

# General Terms and Conditions | Mysolution

Version 2.1 – 16 September 2024

These are the general terms and conditions of MySolution B.V., located at De Bouw 149, 3991 SZ in Houten in the Netherlands and registered with the Dutch Chamber of Commerce under registration number 30202683 (hereinafter: “**Mysolution**”). Please visit [www.mysolution.nl](http://www.mysolution.nl) for more information.

## Article 1. Definitions

All capitalized terms in these general terms and conditions have the meaning assigned to them in this article, both in singular and plural form.

- 1.1. **Account:** the username, password, and any other authorization methods that the End User needs to log in to and use certain parts of the Services.
- 1.2. **Additional Service Level Conditions:** the additional conditions as included in Module C of these General Terms and Conditions, which relate to the service and maintenance of the Software.
- 1.3. **Agreement:** the complete agreement between Mysolution and the Client, including, but not limited to, the Offer from Mysolution, to which these General Terms and Conditions form an integral part.
- 1.4. **Availability:** the time period during a particular month when the Services can be accessed via the internet, expressed as a percentage.
- 1.5. **Backup:** a copy of the Client Data or Services that can be restored by Mysolution in the event of Incidents.
- 1.6. **Client:** any legal entity or natural person acting in the exercise of a profession or business who enters into an Agreement with Mysolution.
- 1.7. **Client Data:** all data stored by the Client or individual End Users using the Services or otherwise made available by the Client to Mysolution as part of the Agreement.
- 1.8. **Confidential Information:** all information that is designated as confidential or that the receiving party reasonably should understand to be of a confidential nature. This includes, in any case, all approved or unapproved offers from Mysolution and all communications about prices for Services from Mysolution.
- 1.9. **Consultancy:** any form of expertise provided to the Client by Mysolution and/or a third party engaged by Mysolution, including but not limited to the implementation of Software, customization, training, analysis, and the release of new versions of the Software.
- 1.10. **End Users:** any natural person using the Services under the Agreement, whether or not through their Account.
- 1.11. **Emergency Maintenance:** unforeseen maintenance work due to Incidents requiring immediate action by Mysolution based on the Impact and Urgency of the Incident.
- 1.12. **Functionality:** specific properties or features that enable certain uses or applications within the Services.
- 1.13. **General Terms and Conditions:** these General Terms and Conditions of Mysolution, including all modules and any appendices that are an integral part of the Agreement.
- 1.14. **Impact:** the (severity of the) consequences of an Incident for the Client.
- 1.15. **Incident:** the substantial non-compliance of the Services with the agreed specifications, as well as any situation of unavailability not caused by Maintenance.
- 1.16. **Intellectual Property Rights:** all intellectual property rights and related rights, including but not limited to copyrights, database rights, domain name rights, trade name rights, trademark rights, design rights, neighboring rights, patent rights, and rights to know-how.

- 1.17. **License:** the right to use the Software by the Client for the duration of the Agreement and under the terms agreed upon by the parties in the Agreement.
- 1.18. **Maintenance:** all maintenance work performed by Mysolution, including both Planned Maintenance and Emergency Maintenance.
- 1.19. **Materials:** all websites, (web) applications, software, data, documentation, concepts, texts, images, advice, reports, and other creations of the mind in the broadest sense of the word.  
**Offer:** any quotation or other offer from Mysolution to the Client for the provision of Services to which these General Terms and Conditions apply.
- 1.20. **Opening Hours:** the usual opening hours of Mysolution as stated in Article 32 of these General Terms and Conditions.
- 1.21. **Planned Maintenance:** all regular maintenance work related to the Services that does not qualify as Emergency Maintenance.
- 1.22. **Priority:** the priority assigned to an Incident based on Impact and Urgency.
- 1.23. **Processor Agreement:** a separate agreement between the parties in which further arrangements are made regarding the processing of personal data.
- 1.24. **Quantitative Subscription:** the payroll numbers and/or users to which the Client's License for the Software is limited. Depending on the Software purchased by the Client, these numbers and/or users may be referred to as: "named users", "portal users", "files (candidate)", "payroll numbers" or any other term used by Mysolution.
- 1.25. **Resolution Time:** the time between the Client submitting an Incident report and Mysolution proposing a temporary solution to the Client or providing a final solution to the Incident.
- 1.26. **Response Time:** the time between the Client submitting an Incident report and Mysolution providing an initial substantive response.
- 1.27. **Services:** all services provided by Mysolution to the Client under the Agreement, as described in the Offer from Mysolution. These services may include the provision of Licenses, configuring or customizing the Software, hosting and managing the Software, and other forms of Consultancy.
- 1.28. **Software:** all software provided by Mysolution under the Agreement, including but not limited to the software packages named "Mysolution Recruitment," "Mysolution Workforce," "Mysolution Flex," and "OnRecruit," including any (custom) modifications made by Mysolution or its engaged third parties, regardless of the form in which the software is made available to the Client.
- 1.29. **Urgency:** the urgency of an Incident for the Client.

**Article 2. Applicability and precedence**

- 2.1. These General Terms and Conditions apply to all Agreements between the parties, even if they are not provided to the Client again with future Offers. The General Terms and Conditions consist of a general part and several additional modules. The terms in the general part apply to every Agreement that Mysolution enters into with the Client. Depending on the Services purchased, one or more modules may also apply. In case of contradictions between the general part and a specific module, the provisions of the relevant module take precedence.
- 2.2. The Agreement between the parties may consist of several documents. These documents are considered supplementary to each other. In the event of contradictions, the following order of precedence applies, with the earlier mentioned document taking precedence over the later mentioned document:
  - a. the written supplements and/or deviations agreed upon by the parties concerning the documents listed below;

- b. the approved Offer;
- c. these General Terms and Conditions;
- d. the Processor Agreement.

**Article 3. Conclusion of the Agreement**

- 3.1. Any Offer from Mysolution is non-binding and valid for 30 days after sending the Offer to the Client. Mysolution is not obliged to accept an acceptance after this period, but if Mysolution does so, the Offer is deemed accepted.
- 3.2. If Mysolution bases an Offer on data or information provided by the Client that turns out to be incorrect, Mysolution has the right to adjust the Offer or the already concluded Agreement accordingly, or to terminate or dissolve the Agreement.
- 3.3. Mysolution is not bound to a deviating acceptance of the Offer made by the Client, even if the deviation concerns minor aspects as referred to in Article 6:225, paragraph 2 of the Dutch Civil Code.

**Article 4. Execution of the Agreement**

- 4.1. Once the Client has accepted the Offer, Mysolution will endeavor to deliver the Services as soon as possible in accordance with the Agreement. Any deadlines mentioned by Mysolution are always indicative and should not be considered strict deadlines.
- 4.2. Mysolution will deliver the Services to the Client in accordance with the service levels as promised in Module C of these General Terms and Conditions, unless the parties have expressly agreed otherwise in the Agreement.
- 4.3. Mysolution has the right to execute the Agreement in phases and to invoice the various phases separately to the Client.
- 4.4. Mysolution has the right to engage third parties in the execution of the Agreement. Any costs associated with this will only be borne by the Client if agreed upon in advance.
- 4.5. Mysolution will take into account reasonable requests from the Client in the execution of the Agreement or will provide a justified explanation of why such requests are not met. If the Client insists on implementing the request despite this explanation, Mysolution will (if the request is reasonably feasible) carry out the work at the Client's risk.
- 4.6. The Client is obliged to do everything reasonably necessary to ensure proper and timely delivery of the Services. In particular, the Client must ensure that all information and Materials that Mysolution indicates are necessary, or that the Client should reasonably understand are necessary, are made available to Mysolution in a timely and free manner.
- 4.7. The Client guarantees the accuracy and completeness of the information and Materials provided to Mysolution. Mysolution has the right, but not the obligation, to verify the accuracy and completeness of these. If the information or Materials are found to be inaccurate or incomplete, Mysolution may, as far as permitted by law, suspend the Services until the Client has remedied the deficiencies.
- 4.8. The Client is obliged to follow all reasonable advice and instructions from Mysolution when using the Services.

**Article 5. Acceptance**

- 5.1. If and to the extent agreed upon or required by the nature of the Software, the Client may subject (the results of) the Software to an acceptance test. Regarding the acceptance test, a distinction is made between the configuration by Mysolution (including a third party engaged by Mysolution) and a third party not engaged by

Mysolution. Configuration in this article refers, among other things, to setting up settings, validations, fields, values, and wizards to make the Software workable for the Client.

- 5.2. If and to the extent that the Client outsources implementation work, including but not limited to the (initial) configuration of the Software, to another party than Mysolution or a third party engaged by Mysolution, the provisions regarding the acceptance test do not apply, and the Software will be deemed accepted by the Client either in advance or immediately upon delivery by Mysolution.
- 5.3. The Client will carry out the acceptance test with respect to the configuration by Mysolution in accordance with the provisions of paragraphs 4 through 9 of this article.
- 5.4. Parties will agree in writing, prior to the execution of the Agreement, on the requirements the Software must meet. Mysolution will then execute the Agreement by configuring the Software and delivering the Software to the Client. The Client must perform an acceptance test within 14 days after the delivery of the configured Software and approve or reject the Software in writing. If the Client does not reject the Software within this period or if the Client uses the Software operationally, it will be deemed accepted. The Client must sufficiently substantiate any rejection so that Mysolution has the opportunity to remedy any defects.
- 5.5. The Client may only reject the Software if the Functionalities of the Software and/or the configuration of the Software do not meet the requirements or specifications agreed upon by the parties. The Client will not withhold approval for minor defects, but such defects will still be remedied by Mysolution as soon as possible after acceptance.
- 5.6. In the event of rejection, Mysolution will make every effort to resolve the reason for rejection as soon as possible. Mysolution can do this by explaining why the reason for rejection does not apply or by making adjustments. The Client will then perform another acceptance test in accordance with paragraph 3 of this article.
- 5.7. If the Software is rejected by the Client at least three (3) times consecutively and either party considers further adjustment no longer useful, both parties have the right to terminate the Agreement in writing with immediate effect. In such a case, the Client is only obliged to pay for the work already performed by Mysolution but has no right to continue using the Software.
- 5.8. If the Agreement is executed in phases, Mysolution may suspend the execution of Services in a subsequent phase until the Client has approved the results of the previous phase in writing.
- 5.9. After the acceptance of the Services by the Client, Mysolution's liability for any defects in the delivered Services expires. However, Mysolution may perform maintenance for the Client if this is part of the Agreement.

**Article 6. Consultancy - General**

- 6.1. If the delivery of the Services includes Consultancy, the provisions of this article apply.
- 6.2. In principle, Mysolution only provides Consultancy to the Client for a minimum continuous duration of four (4) working hours. Consultancy on-site at the Client is possible for a continuous duration of eight (8) working hours. The parties may agree on different arrangements.
- 6.3. Mysolution will perform Consultancy professionally and carefully.
- 6.4. Unless otherwise agreed, Consultancy will be charged based on the time and costs incurred by Mysolution at the hourly rate specified in the Agreement. If no hourly rate has been agreed upon, Mysolution is entitled to charge the usual hourly rate for the Consultancy already performed.

- 6.5. Consultancy will be carried out during Mysolution's Opening Hours unless otherwise agreed upon by the parties.
- 6.6. If the results delivered through Consultancy contain clear errors or deficiencies directly caused by Mysolution performing the work unprofessionally or carelessly, and the Client reports this within 10 working days after delivery of the result, Mysolution will only be obliged to make reasonable efforts to correct such material deficiencies or, if this is not possible, to credit a proportionate amount paid for the Consultancy in Mysolution's judgment.
- 6.7. The Client may reschedule or cancel the agreed date for Consultancy free of charge if the Client notifies Mysolution at least three (3) working days before the intended start date. If the Client cancels or reschedules the agreed Consultancy date within three (3) working days before the intended start of the work, Mysolution is entitled to charge the full amount of the costs that Mysolution would have charged without cancellation or rescheduling to the Client.
- 6.8. Regardless of the time of cancellation, any costs incurred by Mysolution that cannot be undone (such as non-refundable travel and accommodation reservations for consultants) will be borne by the Client.
- 6.9. A cancellation and rescheduling of Consultancy must always be requested by email to Mysolution via [resourceplanning@mysolution.nl](mailto:resourceplanning@mysolution.nl).

**Article 7. Consultancy – Outside Opening Hours**

- 7.1. If Consultancy must be provided by Mysolution, at the express request of the Client, outside of foreseeable and/or scheduled work during Opening Hours, Mysolution is entitled to charge the following hourly rates:
  - a. For Consultancy performed by Mysolution outside Opening Hours during the weekend (from Friday 17:30 until Monday 08:15), Mysolution is entitled to charge one hundred and fifty (150) percent of the applicable hourly rate; and
  - b. For Consultancy performed by Mysolution outside Opening Hours at other times than those mentioned in subsection a of this article, Mysolution is entitled to charge one hundred and twenty-five (125) percent of the applicable hourly rate.

**Article 8. Consultancy - Stand-By Consultancy**

- 8.1. If the parties agree that Mysolution will have Consultancy on call during a specific period, without the Client being obligated to utilize this Consultancy, Mysolution is entitled to have one or more employees available outside of Opening Hours for the benefit of the Client (hereinafter: "**Stand-By Consultancy**").
- 8.2. Stand-By Consultancy is considered additional work unless the parties have already agreed on this Service in the approved Offer.
- 8.3. Prior to this Stand-By Consultancy, the parties will mutually agree on the duration and the number of employees regarding the Stand-By Consultancy.
- 8.4. Unless otherwise agreed, Mysolution will ensure that at least one employee is on-call for the Client during the agreed Stand-By Consultancy period.
- 8.5. If the parties have agreed on Stand-By Consultancy without an explicit duration, Mysolution is entitled to provide Stand-By Consultancy for as long as reasonably required given the circumstances.
- 8.6. Mysolution is entitled to charge Stand-By Consultancy to the Client at 150% of the applicable hourly rate for the duration in which Mysolution has performed active Consultancy for the Client.

- 8.7. For the duration of Stand-By Consultancy in which Mysolution has not performed active Consultancy, Mysolution is entitled to charge the Client 50% of the applicable hourly rate.

**Article 9. Consultancy – Travel and accommodation costs**

- 9.1. If Consultancy is provided on-site at the Client in the Netherlands, Mysolution reserves the right to charge the Client an agreed amount per consultant per working day. This amount includes the actual travel costs, any parking costs, and any related travel expenses. If the parties have not agreed on a fixed amount, Mysolution is entitled to charge 130 euros per person per day, excluding VAT.
- 9.2. Mysolution is entitled to charge the Client for all reasonable travel and accommodation costs related to Consultancy abroad. Mysolution will make efforts to inform the Client in advance about travel and accommodation costs related to the Consultancy. Even if Mysolution fails to inform the Client about these costs, Mysolution is entitled to charge reasonable costs to the Client.
- 9.3. In case of a dispute between the parties regarding the travel and accommodation costs already incurred or yet to be incurred for the Services, Mysolution's assessment of whether the costs were necessary and reasonable for the performed or yet-to-be-performed Consultancy shall be decisive.

**Article 10. Pixels on website**

- 10.1. The responsibility for the placement, maintenance, and proper functioning of pixels on the Client's website rests entirely with the Client. Data that is not correctly collected during the period in which the pixels are incorrectly placed or not functioning cannot be recovered. Mysolution is not liable for any damage or loss of data resulting from incorrectly placed or missing pixels by the Client or by third parties engaged by the Client.
- 10.2. In the event of updates or changes to the Client's website, the Client is obliged to ensure that the pixels are correctly placed and maintained to prevent disruptions to Services that use data from these pixels.
- 10.3. At the request of the Client, Mysolution can provide support for the placement or maintenance of the pixels. Prior notice of changes must be made by submitting a ticket through Mysolution's support system. Such work is considered additional work unless the parties have explicitly agreed on these Services in the approved Offer. The fee for these Services is calculated based on the usual hourly rate for Consultancy, which is invoiced on an actual cost basis.

**Article 11. Intellectual Property Rights**

- 11.1. All Intellectual Property Rights to the Software and other Materials developed or delivered by Mysolution under the Agreement remain vested in Mysolution or its suppliers unless otherwise agreed in writing.
- 11.2. The Client only obtains a non-exclusive, non-transferable, and non-sublicensable License to use the Software and other Materials for the duration of the Agreement, for its own use, and within the agreed Quantitative Subscription.
- 11.3. The Client is not permitted to make changes to the Software and other Materials or to remove or modify any Intellectual Property Rights designations from them.
- 11.4. The Client explicitly has no right to access the source code or source files of the Software and other Materials, except in cases where this is permitted by mandatory law.
- 11.5. The Client is not allowed to reverse-engineer the Software and other Materials (for example, by decompilation) unless this is permitted by mandatory law.

- 11.6. Mysolution may implement (technical) measures to protect the Software or Materials. If such security measures are in place, the Client is not allowed to bypass or remove them.

**Article 12. Client Data**

- 12.1. All rights to Client Data belong to the Client. Mysolution will only use Client Data to the extent necessary for the provision of the Services.
- 12.2. If and insofar as Client Data consists of personal data within the meaning of the General Data Protection Regulation ("GDPR"), the parties will enter into a Processor Agreement in this regard.
- 12.3. If the Agreement ends, regardless of the reason for termination, Mysolution will destroy or remove the Client Data as soon as possible, subject to the provisions of Article 9 of these General Terms and Conditions.

**Article 13. Exit procedure**

- 13.1. If the Agreement is terminated, Mysolution can, upon request of the Client made at least two (2) months prior to the end of the Agreement, provide a copy of the Client Data in a file format and manner deemed appropriate by Mysolution. Mysolution may charge the associated costs to the Client. The Client must submit the request in writing to Mysolution before the date on which the Agreement ends. Mysolution is only obliged to cooperate with the request if all amounts owed by the Client and any other obligations under the Agreement have been fulfilled.
- 13.2. Mysolution has the right to delete all Client Data and associated environments from the Agreement after delivering the copy as described above and receiving confirmation of receipt from the Client. If the Client does not submit a request as specified in paragraph 1 of this article, Mysolution has the right to delete the Client Data and associated environments 30 calendar days after the termination of the Agreement.

**Article 14. Confidentiality**

- 14.1. The parties will keep each other's Confidential Information strictly confidential and will only use it for the purpose for which it was provided.
- 14.2. The receiving party will ensure that the Confidential Information of the disclosing party is protected to the same level as its own confidential information but at least to a reasonable level of protection.
- 14.3. The parties will impose the above-described confidentiality obligation on their employees and any engaged third parties.
- 14.4. The obligation to maintain confidentiality of Confidential Information does not apply if and to the extent that the receiving party can prove that:
- a. it was already in possession of the information before it was disclosed;
  - b. the information is available from a third party without breaching any confidentiality obligations towards the disclosing party;
  - c. the information is available from public sources such as newspapers, patent databases, publicly accessible websites, or services; or
  - d. the information was developed independently without using any information from the disclosing party.
- 14.5. If a party receives an order from a competent authority to disclose Confidential Information, it has the right to comply with the order. However, the disclosing party will be informed of the order as soon as possible (in advance), unless this is not permitted by law. If the disclosing party indicates that it wishes to take action against

the order (for example, by seeking an injunction), the receiving party will delay disclosure until a decision has been made, to the extent legally possible.

**Article 15. Payment terms**

- 15.1. As compensation for the Services, the Client owes the prices specified in the Agreement. Unless expressly stated otherwise, all prices mentioned by Mysolution are exclusive of VAT and other government-imposed charges.
- 15.2. Mysolution has the right to invoice fees for the Services in advance. The Client hereby agrees to electronic invoicing by Mysolution. All invoices sent by Mysolution are subject to a payment term of 14 days.
- 15.3. If the Client disputes the content of an invoice, they are entitled to suspend the disputed (but not the remaining) portion of the invoice. Any dispute must be communicated to Mysolution in writing within the payment term. Mysolution will review the dispute as soon as possible to determine if it is valid. If the dispute is found to be unjustified, the Client must pay the outstanding amount within 14 days.
- 15.4. If the Client, except in the situation described in the previous paragraph, fails to pay an invoice in full within the payment term, they are automatically in default. In such cases, Mysolution is entitled to (i) charge statutory interest on the outstanding amount for business transactions and (ii) suspend the Services in whole or in part until the outstanding amount is fully paid by the Client.
- 15.5. If the Client fails to pay an outstanding invoice after a reminder or notice of default, Mysolution has the right to assign the claim for collection. Any extrajudicial and judicial costs incurred by Mysolution, including but not limited to lawyer, bailiff, and collection agency fees, will be fully borne by the Client.
- 15.6. Mysolution is entitled, but not obligated, to adjust its rates for all Services and Licenses, as well as related costs (such as travel expenses), once per year, based on the CBS Service Price Index (DPI), series 2015=100, of January compared to January of the previous year, without the Client having the right to terminate the Agreement.
- 15.7. Mysolution will make efforts to notify the Client at least 1 month in advance of any price changes.
- 15.8. The Client is not entitled to set off their payment obligations against any claims they have against Mysolution, regardless of the basis for the claims.

**Article 16. Liability**

- 16.1. The liability of Mysolution for damages or other claims resulting from a breach of contract (including violations of warranties or indemnifications), a wrongful act, or on any other basis, is limited per calendar year to the amount the Client owes Mysolution under the Agreement (excluding VAT) over a period of 12 months preceding the occurrence of the damage, with a maximum of 500.000 euros per year, regardless of the number of events. One-time costs (such as implementation costs) are explicitly excluded from this calculation.
- 16.2. Without prejudice to the foregoing, Mysolution is expressly not liable for indirect damages, including consequential damages. Indirect damages in this context include: lost profits, missed savings, reputational damage, diminished goodwill, and damages resulting from business interruption.
- 16.3. Mysolution's liability for a breach of contract only arises if Mysolution is promptly and properly given notice of default by the Client, with a reasonable period for remedying the breach, and Mysolution continues to be in breach after that period. The notice of default must contain a description of the breach in as much detail as possible to allow Mysolution to respond appropriately.



16.4. Any limitations or exclusions of Mysolution's liability in the Agreement will not apply if and insofar as the damage is the result of intent or deliberate recklessness by Mysolution's executive management or in cases of death or bodily injury.

**Article 17. Force majeure**

17.1. Mysolution is not obliged to fulfill the Agreement if its performance is prevented by force majeure.

17.2. The parties consider the following situations as force majeure: fire, floods, strikes, power outages, disruptions in the telecommunications infrastructure, force majeure on the part of Mysolution's suppliers, network attacks, import and export restrictions, war, and terrorism. The Client's liquidity problems do not qualify as force majeure.

17.3. If Mysolution has already partially fulfilled the Agreement or can still fulfill part of it at the time of force majeure, and that part has independent value, Mysolution has the right to execute the fulfilled or still fulfillable part separately and invoice the Client for it.

17.4. In the event of force majeure, Mysolution may suspend the execution of the Agreement for the duration of the situation. If the situation lasts longer than 3 months, both parties have the right to terminate the Agreement in writing without any obligation to compensate the other party.

**Article 18. Duration and termination**

18.1. If the Agreement solely pertains to the provision of specific Services that conclude with the completion of certain tasks or work (i.e., a "one-time agreement"), the term is equal to the period required to deliver the relevant Services.

18.2. If the Agreement fully or partially pertains to the periodic or continuous provision of certain Services (i.e., a "term agreement"), the duration will be specified in writing. If no specific agreements have been made regarding the term, the Agreement is considered to have been entered into for a minimum period of 12 months.

18.3. Unless otherwise agreed, a fixed-term agreement can be terminated in writing by both parties at the end of the term, with a notice period of 3 months. If no such termination occurs, the Agreement is automatically extended by 12 months.

18.4. Unless otherwise agreed, an open-ended agreement may be terminated in writing by either party after an initial period of 12 months, with a notice period of 3 months.

18.5. The parties are not allowed to terminate the Agreement prematurely, except in cases where a specific exception is explicitly made in these General Terms and Conditions or other parts of the Agreement.

18.6. Mysolution has the right to suspend the Agreement in whole or in part with immediate effect or terminate or dissolve the Agreement in whole or in part if:

- a. The Client does not fulfill their obligations under the Agreement in time, and the shortcomings are not remedied within a reasonable period after a notice of default. A prior notice of default is not required in cases where default occurs automatically by law; or
- b. The Client files for bankruptcy, is declared bankrupt, requests suspension of payments, is granted suspension of payments, the Client's business is liquidated, or the Client's business activities are ceased; or
- c. Circumstances arise that make the performance of the Agreement impossible or that reasonably cannot be expected to continue unchanged from Mysolution.

18.7. In the event of dissolution of the Agreement, the Services already delivered and the associated payment obligations will not be undone.

- 18.8. Mysolution is entitled to charge the Client for any costs incurred in relation to the third-party licenses purchased on behalf of the Client immediately after termination.
- 18.9. Upon termination or dissolution of the Agreement, any outstanding claims from Mysolution on the Client are immediately due and payable, regardless of the reason for termination.

**Article 19. Personnel and competition**

- 19.1. The Client is not allowed, during the term of the Agreement and for one year thereafter, to employ or otherwise directly or indirectly engage employees of Mysolution without prior written permission from Mysolution. This prohibition does not apply if the employee independently responds to a publicly offered vacancy published through regular channels.
- 19.2. For the purposes of this clause, employees of Mysolution are understood to mean individuals employed by Mysolution or one of its affiliated companies, or individuals who were employed by Mysolution or one of its affiliated companies within the past year, regardless of the reason for their departure.
- 19.3. Mysolution reserves the right to supply services to third parties, including competitors of the Client.
- 19.4. If the Client violates the prohibition mentioned in paragraph 1, Mysolution can, without prior notice of default, claim an immediately payable penalty of €50,000 per violation from the Client, plus €1,000 for each day the violation continues.
- 19.5. Notwithstanding the right to claim a penalty as specified in the previous paragraph, Mysolution reserves the right to claim compensation for damages if the damage exceeds the amount of the contractual penalty.

**Article 20. Amendments**

- 20.1. Mysolution has the right to amend these General Terms and Conditions and will notify the Client of any changes at least 30 days in advance. The changes also apply to Agreements that have already been concluded.
- 20.2. If the Client does not wish to accept a change, they may object in writing within 14 days of the announcement. If Mysolution decides to proceed with the change despite the Client's objection, the Client may terminate the Agreement in writing, effective up to the date the change takes effect.
- 20.3. The above procedure does not apply to minor changes or changes that are in the Client's favor. Such changes may be implemented unilaterally by Mysolution and with immediate effect. However, the Client will be informed of such changes as soon as possible.

**Article 21. Miscellaneous**

- 21.1. Dutch law applies to the Agreement. To the extent not otherwise prescribed by mandatory law, any disputes between the parties relating to the Agreement will be submitted to the competent court in the district where Mysolution is established.
- 21.2. If a provision in the Agreement is void, voidable, or otherwise invalid, this does not affect the validity of the entire Agreement. In such a case, the parties will replace the invalid provision with a new provision that reflects the original intention as closely as legally possible.
- 21.3. The parties may only transfer the rights and obligations arising from the Agreement to a third party with written consent from the other party. However, Mysolution has the right to transfer the Agreement to a parent, sister, or subsidiary company, or to a third party in the event of a merger or acquisition, without prior consent or cooperation

from the Client. Mysolution will notify the Client in writing as soon as such a transfer has taken place.

## Module A – On-premise Software

If the Agreement relates to the provision of Software installed within the ICT infrastructure of the Client or their suppliers (i.e., if the Software is offered as an on-premise solution), the following applies as specified in this module.

### Article 22. Installation and configuration

- 22.1. Unless otherwise agreed in writing, the Client is responsible for the installation and configuration of the Software. Mysolution may charge the Client for any support in this regard.
- 22.2. Unless otherwise agreed in writing, the Client is responsible for setting up a suitable and sufficient ICT infrastructure, taking into account the intended use of the Software.
- 22.3. Mysolution may provide minimum specifications upon request from the Client. The Client understands that these specifications may change over time, partly due to advancing technology.
- 22.4. Unless otherwise agreed, Mysolution is not obliged to load, convert, or migrate Client Data. Mysolution may charge the Client for support in this regard.
- 22.5. If Mysolution provides support for the installation or configuration of the Software, the Client must perform an acceptance test before the Software is put into use, in accordance with the provisions of Article 5 of these General Terms and Conditions.

### Article 23. Maintenance, support, and Availability

- 23.1. Only articles 35 through 39 of the Additional Service Level Conditions apply to on-premise Software. The rest of the Additional Service Level Conditions module does not apply to on-premise Software. In addition and/or deviation from the applicable articles of the Additional Service Level Conditions, the following provisions apply to the support, maintenance, and availability of the Software.
- 23.2. Mysolution strives for the highest possible Availability but cannot provide guarantees or other assurances as Availability also depends on the ICT infrastructure of the Client or a third party engaged by the Client where the Software is installed.
- 23.3. Mysolution and its suppliers may release updates and upgrades to fix bugs in the Software or improve its performance. This may result in a change in Functionality.
- 23.4. Additional costs may be associated with the provision of updates or upgrades. If implementing updates and upgrades is not part of the Agreement, the Client is responsible for switching to a new version of the Software.
- 23.5. The Client must switch to the latest available version of the Software as soon as Mysolution makes it available. Mysolution has the right to stop supporting older versions of the Software.
- 23.6. If the Client requests technical and/or practical support for using the Software, Mysolution may charge additional costs unless such support is explicitly part of the agreed Services.
- 23.7. Mysolution is not responsible or liable for any unavailability of the on-premise Services resulting from the Client's actions or omissions, including but not limited to:
  - a. the implementation of updates, patches, or changes to the Client's own systems;
  - b. defects in the Client's equipment, infrastructure, or network; and
  - c. unauthorized use or access by the Client or third parties.
- 23.8. Mysolution is not liable for damages resulting from errors (such as the configuration of the Software based on outdated laws and regulations) or problems resolved in updates or upgrades to the Software that have been made available.

**Article 24. Backups**

24.1. Mysolution is not obliged to make Backups of the Software or Client Data stored with it. The Client is responsible for this unless explicitly included as part of the agreed Services.

## Module B – Cloud-based Services

If the Agreement relates to the provision of Software installed on the ICT infrastructure of Mysolution or a supplier engaged by it (i.e., if the Software is offered as a cloud-based solution), the following applies as specified in this Module.

### **Article 25. Installation and configuration**

- 25.1. Unless otherwise agreed, Mysolution will make reasonable efforts to make the Services available as soon as possible after the Agreement has been concluded.
- 25.2. Mysolution is only obliged to load, convert, or migrate Client Data if the parties have explicitly agreed on this. Unless the parties have already made price agreements regarding these Services, Mysolution may charge the Client separately for such Services.
- 25.3. Before the Services are put into use, the Client must perform an acceptance test in accordance with the provisions of Article 5 of these General Terms and Conditions.

### **Article 26. Accounts**

- 26.1. To use the Services, the Client and its End Users require an Account. The Client and its End Users are responsible for keeping login details confidential. Accounts are personal and may not be used by multiple persons.
- 26.2. Unless otherwise agreed, the Client is also responsible on behalf of its End Users for creating, managing, and revoking Accounts when necessary. The Client must monitor whether the authorizations and access rights granted to End Users are still up to date.
- 26.3. All actions performed through an Account, even by End Users of the Client, are at the Client's risk. Mysolution may assume that these actions were performed by the Client or with the Client's consent.
- 26.4. If the Client suspects or detects misuse of an Account, the Client must take all necessary measures to prevent (further) misuse, such as changing the password. If the Client is unable to take appropriate measures themselves, they must immediately report the incident to Mysolution so that Mysolution can take the necessary measures.

### **Article 27. Usage rules**

- 27.1. The Client is prohibited from using the Services in violation of Dutch or other applicable laws and regulations or in any other unlawful manner.
- 27.2. In particular, the Client is prohibited from modifying settings within the Software that may result in employees and/or temporary workers being in a worse position in terms of salary or other employment conditions than is legally permissible. The Client must also refrain from using the Services in a way that hinders other customers of Mysolution or causes damage to Mysolution's or third parties' systems or networks. It is prohibited to run processes or programs that the Client knows or should know will hinder Mysolution or third parties or cause damage.
- 27.3. All actions of End Users are at the Client's risk. The Client is responsible for informing End Users of the applicable usage rules and any other relevant terms.
- 27.4. If Mysolution detects that the Client is violating the terms or receives a complaint about this, it will warn the Client. If this does not lead to an acceptable solution, Mysolution may intervene itself. In urgent or serious cases, Mysolution may intervene without warning.
- 27.5. The Client indemnifies Mysolution against all damages and claims from third parties resulting from one or more violations of the provisions of this article.

**Article 28. Maintenance, support, and Availability**

28.1. Unless otherwise agreed by the parties, the provisions regarding Maintenance, support, and Availability for cloud-based Services are governed by the Additional Service Level Conditions, included as Module C in these General Terms and Conditions.

**Article 29. Usage limits**

29.1. Mysolution may impose a maximum amount of data storage or network traffic that the Client may or can use under the Services.

29.2. If usage limits are exceeded, Mysolution may charge additional costs or (after written notice) limit the use of the Services to the permitted capacity.

29.3. If no limit is set for the Services, a "fair use" policy applies. This means that the Client may use up to twice the capacity that other Mysolution customers use under similar circumstances.

29.4. Mysolution is not liable for the consequences of the slow or improper functioning of the Services if the Client exceeds the applicable usage limit (whether or not based on fair use).

29.5. Mysolution is entitled to take appropriate measures to prevent inconvenience to third parties, including other Mysolution clients, if such inconvenience is caused by breaches of the agreed usage limits or, in the absence of such limits, the "fair use" policy.

29.6. The Client indemnifies Mysolution against all damages and claims from third parties, including but not limited to other Mysolution clients, if the damages or claims are caused by breaches of the agreed usage limits or, in the absence of such limits, the "fair use" policy.

**Article 30. Scaling of Quantitative Subscription**

30.1. If the parties have agreed on a Quantitative Subscription, the Client is entitled to scale up this subscription at any time. Mysolution will endeavor to implement this scaling up as quickly as possible for the Client. Mysolution is entitled to immediately invoice the extra costs related to the scaling up of the Quantitative Subscription to the Client or to add them to the next scheduled invoice for the Services.

30.2. If the parties have agreed on a Quantitative Subscription, the Client is entitled to scale down the agreed Quantitative Subscription by a maximum of fifteen (15) percent per year after Mysolution has provided the License. The Client cannot claim any previous years in which they did not scale down the Quantitative Subscription. The scaling down of the Quantitative Subscription will be realized three months after the Client's request for a Quantitative Subscription. From that moment, the costs for the Services will be adjusted accordingly.

## Module C – Additional Service Level Conditions

If the Agreement relates to cloud-based Software, as defined in Module B, the service levels from this module apply. For on-premise Software, as defined in Module A, the service levels from this module only apply to the extent explicitly stated in Module A.

### Article 31. General

31.1. The Additional Service Level Conditions define the minimum level of Services provided by Mysolution to the Client in terms of tasks, responsibilities, service levels, procedures, and related agreements.

### Article 32. Maintenance of the Services

32.1. Mysolution will make every effort to maintain the Services for the Client during the term of the Additional Service Level Conditions.

32.2. Maintenance work may result in temporary unavailability or limited Availability of the Services. To minimize inconvenience caused by Mysolution's work, Mysolution will make every effort to carry out Planned Maintenance at times when the Services are generally used less by the Client and/or other Mysolution customers.

32.3. In deviation from paragraph 2 of these Additional Service Level Conditions, Emergency Maintenance, which cannot be delayed due to its Impact and Urgency, may be carried out without prior approval from the Client. Mysolution will make every effort to inform the Client as soon as possible about the nature and expected duration of the work.

32.4. Maintenance may result in adjustments to and/or discontinuation of existing Functionalities. Mysolution will make every effort to inform the Client within a reasonable time if there is a significant change in Functionality.

### Article 33. Availability

33.1. Mysolution will make every effort to achieve a minimum Availability of 99% for all Services, unless otherwise agreed.

33.2. Availability is calculated by Mysolution on an annual basis. The following formula is used for calculating the Availability described in paragraph 1 of this article:

$$B = \frac{Tm - \sum Om}{Tm} \times 100 \%$$

**Tm** = total number of minutes in the relevant year

**Om** = (sum of) the number of minutes of unavailability in the relevant year

**B** = realized Availability in the relevant year

33.3. When calculating Availability using the formula above, unavailability due to Planned Maintenance and force majeure, as defined in the General Terms and Conditions, is not included.

### Article 34. Backups

34.1. Mysolution will perform daily Backups to restore an older version of the Software in the event of (critical) Incidents and other malfunctions on Mysolution's side. However, Mysolution is not a backup service, which means that Mysolution does not create and restore Backups of Client Data upon request. If Mysolution provides assistance in this matter, reasonable costs may be charged to the Client.



34.2. The retention period for Backups made by Mysolution varies by type of Backup. Backups made by Proxsys are always retained for a minimum of 7 days. After that, they may be deleted by Proxsys unless otherwise agreed. It is also possible that certain Backups are retained longer. Upon the Client's request, Proxsys will provide more detailed information about the Backups.

34.3. If a Backup (of an old version) of the Software is restored, the version saved after the Backup was made will be lost.

**Article 35. Contact**

35.1. The Client will appoint no more than two contact persons to communicate with Mysolution on behalf of the Client.

35.2. Only the Client's designated contact persons are authorized to submit the following notifications or perform the following actions:

- a. Submitting questions from End Users to the helpdesk;
- b. Submitting a change request;
- c. Reporting Incidents.

35.3. The Client is responsible for ensuring that Mysolution has up-to-date and complete contact details. Mysolution may be unable to provide feedback to the Client if the contact details on file are incorrect or outdated.

**Article 36. Helpdesk**

36.1. Mysolution will provide the Client with a reasonable level of support in the event of End User inquiries. The Client can contact Mysolution during the Opening Hours listed below:

Days	Opening Hours (Dutch time)
Monday to Friday	08.15-17:30
Saturday and Sun	Closed
Official holidays*	Closed

\* Official Dutch holidays as defined in Article 3 of the General Terms Act (*Algemene termijnenwet*).

36.2. The contact persons mentioned in Article 30.1 of these General Terms and Conditions can contact the helpdesk via Mysolution's ticket system, accessible at: <https://mysolution.topdesk.net>.

36.3. Mysolution will make every effort to respond to End User inquiries and requests that do not qualify as a change request or Incident within 24 hours of receiving the question or request, counting only the time within the specified Opening Hours.

**Article 37. Change Requests**

37.1. The Client can submit a request to Mysolution for changes to the Services. Such requests can be submitted to the helpdesk during Opening Hours. Mysolution will make every effort to assess whether a change request can be implemented within five (5) working days and provide feedback to the Client. In no case is Mysolution obliged to implement the Client's change requests. Mysolution is entitled to charge reasonable costs to the Client for work resulting from change requests.

**Article 38. Incident Reporting**

38.1. If the Client detects an Incident while using the Services, they must report it immediately via Mysolution's ticket system, accessible at: <https://mysolution.topdesk.net>.

38.2. The Client will provide Mysolution with all reasonable cooperation needed to investigate and resolve the reported Incident. This includes, but is not limited to, providing Mysolution with all necessary information and granting access to locations, services, or accounts under their control as necessary for resolving the Incident. Mysolution may suspend handling the report if the Client does not provide the reasonably required cooperation.

**Article 39. Handling of Incidents**

39.1. A Mysolution employee will assess the Incident reported by the Client as soon as possible to determine the Priority. The Priority is determined based on the Impact of the Incident. The Impact is classified according to the following overview, based on the information provided by the Client:

Impact	
Category	Description
<b>High (H)</b>	<ul style="list-style-type: none"> <li>- A large group of the Client's employees is affected.</li> <li>- A large group of End Users is affected.</li> <li>- The financial impact is likely to exceed the License costs for the Software over 6 months.</li> <li>- There is a significant risk of reputational damage.</li> </ul>
<b>Medium (M)</b>	<ul style="list-style-type: none"> <li>- A limited group of the Client's employees is affected.</li> <li>- A limited group of End Users is affected.</li> <li>- The financial impact is likely to exceed 2 months but be less than 6 months of License costs for the Software.</li> <li>- The possibility of some reputational damage is plausible.</li> </ul>
<b>Low (L)</b>	<ul style="list-style-type: none"> <li>- Only a small number of the Client's employees is affected.</li> <li>- Only a small number of End Users is affected.</li> <li>- The financial impact is likely to be less than 2 months of License costs for the Software.</li> <li>- There is only a small chance of reputational damage.</li> </ul>

Urgency	
Category	Description
<b>High (H)</b>	<ul style="list-style-type: none"> <li>- The damage from the Incident increases rapidly.</li> <li>- The disrupted processes are highly time-sensitive.</li> <li>- Swift intervention can prevent the Incident from worsening.</li> </ul>
<b>Medium (M)</b>	<ul style="list-style-type: none"> <li>- The damage from the Incident will increase significantly over time.</li> <li>- The disrupted processes can be delayed for some time.</li> </ul>
<b>Low (L)</b>	<ul style="list-style-type: none"> <li>- The damage from the Incident will increase minimally over time.</li> <li>- The disrupted processes are not or barely time-sensitive.</li> </ul>

- 39.2. Based on the Impact and Urgency assigned to an Incident, Mysolution assigns a Priority to the Incident using the matrix below:

		Impact		
		High (H)	Medium (M)	Low (L)
Urgency	High (H)	1	2	3
	Medium (M)	2	3	4
	Low (L)	3	4	4

- 39.3. If the Client disagrees with the Priority assigned to the Incident by Mysolution, they must immediately report this to the helpdesk, after which the issue will be escalated to management level for a resolution. The parties will make every effort to reach an agreement on the Priority of the relevant Incident.

- 39.4. Mysolution will make every effort to meet the Response Time and Resolution Time for an Incident based on the assigned Priority, as shown below:

Priority	Response Time	Resolution Time
1 (Critical)	30 minutes	4 hours
2 (High)	4 hours	16 hours
3 (Medium)	12 hours	5 working days
4 (Low)	24 hours	20 working days

- 39.5. When calculating the Response Time and Resolution Time, hours outside Opening Hours are not counted.
- 39.6. Mysolution will make every effort to provide the Client with reasonable updates on its progress and the expected time for further resolution of the Incident.
- 39.7. Once the Incident has been resolved, Mysolution will make every effort to inform the Client as soon as possible about the (presumed) cause of the Incident and how it was resolved.