



Terms of Service Harborn - Version 2.0,
01 February 2024

1. Definitions



TERM	DEFINITION
Business days/hours	Standard business days/hours are Monday to Friday from 9:00 to 17:30 CET with the exception of public holidays in the Netherlands.
Harborn	Harborn B.V. a Dutch limited liability company with registration number 24302539 and as registered address Westblaak 39, 3012 KD Rotterdam, the Netherlands.
Harborn Product	A software application licensed by Harborn to Customer as identified in the relevant Order.
Custom Software	An enhancement, modification or add-on expansion of an existing Harborn Product or a software application separately developed by Harborn on the suggestion or request of Customer.
Customer	Party who was issued a License to use a Harborn Product and/or concluded an Order for Services with Harborn.
Customer Data	Data which is (i) imported by Customer in a Harborn, (ii) separately provided by Customer to Harborn in order to enable the provision of Services by Harborn or (iii) produced by Customer using the Harborn Product (excluding any data made available by Harborn itself via or as part of the Harborn Product).
Documentation	The then-current end user manuals made available by Harborn to Customer published by Harborn for a Harborn Product.
Functional Deviation	A material deviation of the functionality and/or configuration of the Harborn Product from the Specifications.
Hosting Services	Providing and managing a computer environment connected to the internet to host a Harborn Product and enabling the Customer to use such Harborn Product over the public internet.
Intellectual Property Rights	All copyrights, patents, database rights, rights in trademarks, designs, know-how, logos, confidential information, rights in domain name registrations and similar rights (whether registered or unregistered).
License	A license granted to an Customer to use a Harborn Product as documented in an Order and subject to the License Conditions.
License Conditions	The usage conditions and restrictions applicable to a License as set out in the relevant Order and in these Terms of Service.

Modification	Update to a Harborn Product to make a change to the Harborn Product, such as implementation of Custom Software, changing its configuration, settings, functionality, interfaces or technical capabilities.
Offer	Written offer issued by an authorised representative of Harborn for the provision of Services to the Customer.
Order	Offer which is accepted by the Customer or other mutual written agreement between Harborn and Customer for the delivery of Services to Customer by Harborn.
Pre-paid Service Package	A pre-paid number of hours of Services procured by Customer as a package from Harborn for the provision of Services as described in the relevant Order (generally also referred to as a “Strippenkaart”).
Professional Services	Services of Harborn other than Support Services, including but not limited to training, consultancy, development and installation services.
Services	All services of Harborn including the issuing of Licenses, Support Services, Hosting Services and Professional Services.
Specifications	The expressly agreed functional specifications for the Harborn Product as documented in writing.
Support Services	The maintenance and support services agreed to be provided by Harborn to the Customer with respect to a Harborn Product as agreed in an Order, subject to the terms set out in clause 5.
Support SLA	The then current maintenance and support policy of Harborn for the relevant Harborn Product which details the operational aspects of the Support Services agreed to be provided under an Order (subject to Customer specific arrangements if expressly agreed to apply as documented in the Order or a Customer specific Support SLA as attached to or referred to in the Order). If Hosting of the Harborn Product is part of the Services agreed to be provided to the Customer, the Support SLA for the Hosting Services will also set out the committed service levels for such Hosting Services.
Support Updates	Updates to a Harborn Product provided by Harborn as part of standard Support Services such as to correct Technical Errors and to ensure future proper technical functioning.
Technical Error	(i) A technical programming error in the Harborn Product; or (ii) (if Harborn provides for the Hosting of the Harborn Product for Customer) an error in the Hosting Services which causes such Harborn Product to materially mal-functional technically (e.g. crash, inability to access or operate available functions, inability to log in, unworkable slow performance). Technical Errors exclude Functional Deviations of the Harborn Product and other requests for changes to Customer specific settings and configurations regarding desired or required functionality,



user management and new technical features. Technical Errors exclude issues caused by user error or external events for which Harborn is not responsible.



Terms of Service

These terms of Services of Harborn which are applicable to all Services of Harborn.

Update

Support Updates and Modifications.



2. Application of Terms

- 2.1 Introduction:** These Terms of Service apply to all Services of Harborn, all Offers of Harborn and all Orders entered into by Harborn with the Customer with respect to the supply of Services by Harborn. If Customer accepted the applicability of the Terms of Service for any Order, Customer agrees they will also be applicable to all subsequent Orders and Offers between Harborn and Customer.
- 2.2 Offers and Orders:** Customer may accept Offers issued by Harborn by signing them and sending these to Harborn or by accepting them online (if the Offer is offered online for acceptance and electronic signature). Offers expire if not accepted by Customer within 30 days of the date they were provided, unless another expiry date is expressly included. Offers made by Harborn online may be revoked without notice. Apparent typos and errors in Offers do not bind Harborn and Harborn may reject or terminate Orders based on Offers containing such apparent errors, provided Harborn does so promptly after discovering the error or typo.

3. License Terms

- 3.1 License grant:** If Customer is granted a License to use a Harborn Product, such License will be personal to Customer, non-transferable, non-exclusive, for its own internal business purposes, for the expressly permitted scope of use as set out in the Order and subject to the usage limitations set out in such Order and these Terms of Service. The License term is set out in the Order, and may be perpetual, for a limited term or subscription based.
- 3.2 License scope:** Customer shall only be allowed to make use of the Harborn Product within the License boundaries set out in the Order (so only with the agreed number of users, accounts or other quantitative boundaries set out in the Order). Where a license is granted for a limited number of users, this means (unless another model is expressly agreed in writing to apply in the relevant Order) that only for that number of users user accounts may be configured in the Harborn Product and that each such user account may only be used by one named individual employee or contractor of Customer (so the sharing of one account by multiple employees or contractors is expressly not allowed, but an account may be transferred to a new employee or contractor if the previous employee / contractor changes function or leaves the employment of Customer). If Customer configures more user accounts in the Harborn Product than originally licensed, Customer must notify Harborn and Harborn will then invoice the license fees to Customer at the applicable standard rates.
- 3.3 Copies and modifications:** Customer may not copy or use any part of a Harborn Product, including any concept, knowhow, data model, process flow or other proprietary aspect of the Harborn Product other than as required to be able to use the Harborn Product within the scope of the granted License. Furthermore it is strictly prohibited to (try to) amend, modify or change, reverse engineer, decompile, modify or create derivative works of a Harborn Product or to enable or instruct third parties to do so, except to the extent such restriction is prohibited under applicable mandatory law. For the avoidance of doubt, this restriction does not apply to Customer Data, which Customer may use in any way it sees fit.



- 3.4 Object code license:** Unless expressly otherwise agreed for individual Harborn Products, the License only applies to the Harborn Product in compiled / object code form (so excluding any access or license to use the underlying source code used by Harborn to create the compiled / object code version of the Harborn Product).
- 3.5 Harborn / licensor marking:** Customer will refrain from removing any product identification marks or copyright symbols or messages indicating Harborn's or its licensor's rights on any computer program, modules, modifications, manuals etc. connected with Harborn Products.
- 3.6 No use for/by third parties allowed:** Customer may only use the Harborn Products for its own internal business purposes. Customer may not make the use of the Harborn Products available for use by any third party, nor use the Harborn Products for the benefit of any third party on any basis including by reselling them or by combining them with the services provided by Customer to third parties. This expressly includes a prohibition to use the Harborn Product for or allow the use by corporate affiliates / group companies / subsidiaries of Customer unless this is expressly otherwise agreed in the Order.
- 3.7 Test/ beta/ evaluation license:** Any License granted as a 'test' / 'beta' / 'acceptance' / 'training' / 'demo' License (or similar indication that the License is not a full commercial use license), shall be used by Licensee for the sole purpose of evaluation or testing of the Harborn Product and may not be used for normal operational / commercial use. Any such License is provided without warranty on an "as is" basis and without entitlement to any Support Services (except as may be expressly otherwise agreed in the Order) and may be revoked by Harborn at any time for any reason.
- 3.8 Unlicensed use of Harborn Product:** Any use of a Harborn Product beyond the agreed usage scope by Customer without prior agreement in an Order entitles Harborn to invoice Customer for the additional usage made at Harborn then current standard pricing for such expanded use and entitles Harborn to terminate the License for cause.
- 3.9 License warranty:** Each Harborn Product is licensed to Customer by Harborn with the following standard warranty commitments:
1. Harborn will indemnify and hold Customer harmless from any claim from a third party that the use of the Harborn Products by the Customer infringes any third party's Intellectual Property Rights in accordance with clause 10 below; and
 2. For a period of 8 weeks after the Harborn Product is first made available to Customer (and for as long as Customer procures Support Services from Harborn for the Harborn Product), Harborn commits to use its reasonable efforts to address and resolve all Technical Errors in the Harborn Product in accordance with the applicable Support SLA. For Custom Software the specific warranty commitment set out in clause 8.5 below applies. Subject to the above warranties, all Harborn Products are licensed "as is", without any further warranty of any kind, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement and use of the Harborn Products is entirely at Customer's own risk.
- 3.10 Open source software:** The License Conditions set out in this clause 3 do not apply to third party open source software that is made available through Harborn for use by Customer. With respect thereto the usage limitations and conditions apply as set out in the relevant third

party open source license terms as applicable to such open source software. However with respect to any modifications and additions made by Harborn to such third party open source software and licensed by Harborn to Customer pursuant to an Order, the terms in this clause 3 apply in full.



4. General Terms Services

- 4.1 Professional Services vs other Services:** All forms of Service that may be provided by Harborn other than Support Services, Hosting Services and the sale of Licenses, are Professional Services. Fees for Professional Services are not included in the fees agreed or quoted by Harborn for Licenses, Hosting Services and Support Services.
- 4.2 Terms and dates:** All delivery dates and other periods included by Harborn in Orders or Offers for Services are determined on the basis of the information known to Harborn when it agreed or communicated such dates or periods and may be subject to change. Harborn will use its reasonable efforts to observe agreed delivery dates and other periods as much as possible, subject to the Customer's timely performance of its obligations and will give notice to Customer in case any specifically communicated period or date is expected to change.
- 4.3 Customer co-operation:** The Customer must furnish Harborn in a timely manner with all information and cooperation which is reasonably requested by Harborn to enable Harborn to provide the Services. Customer will further provide Harborn with information and co-operation which it knows to be relevant for Harborn to enable Harborn to provide the Services in an efficient manner. With respect to Custom Software, business specific functionality is implemented under the responsibility of Customer and on the basis of its input and its active collaboration with Harborn in establishing what is required for the effective support of Customer's business requirements.
- 4.4 Customer responsibility for legal use:** Customer is responsible for the compliance to applicable laws for all use Customer makes (or enables any third party to make) of the Harborn Products, all data it uploads to and distributes via the Harborn Products and all related instructions it gives to Harborn in developing, configuring and using the Harborn Product for Customer. Customer shall at all times ensure that the use made of the Harborn Product (and if applicable of Hosting Services), all its instructions to Harborn with respect to the Services and all Customer Data, do not violate any third party rights (expressly including any Intellectual Property Rights) and do not constitute a tort against any third party (e.g. spam, discrimination, fraud etc.). Harborn's agreement to provide the Services to Customer, to process Customer Data or to perform Services in accordance with the instructions of Customer shall not be held to imply any legal advice by Harborn to Customer or any waiver with respect to any restriction under this clause. Customer will indemnify and hold Harborn harmless from any third party claim caused by any violation by Customer of this clause.

5. Support Services



- 5.1 Support Services:** Customer is entitled to receive Support Services from Harborn for a Harborn Product if it procures Support Services for such Harborn Product under a signed Order and has paid all applicable fees for such Support Services when due. The scope of the Support Services is as agreed in the relevant Order and the related procedures, service levels and operational and technical terms of use are described in the then current Support SLA of Harborn for the Support Services for the relevant Harborn Product (and if also procured, the associated Hosting Services) as communicated by Harborn to Customer from time to time. Material changes to Support SLAs are announced by Harborn in writing and at least 2 months in advance.
- 5.2 Remote Access:** As standard Support Services are provided remotely. If Customer itself arranges for the hosting environment on which the Harborn Product is used by Customer, then Harborn must be enabled by Customer to access the Harborn Product on such hosting environment online in accordance with the technical requirements of Harborn to enable the provision of Support Services. Onsite support is not included in standard fees for Support Services and in case on site assistance is required for any reason, this will be separately charged to Customer as Professional Service.
- 5.3 Customer responsibilities for receiving Support Services:** Customer must ensure that employees contacting Harborn to receive general support and/or to report Technical Errors have been suitably trained to operate the Harborn Products and have consulted the available Documentation of the Harborn Products before contacting Harborn for support. General user support (excluding reporting Technical Errors) is subject to a maximum of 1 hour per month (or such other maximum as may be agreed in the Order or set out in the Support SLA) and additional hours are invoiced as Professional Service.
- 5.4 Technical Errors:** Customer must when reporting a Technical Error provide all relevant information and co-operation to Harborn as reasonably requested to enable Harborn to identify, reproduce and resolve the Technical Error. Harborn reserves the right not to resolve issues as part of Support Services: (i) caused by failures to follow usage instructions set out in the Documentation, (ii) caused by uploaded data not compliant with the related technical requirements; (iii) with respect to restoring Customer data; (iv) issues in hardware or third party software used in combination with the Harborn Product not provided by Harborn; (v) requests for Modifications; and (v) other external events for which Harborn is not responsible. Assistance with respect to such issues may, if agreed to be provided by Harborn, be separately charged by Harborn as Professional Service to Customer.
- 5.5 Support Updates:** As part of Support Services, Harborn may install Support Updates of the Harborn Product. Their implementation may temporarily effect availability of the Harborn Product for use by Customer. Harborn will announce and perform Support Update implementations in accordance with the procedures set out in the relevant Support SLA. If Customer provides for the hosting of the Harborn Product itself, Customer must enable the installation of the Update when requested by Harborn. Harborn may refuse to address Technical Errors if Customer does not enable the installation of a Support Update that would prevent or resolve such Technical Error. If Harborn cannot perform the installation of an Update remotely on a hosting environment arranged for by Customer in accordance

with the technical requirements of Harborn to perform such service efficiently, then the implementation is performed as a Professional Service.



- 5.6 Modifications:** Creating and implementing Modifications is not part of standard Support Services and are performed as Professional Services for which Customer may procure Pre-Paid Service Packages. Harborn may also offer optional Modifications to Harborn's Products to offer new or improved functionality which may be subject to additional license fees. License fees for such optional Modifications are not mandatory for the Customer to order and are only chargeable to Customer if Customer expressly agreed to the applicable additional license fee in writing.
- 5.7 Term and renewal Support Services:** Unless otherwise set out in the Order, Support Services are ordered and provided for an initial term of 1 year. The initial term for procured Support Services will start the date the Harborn Product is first made available by Harborn for use by Customer. After the expiry of the applicable initial term for the Support Services, Support Services are automatically renewed for additional one year periods until either party, by giving at least 3 months prior written notice, indicates not to wish to renew the Support Services for an additional term.
- 5.8 Quality commitment Support Services:** Harborn will provide Support Services in a professional and diligent manner and commits to use its reasonable efforts to address and resolve Technical Errors in the Harborn Product for which the Support Services are provided in accordance with the applicable Support SLA. Harborn expressly does not warrant it will resolve all Technical Errors or that the Harborn Products will operate without Technical Error and/or uninterrupted. Resolution of a Technical Error in the Harborn Product may require the co-operation of Customer and may require Customer to temporarily accept minor other shortcomings or to install an Update of the Harborn Product.

6. Professional Services - General

- 6.1 Scope:** The scope and content of the Professional Services will be specified in the Order or separately agreed in writing pursuant to the Order.
- 6.2 Fees for Professional Services:** Unless expressly otherwise agreed, Professional Services are charged on a time and material basis against the standard hourly rates of Harborn or such hourly rates as may be agreed in the relevant Order. Communicated budgets for performing certain activities are (unless expressly otherwise agreed in the Order) non-binding estimations and not fixed prices. Harborn will only with the written consent from Customer spend and invoice time and/or costs beyond the agreed budget. Agreed fixed prices for Professional Services for certain specific activities or deliverables are subject to the assumptions and conditions as set out in the Order and on the general assumption Customer provided correct, up to date and complete information for Harborn to base its fixed price offer on, and may be proportionally changed by Harborn if such assumptions prove wrong.
- 6.3 Service hours:** The Professional Services shall be performed on Business Days and during the standard Business Hours of Harborn. For Professional Services agreed by Harborn to be

performed outside these timeframes on the express request of Customer, an uplifted fee will apply as communicated by Harborn.



- 6.4 Quality commitment Professional Services:** Harborn will provide Professional Services in a professional and diligent manner. In case deliverables created as the result of Professional Services contain manifest errors or unprofessional shortcomings caused directly by a failure by Harborn to perform the Professional Services to the standard set out in this clause, and Customer reports this to Harborn within 30 days after the delivery of the relevant deliverable, Harborn will as sole remedy use its reasonable efforts to correct such material shortcoming or alternatively offer Customer a proportional reduction in the fees charged for the relevant Professional Services. For Custom Software created as Professional Service the specific warranties set out in clause 8 below apply instead of this general warranty.

7. Professional Services – Installation

- 7.1 Installation scope:** In case Harborn agreed to provide installation services for a Harborn Product licensed to Customer, Harborn will as part of such installation Service only apply such configurations and modifications of the Harborn Product as may be expressly agreed in the relevant Order. Harborn will not be required to install or configure the Harborn Product in such a way that it may work or connect with other current or future software or systems of Customer or third parties, unless establishing the specific interface was expressly agreed in the Order to be created by Harborn as part of the agreed Services.
- 7.2 Installation preparation:** If Harborn has agreed to implement a Harborn Product on a hosting environment arranged for by the Customer, then Customer must ensure the appropriate equipment, resources, personnel etc. are available to allow Harborn to implement the Harborn Product per the agreed date in accordance with the technical requirements of the Harborn Product as set out in the Support SLA and/or as separately communicated by Harborn . Customer is responsible to ensure at its cost that the hosting environment complies with such requirements (including potential future changes such as patching OS software, increasing processing and/or storage capacity and maintaining security of the hosting environment as needed to accommodate the proper functioning of the Harborn Product).
- 7.3 Remote installation:** Harborn will perform the installation of Harborn Products (and Updates) remotely and Customer is required to enable such remote installation by making the hosting environment of the Customer available for a remote connection in accordance with Harborn s requirements. Should it be required that an employee of Harborn performs installations on site, the fees payable for the installation will be increased with travel time and expenses (unless those were expressly agreed to be included in the agreed fees for the installation in the Order).
- 7.4 Customer Data:** Customer will ensure any Customer Data provided for installation and implementation activities complies with the relevant technical standards as set out in the Documentation and/or otherwise communicated by Harborn. Data conversion and migration is not part of Services offered by Harborn and/or included in communicated or agreed pricing except as may be expressly otherwise agreed in the Order.

8. Professional Services - Custom Software Services



- 8.1 Custom Software:** If Harborn agrees to develop Custom Software as customisation of a pre-existing standard Harborn Product on request of a Customer, such Custom Software will, unless expressly otherwise agreed in the Order, be implemented by Harborn in generally distributed standard Updates of the Harborn Product. Harborn decides in which Update of the Harborn Product the Custom Software will be included, which may not be the first Update released by Harborn after the enhancement is agreed to be developed for Customer. The Update of the Harborn Product containing the enhancement is also covered by the Support Services procured by Customer for such Harborn Product under the same terms unless expressly otherwise agreed in the Order for the creation of such Custom Software.
- 8.2 License Custom Software:** Customer will be granted a License for Custom Software in accordance with the License Conditions. Customer will not acquire any Intellectual Property Rights or rights to exclusivity in any Harborn Product, any Documentation or any Custom Software, modification or addition thereto developed by Harborn or a third party engaged by Harborn, including those paid for, suggested or requested to be developed by Customer.
- 8.3 Acceptance of Custom Software:** Within 14 days from delivery of the Custom Software by Harborn to Customer, Customer will perform testing to establish that the delivered Custom Software operates and performs in accordance with the agreed upon Specifications. If it becomes apparent that the Custom Software contains Technical Errors or Functional Deviations, the Customer shall report the test results to Harborn in writing, with sufficient detail to enable Harborn to reproduce and address the reported Technical Error or Functional Deviations. Harborn will use its reasonable commercial efforts to remedy the reported Technical Error or Functional Deviation and subsequently make the Custom Software available for a renewed test by Customer. In case Customer has not reported a Technical Error or Functional Deviations in the delivered Custom Software within 14 days after delivery of the Custom Software and/or has started operational use of the Customer Software, it shall be deemed to be accepted by Customer per the end of the 14 day period.
- 8.4 Minor issues do not block acceptance:** Minor Technical Errors or Functional Deviations which, by their nature and/or number, do not prevent the start of operational use by Customer of the Custom Software and/or the start of the delivery of subsequent Services (e.g. next round of development), will not prevent acceptance, without prejudice to Harborn's obligation to correct such minor Technical Errors or Functional Deviations.
- 8.5 Warranty Custom Software:** For a period of 8 weeks following the date the relevant Custom Software is accepted by Customer, Harborn will correct (subject to the conditions of clause 5.4 above and under the commercial terms agreed in the Order): (i) Technical Errors; and (ii) Functional Deviations, which Customer could not reasonably have identified at the time of the acceptance of the Custom Software.
- 8.6 Scrum / agile:** For Professional Services in the form of agile'/ scrum' development of Custom Software, the budgets agreed in the Order for development sprint(s)' are fixed prices for performance of the relevant development sprint(s) with the agreed number of developers with the agreed expertise for the agreed number of days. The actual output in terms

of software functionally (user stories' / story points') realised by the end of each such sprint (and all sprints combined) is not fixed or guaranteed. Harborn and Customer will in each development sprint work intensively together in good faith on a best efforts basis to maximise the number of realised user stories' / story points' in the form of Custom Software ready for use by Customer by the end of each sprint. For agile' / scrum' development, the warranty as per clause 8.5 for the created Custom Software is strictly limited to the commitment to correct Technical Errors reported during the warranty period which are caused by unprofessional development work by Harborn staff (and the warranty expressly does not include creating or finishing the creation of not realised functionality per the end of the sprint). The warranty period for this limited warranty starts on the day after the results of the relevant development sprint are made available to the Customer.



9. IP Rights

- 9.1 Ownership Harborn Products:** All Intellectual Property Rights in or related to the Harborn Products, and any modifications thereto, including those suggested or requested to be made by and/or paid for by Customer (but excluding any Customer Data) are and will remain to be fully and wholly owned by Harborn and its licensors.
- 9.2 Ownership Customer Data:** All data which Customer uploads in the Harborn Products or requests Harborn to upload in the Harborn Product are considered Customer Data and are and will remain to be fully and wholly owned by Customer and its licensors. Harborn will not use the Customer Data for any other purpose than to provide the Services to Customer, to manage, maintain and improve the Services and to comply with applicable laws.

10. IP Indemnity

- 10.1 IP indemnity commitment:** As far as Harborn is aware, the Harborn Products do not infringe upon any third party Intellectual Property Rights when used in accordance with the applicable License Conditions. Harborn shall, as sole and exclusive remedy, defend the Customer as per the terms of this clause 10 at its expense against any claim from a third party that the use of the Harborn Products by the Customer infringes any third party's Intellectual Property Rights (IP Claim).
- 10.2 Conditions for IP indemnity:** Harborn shall as sole remedy pay all costs, damages and attorney's fees that a court finally awards to the third party making the IP Claim, or make all payments related to a settlement agreed by Harborn with such third party concerning such IP Claim, provided that:
1. Such IP Claim is not in any way caused by any Customer Data or by any act or omission of Customer;
 2. Customer did not violate the applicable License Conditions for the Harborn Product;
 3. Customer promptly notifies Harborn in writing of such IP Claim; and

4. Customer allows Harborn to control, and fully co-operates with Harborn in the defence against such IP Claim and any related settlement negotiations.



10.3 Resolving infringement: If an IP Claim is made or in the reasonable opinion of Harborn is likely to be made then, at Harborn's option:

1. Harborn will procure a license from the holder of the relevant Intellectual Property Rights to enable the Customer to continue to use the Services; or
2. Harborn will replace the relevant part to the Harborn Product with a modified version thereof, which does not infringe the third party Intellectual Property Rights; or
3. Harborn may terminate the relevant Order in part or in whole against a proportional repayment to Customer of the fees paid by the Customer for the relevant Harborn Product.

11. Price and payment

11.1 Taxes and costs: All prices of Harborn are, unless explicitly otherwise agreed, exclusive of turnover tax (VAT) and other applicable taxes, tariffs, withholding taxes, levies or duties imposed by governmental authorities. Pricing of Services is excluding applicable transportation, travel and accommodation costs which will be charged separately as incurred to provide the agreed Services except as explicitly agreed otherwise in the relevant Order. Fees payable for Licenses, Support Services, Hosting Services and Professional Services are as set out in the relevant Order and otherwise as set out in the then current standard price lists of Harborn.

11.2 Payment terms: Unless otherwise agreed in the relevant Order, fees for Licenses are invoiced on agreement of the Order for such Licenses. Fees for Professional Services are payable in accordance with the payment schedule set out in the Order or in absence thereof, monthly in arrears on the basis of actual hours spent and costs incurred in the previous calendar month. Recurring fees for Services provided on a recurring basis (such as Support Services, Hosting Services and Licenses granted on a fee per usage period) are invoiced per initial term and per renewal term in advance per the start of the applicable initial or renewal term. The Customer shall pay each invoice within thirty (30) days after the invoice date. The Customer shall not be entitled to set off any counterclaims or to suspend payment of an invoice.

11.3 Fees for recurring Services: Fees payable for recurring Services such as Support Services, Hosting Services or Licenses granted on a fee per usage period are fixed for the initial term agreed for such recurring Services as set out in the Order (subject to corrections for inflation as per clause 11.5 below). For renewal terms of the Order for such recurring Services, Harborn may change the applicable pricing for the subsequent term by giving prior written notice to Customer of the changed pricing for the next renewal period. Harborn will provide at least 3 months prior written notice of price changes that increase the price level agreed under the initial Order with more than the inflation as per clause 11.5.

11.4 Late payment consequences: If any amount that is due to Harborn is not paid in time, this will be considered a breach of contract and Customer will automatically be in default. No



notification or summons from Harborn will be necessary and Customer will, once in default, be fully liable for legal interests (according to the current Dutch legal interest rate for businesses) on the outstanding amounts and all reasonable costs incurred by Harborn in its attempt(s) to collect payment, including the costs of lawyers, legal advisors, collection agencies, bailiffs etc. Harborn reserves the right to suspend the relevant Services in case of non-payment of an invoice by Customer in case payment of the outstanding invoice is not made within 10 Business Days after Harborn has sent a written reminder to Customer to pay the outstanding invoice.

- 11.5 Indexation:** All prices of Services, also those for which pricing is documented in the Order during the initial term for the relevant Services, may be increased by Harborn once per year in accordance with the movement in business services price index published by the Dutch Central Bureau for Statistics ('CBS') (CBS zakelijke dienstverlening) since the date the relevant price was agreed or last adjusted for inflation.
- 11.6 Pre-paid Service Package ("strippenkaart"):** If Customer procures a Prepaid Service Package, Customer must use such prepaid Services within 2 years after the date it was invoiced to the Customer. The pre-paid Service hours are only valid for the type of Services for which they are procured and for the functions identified in the Order. If Customer calls off prepaid Services, these will be planned to be delivered by mutual agreement between the parties as soon as practical after Customer's request.

12. Limitation of Liability

- 12.1 Liability limit direct damage:** The total liability of Harborn under or in connection with any Order and the Services provided under such Order for breach of contract, tort or under any other legal theory in any calendar year is limited to an amount equal to the 50% of the total fees actually paid by Customer to Harborn during the previous full calendar year under the Order (or if no Services were provided in the previous calendar year to Customer under the Order, the total fees paid in the initial 6 months of the term of the Order).
- 12.2 Exclusion liability indirect damage:** Harborn shall under or in connection with any Order for breach of contract, tort or under any other legal theory not be liable towards Customer or towards third parties for any indirect or consequential damage, damage to data, lost turnover, lost profits, lost savings or damage to good name, whether such damages arise under a tort, contract or other claim. Harborn expressly and fully disclaims liability for any damage resulting from the use of the Harborn Products in the business and operations of Customer. Harborn cannot and does not warrant that the Harborn Product is free of errors and/or will function uninterrupted.
- 12.3 No limitation:** The limitations mentioned in the preceding paragraphs of this clause shall not apply if and insofar as the damage or injury are the direct result of intentional misconduct of Harborn.
- 12.4 Employees and subcontractors:** The provisions in this clause 12 shall also apply for the benefit of the employees and directors of Harborn, the subcontractors utilized by Harborn

in executing its obligations toward the Customer and Harborn's third party licensors whose products Harborn sublicenses as part of the Harborn Products.



- 12.5 Indemnity third party claims:** The Customer will indemnify and hold Harborn harmless from any third party claims and related reasonable legal costs caused by or in any way related to Customer's use of a Harborn Product and the results of the Services, except where this concerns IP Claims. With respect to such IP Claims, Harborn will indemnify and hold Customer harmless in accordance with clause 10.
- 12.6 Force majeure:** In case one party is unable to perform its obligations due to circumstances beyond its reasonable control (which are agreed to include government measures, power failures, general internet/data network/telecommunication facilities failure, 'denial of service' (ddos) attacks, war, strikes, extreme weather, terrorism and causes beyond the reasonable control of the affected party), this is to be regarded as force majeure. As long as such force majeure situation lasts, the affected party is released from the obligations it cannot comply with due to such force majeure situation without liability. If a situation of force majeure lasts for longer than sixty days, either of the parties shall be entitled to terminate the relevant Order. The Services already performed on the basis of the Order shall in such case be settled on a pro rata basis and the parties shall not owe one another any other amounts for such termination.
- 12.7 Back-up of Data:** Back-up of Data: At all times Customer is itself responsible to ensure back-ups are made of Customer Data which Customer processes with, creates and/or stores using a Harborn Product and to safely store such back-up copies at a separate location. Harborn is never liable for any loss or corruption of data of Customer. Any backups which Harborn may make of Customer data is considered a not warranted extra service of Harborn, and not intended in any way or form to reduce the own obligation of Customer to also make its own back-up copies of its own data.
- 12.8 AI or ML models:** Harborn may provide services or Harborn Products to Customer which include or use machine learning (ML) or artificial intelligence (AI) components. Customer is advised that ML and AI components are inherently never fully accurate/ error free as their output is based on statistical analysis of available data. Customer is itself responsible to ensure it applies an adequate level of oversight / quality control over the output of services and products that leverage AI/ML to ensure it is correctly and safely applied in its business processes. Harborn is not responsible or liable for the consequences of using incorrect output from AI or ML components.
- 12.9 Access to Customer networks or systems:** Customer is responsible for restricting access for Harborn and Harborn Products to Customer's systems, databases or network through appropriate limited roles and rights setup or firewall rules or some similar means of restricting access to a point where this complies with the 'least privilege access principle'. Harborn and Harborn Products should not be given logical access to data and systems which Harborn and Harborn Products do not need to have to function properly. For example: do not allow access to an entire database of customer data for Harborn or a Harborn Product if only access to one data field (e.g. an email address) is needed. Harborn is not responsible or liable for any costs or damages resulting from a failure by Customer to appropriately restrict access in accordance with this clause and Customer will indemnify and hold Harborn harmless from all third party claims and associated costs resulting from a failure by Customer to do so.

13. Confidentiality



- 13.1 Confidentiality commitment:** Each party (Recipient) undertakes to the other party (the Disclosing Party) to treat as confidential all information in any medium or format (whether marked “confidential” or not) which the Recipient receives from the Disclosing Party either directly or indirectly which concerns the business, operations, software or Customers of the Disclosing Party and which can reasonably be deemed to be of a confidential nature (Confidential Information). The contents and existence of each Order, all Documentation and all Harborn Products are considered Confidential Information of Harborn. All Customer Data is considered Confidential Information of Customer.
- 13.2 Usage restriction:** The Recipient may only use the Confidential Information for the purposes of performing the activities set out in this Agreement and to comply with legal obligations. The Recipient may only provide its employees, directors, subcontractors and professional advisers (Permitted Users) with access to the Confidential Information on a strict “need-to-know” basis for this purpose. The Recipient shall ensure that each of its Permitted Users is bound to hold all Confidential Information in confidence. Where a Permitted User is not an employee or director of the Recipient (and is not under a professional duty to protect confidentiality) the Recipient shall ensure that the Permitted User shall comply with the terms of this clause.
- 13.3 Exclusions:** This clause 13, shall not apply to any information which:
1. is in or subsequently enters the public domain other than as a result of a breach of this clause 13;
 2. has been or is subsequently received by the Recipient from a third party which is under no confidentiality obligation in respect of that information; or
 3. is required to be disclosed any competent governmental or regulatory authority.

14. Data Protection (Privacy) Commitments

- 14.1 Commitment to comply with privacy laws:** Each party will ensure compliance of its activities to the applicable privacy laws in using respectively providing the Services. Where Harborn processes personally identifiable information for Customer while performing the Services, it will act as data processor under the direction and responsibility of Customer as controller in accordance with the EU General Data Protection Regulation (Regulation (EU) 2016/679, abbreviated GDPR) and its implementation in Dutch law (known as Algemene Verordening Gegevensbescherming, abbreviated AVG) and any future applicable privacy laws. Harborn will only use Customer Data for the purposes of providing the agreed Services in accordance with the agreed instructions of Customer with respect to such Services. Customer will at all times ensure compliance with applicable data protection laws when using the Services and when instructing Harborn in providing the Services to Customer. In any case Customer shall ensure messages sent by means of a Harborn Product contain all relevant mandatory statements and disclosures to the recipient as prescribed by applicable law, including (where applicable) information about the sender, instructions on how the recipient can opt-out from subsequent messages and a link to Customer’s privacy policy.



- 14.2 Security commitment:** If Harborn as part of the Services will store and process personally identifiable information of Customer on systems managed and made available by Harborn to Customer, then Harborn shall implement appropriate technical and organisational measures to secure such systems against unauthorised access and use as agreed in the Order. Customer is responsible to verify the level of security committed to be provided is appropriate for the Customer Data it from time to time wishes to process by means of the Harborn Product and (if applicable) the Hosting Services of Harborn. Upgrades of security measures to meet increased or changed requirements compared to those expressly agreed in the Order or the relevant Support SLA may be separately charged (provided no upgrade or change chargeable to Customer will be implemented without its express approval of the related costs). If Harborn provides Hosting Services, it shall ensure that the data centers used to host such personally identifiable information are located in the European Union and Harborn will on first request share with Customer the name, location and observed security standards committed to be employed to secure the data center and the computer environment used to host the Customer Data.
- 14.3 Ultimate responsibility:** With respect to applicable privacy and other laws Harborn may share prior experiences and perceived market practices in respect of the use of the Harborn Products, but this is done expressly without accepting any liability or responsibility with respect to the regulatory or legal aspects. Harborn is not a legal advisor or law firm and the ultimate responsibility for ensuring compliance to applicable laws in using the Harborn Products (and in particular obtaining relevant consents from persons whose personally identifiable information is used and processed by means of the Services by or on behalf of Customer) is and remains at all times with Customer. For the avoidance of doubt, changes to the functionality of a Harborn Product as may be required by Customer to enable Customer to comply with applicable law (including privacy laws) is not included in agreed fees for Support Services, the agreed fees for Professional Services to develop Custom Software or in the license fees for standard Harborn Products.

15. Hosting

- 15.1 Usage conditions:** For Hosting Services, the technical features, functionality and standard security measures committed to be applied to the hosting environment and any technical conditions and restrictions for use of Hosting Services in combination with the relevant Harborn Product licensed to Customer are as set out in the Support SLA for the agreed Hosting Services. The Hosting Services may not be used by Customer separate from or for other purposes than the use of the licensed Harborn Product in accordance with the License Conditions.
- 15.2 Sizing / capacity of Hosting Service:** The capacity of the Hosting environment (in terms of processing power (CPU), memory (RAM), data storage capacity and data transfer usage) made available under the Hosting Services is sized as expressly agreed in the Order or set out in the Support SLA and otherwise as set by Harborn on reasonably applied assumptions regarding the expected level and intensity of use by Customer of the Harborn Product. If for the actual use made of the Hosting Services the capacity of the hosting environment needs to be upgraded to ensure proper performance due to higher than initially anticipated levels of

use, implementing the required upgrade will be separately offered and charged to Customer as agreed in a separately concluded Order for such upgrade. Harborn is not responsible for Technical Errors caused by usage by Customer with an intensity beyond for which the hosting environment was sized.



- 15.3 Autoscaling:** Hosting Services may include autoscaling features, which automatically increase or decrease capacity based on actual use. Any cost incurred as a result of scaling the services up may be invoiced following the agreed fees for such service. Parties may agree upon a maximum cost per month for autoscaling the capacity, in which case Harborn will ensure the service is not scaled beyond the agreed maximum cost level. If further scaling of the Hosting Service is prevented because the agreed cost limit is reached, Customer may experience downtime or reduced performance as a result, for which Harborn will not be responsible or liable.

16. Miscellaneous

- 16.1 Rejection of third party purchasing terms:** The applicability of the Customer's purchasing or other general terms and conditions is expressly rejected. If the Customer accepts an Offer or requested an Offer with reference to additional or deviating terms or conditions of Customer (such as purchasing terms of the Customer), then such deviating or additional terms shall not apply between the parties unless these are explicitly accepted in a written statement issued and signed by director of Harborn. In any case the terms of the Offer itself, including these Terms or Service of Harborn, shall take precedence over any deviating terms and conditions of the Customer.
- 16.2 Transfer:** Harborn shall be entitled, at any time, to assign, novate or otherwise transfer the Order to another company taking over the activities related to the relevant Harborn Product or Service from Harborn, by providing written notice to Merchant of such transfer.
- 16.3 Applicable law:** These terms and conditions and all agreements to which they apply shall be governed by the laws of the Netherlands.
- 16.4 Dispute resolution:** All disputes arising in connection with these terms or any agreement they are applicable to, shall be submitted to the exclusive jurisdiction of the competent courts of Rotterdam the Netherlands.