for it to be valid.

## 24. Winding up the cooperation

24.1 Upon termination of the Agreement the Customer's Data and the Customer's Software shall immediately be returned, when so applicable, to the customer or to a party nominated by the customer, and those parts which exist in electronic form shall, at the customer's request, and to a reasonable extent be returned in electronic form in accordance with the customer's instructions. To a reasonable extent, the supplier shall, in the form of an Additional Service, also assist the customer if the

customer himself is to implement the transfer of the operations to or from another company nominated by the customer in order to obtain a service corresponding to the Service with the minimum of disturbance to the customer. After the transfer of the Customer's Data the supplier shall delete or render anonymous the Customer's Data. The supplier shall be entitled to reasonable compensation for such work in accordance with the supplier's current tariff. The customer's liability to replace investments only comes into effect if the customer has requested such an investment.

## **25. Communication**

25.1 Notice of termination or other communications shall be sent via courier, registered letter, telefax or e-mail to the parties' contact person at the numbers/addresses provided by the parties.

Notices are deemed to have been received by the other party:

- a) if sent by a courier; when handed over
- b) if sent by registered letter; five days after despatch;
- c) if sent via telefax, upon receipt when the fax has reached the addressee's fax machine, provided that

the party sending the fax has also sent the telefax by letter on the same day;

- d) if sent via e-mail, upon receipt where the e-mail is received at the addressee's e-mail address, provided that the party sending the e-mail has also sent the message by letter on the same day.

## **26. Transfer of Agreement**

26.1 This Agreement may not be transferred without the consent of the other party.

26.2 However, the supplier may, without requiring the customer's consent, transfer the right to receive payment under the terms of this Agreement.

## **27. Applicable law, disputes.**

27.1 Disputes concerning the interpretation or application of this Agreement shall be determined by arbitration in accordance with Swedish law, without the application of international private law. In the event of a dispute in which the amount claimed obviously does not exceed 25 times the applicable statutory base amount pursuant to the National Insurance Act (SFS 1962:381), the dispute shall be determined by a court of general jurisdiction.