

These Subscription Terms (capitalized terms shall have the meaning ascribed to them in **article 1**) form an integral part of the arrangements between the Company and Modelta for the use of the Software by the Company and its Users under the Subscription.

Visit Modelta's [website](#) to download and/or print a copy of these Subscription Terms and/or to view Modelta's [privacy policy](#).

ARTICLE 1. DEFINITIONS AND INTERPRETATION

1.1 For purposes of these Subscription Terms and all related Documentation, the terms below shall have the meaning set out below: **Company** the company that entered into the Subscription, as described in the Offer(s).

Confidential Information the Subscription, all Data and all Documentation designated in writing as confidential at the time of disclosure or which the receiving Party should reasonably understand to be confidential given the nature of the information and the circumstances of disclosure.

Data all data and information processed by or on behalf of the Company or Users through the Software.

Documentation all documentation relating to the Software, including, but not limited to, online files, consulting reports, electronic, other media, user manuals and/or other similar materials and graphics made available to the Company from time to time by Modelta.

Effective Date the effective date of the Subscription (or trial period as defined in **article 4**), as shown in the Offer.

Software the software accessible through Modelta's (mobile) application(s) or website(s) that provides Users with access to Modelta's online 'software as a service (SaaS) solution.

Fee the fee paid by the Company to Modelta for the use of the Services. The Fee applicable on the Effective Date is stated in the Offer(s).

Force Majeure any event or circumstance beyond any reasonable control of a Party that prevents in whole or in part the performance by a Party of its obligations under the Subscription or makes the performance of such obligations so difficult or costly that such performance would be commercially unreasonable. Without limiting the foregoing, the following situations shall constitute Force Majeure: governmental action, riots, disruptions, war, strikes, lockouts, delays, prolonged shortages of energy or other supplies, epidemics, fire, flood, hurricane, typhoon, earthquake, lightning and explosion, internet failures, failures in telecommunication infrastructures, (distributed) denial of service attacks, power outages.

Integration Services the services to be provided by Modelta to integrate the Software with the Company's existing systems, software or Data, and testing the integration to ensure compatibility and functionality. The specifications and scope of the Integration Services will be agreed upon in writing between the Parties.

Offer the online offer(s) for the Subscription accepted by or on behalf of the Company during an online (self-service onboarding) process (via a Modelta website or any other application).

Parties the Company and Modelta jointly.

Party the Company or Modelta individually.

Services the specific scope of services offered by Modelta under the Subscription. This shall include: the provision of the Software and, if applicable, the performance of the Integration Services and any other services agreed by the Parties.

Subscription the subscription pursuant to which the Company and its Users are entitled to use the Software, including of all attachments, subsequent amendments and/or supplements thereto. The Offer(s) and these Subscription Terms together constitute the Subscription.

Subscription Terms these subscription terms for the provision of the Services.

Modelta Modelta B.V., office located at Stellalunet 31C, 6221JG, Maastricht, trade register of the Chamber of Commerce under number 85572683.

User an employee of the Company or any other person authorized by the Company to access and use the Software on behalf of the Company.

1.2 In these Subscription Terms, the term "in writing" means by post, e-mail, clicking an "I confirm" or similar button, or any other means of electronic communication device customary in the market.

1.3 The terms and expressions of law and legal concepts used in these Subscription Terms have the meanings ascribed to them in Dutch law.

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ARTICLE 2. APPLICABILITY

2.1 These Subscription Terms apply to the use of the Software by the Company and its Users.

2.2 General (purchase) terms and conditions of the Company are hereby

expressly rejected.

2.3 In case of contradictions between the content of the Subscription Terms and an Offer, the provisions of the Offer take precedence.

2.4 The Company may not derive any rights from oral commitments made by Modelta unless and to the extent that they have been confirmed in writing by Modelta.

2.5 These Subscription Terms are in addition to the rights to which the Parties are entitled under the law.

ARTICLE 3. RIGHT OF USE AND RESTRICTIONS

3.1 Subject to the Company's compliance with its obligations under the Subscription, Modelta grants to the Company, during the term of the Subscription, a limited, personal, revocable, non-exclusive and non-transferable right to permit Users to access and use the Software (and any Documentation provided to the Company).

3.2 Unless otherwise agreed in writing between the Parties, the right of use set forth in **article 3.1** is granted to the Company provided that (i) the Company's use of the Software does not include use by third parties other than Users; and (ii) the Company may not license, sell or otherwise commercially exploit or make available the Software to any third party.

3.3 Use of the Software, its associated functionalities and usage limits, will be in accordance with the applicable form of the Subscription. The Company may upgrade the scope of the Subscription to a higher level in the interim, before the beginning of a calendar month. A reduction to a lower level is possible only with a new contract term. Modelta may introduce new versions, enhanced features, or additional functionality as separate subscription tiers, which may be subject to different pricing and terms.

3.4 It is not permitted to share the login details of the Software with third parties without Modelta's written permission.

3.5 The Company and its Users may not reverse engineer, decompile, modify, disassemble or otherwise attempt to discover or make derivative works of the source code, underlying ideas, underlying user interface techniques or algorithms of the Software by any means whatsoever, directly or indirectly, or disclose any of the foregoing. Any information supplied by or obtained by the Company may not be disclosed to third parties or used to create any software which is substantially similar to the Software.

3.6 It is prohibited to use the Software for actions that violate Dutch or other applicable laws and regulations, including local laws where the Software is put into use.

3.7 If, in the opinion of Modelta, a hindrance, damage or other danger arises to the functioning of the Software or the network of Modelta or third parties and/or of the service via the internet, in particular due to excessive sending of e-mails or other data, leaks of personal data or activities of viruses, trojans and similar software, Modelta is entitled to take all measures it reasonably considers necessary to avert or prevent this danger.

ARTICLE 4. TRIAL PERIOD

Modelta may offer a free trial subscription to allow the Company to try out the Software. A trial subscription lasts for a maximum of 1 (one) month. The trial subscription is also subject to these Subscription Terms. Upon expiration of the trial subscription, the trial subscription will automatically convert to a regular Subscription for the duration specified in the Offer(s), unless the Company cancels the trial subscription in writing before the end of the month.

ARTICLE 5. COOPERATION OBLIGATIONS AND MANAGEMENT

5.1 The Parties acknowledge that the functioning of the Software depends on proper and timely cooperation between them. The Company shall at all times provide all cooperation reasonably required by Modelta in a timely manner.

5.2 The Company shall be responsible for obtaining all necessary licenses or approvals for its own software or other resources that the Company provides to Modelta for use in conjunction with the Software.

5.3 The Company is responsible for the management, including control of the settings, use of the Software and for the instruction to, and use by, its Users.

ARTICLE 6. FEES

6.1 For the use of the Software, the Company shall pay to Modelta the applicable Fees.

6.2 All Fees communicated by Modelta are, unless otherwise indicated, exclusive of VAT and any other governmental levies to be borne by the Company.

6.3 Modelta reserves the right to change the Fee or applicable charges and to institute new charges and Fees at the end of the current contract

term, subject to 45 (forty-five) days prior written notice to the Company. Such changes are not limited to inflation adjustments and may include pricing for enhanced versions of the Software, new features, or upgraded subscription tiers.

6.4 During the contract term, the Fees shall be adjusted annually on the anniversary of the Effective Date in accordance with the Consumer Price Index (CPI) as published by Statistics Netherlands (Centraal Bureau voor de Statistiek). The adjustment shall be calculated by applying the percentage change in the CPI over the preceding twelve (12) months. Modelta shall notify the Company of the indexed Fee at least 30 (thirty) days prior to the adjustment taking effect. This automatic adjustment is separate from and in addition to Modelta's right to change pricing at contract renewal as set forth in **article 6.3**.

6.5 Fees are payable in advance, irrevocable and non-refundable.

ARTICLE 7. PAYMENT TERMS

7.1 The Company shall pay Modelta's invoices in full and without discount, deduction, set-off or counterclaim in euros within a period of 14 (fourteen) days.

7.2 Information and data from the Software is leading for the preparation of invoices.

7.3 Contestation of an invoice by the Company shall not suspend the fulfilment of its payment obligations. If the Company believes that Modelta has invoiced incorrectly, it must notify Modelta in writing no later than 60 (sixty) days after the initial invoice date.

7.4 The Company shall be entitled to offset counterclaims only if the Company's counterclaims are legally established, uncontested or recognized by Modelta.

7.5 If the Company does not timely fulfil its payment obligations, it shall be in default by operation of law and shall owe interest equal to the legal interest rate. Interest on the amount due shall accrue from the date the Company is in default until Modelta has received the full amount outstanding. The foregoing shall be in addition to and not in lieu of any other rights Modelta may have under law or equity.

7.6 All judicial and extrajudicial costs related to the enforcement and collection of payments due by the Company and not received by Modelta in time, shall be borne by the Company.

7.7 If: a) the Company is wound up; b) the Company is attached; c) the Company's business is declared bankrupt; and/or d) a suspension of payment is granted to Company; Modelta's payment claims against the Company shall become immediately due and payable.

7.8 If the Company does not properly fulfil its payment obligations, as well as in the event that Modelta for any reason whatsoever deems that the Company will not properly fulfil its payment obligations, then Modelta may at any time require adequate security from the Company, such as a bank guarantee for the proper fulfilment of the Company's payment obligations and suspend its obligations under the Subscription until such adequate security is received. The Company shall provide Modelta with security upon first request.

ARTICLE 8. CHANGES AND ADDITIONAL SERVICES

8.1 If on the instructions of, or in agreement with, the Company any change is made, any additional services are performed that are not included in the Subscription, the extra costs thereby incurred shall be charged by Modelta to the Company as additional work at the then applicable charging rates. Invoicing thereof shall be in accordance with **article 7**. Modelta is not obligated to honour a change request and may require that a separate agreement will be concluded for the purpose.

8.2 If the additional work includes the development of software by Modelta specifically for the Company and Modelta uses a development method characterized by the premise that the design and/or development of (parts of) such Software takes place in an iterative manner, the Customer shall accept that the service will be carried out on the basis of incomplete specifications at the commencement of the service and that specifications, which may or may not have been agreed upon at the commencement of the service, may be changed during the execution of the Subscription in consultation and with due observance of the project approach which is part of the development method in question. During development, the Parties shall jointly decide on the specifications that will apply in subsequent sub-developments. The Company accepts the risk that during this process the software may not necessarily comply with all specifications. The developed software shall be made available to the Company by Modelta on a right of use basis, equivalent to the right of use granted on the Software as defined in **article 3.1**.

ARTICLE 9. INTEGRATION SERVICES

9.1 Modelta shall provide the Integration Services, if applicable, as

agreed in writing between the Parties. Modelta shall use reasonable efforts to perform the Integration Services in a professional and competent manner.

9.2 The Company shall provide Modelta with all necessary access to systems, applications and platforms, as well as all necessary information and cooperation, to enable the Modelta to perform the Integration Services.

9.3 Modelta shall keep the Company informed of the progress of the Integration Services and shall promptly notify the Company of any problems or delays.

9.4 Modelta does not warrant that the Integration Services will be uninterrupted or error-free, or that they will meet the specific requirements of the Company, unless expressly agreed in writing.

9.5 Modelta shall not be liable for any damage or loss incurred by the Company as a result of the Integration Services, unless such damage or loss results from the negligence or wilful misconduct of Modelta.

9.6 Integration Services are invoiced separately. If a (part of the) Integration Service has not yet been delivered, this does not prevent the invoicing the Fee for the use of the Software.

ARTICLE 10. TERM AND TERMINATION

10.1 The Subscription shall enter into force on the Effective Date for the term as stated in the Offer. Upon expiration of this term, the Subscription will automatically renew for successive renewal terms of 1 (one) year.

10.2 The Parties have the right to terminate the Subscription at any time, in writing, but no later than 1 (one) month before the end of a contract term. The termination will be effective at the end of the then current term.

10.3 Either Party may terminate the Subscription in writing with immediate effect if:

10.3.1 the other Party is granted provisional or final suspension of payments;

10.3.2 the other Party's bankruptcy is filed for or is final;

10.3.3 attachment has been made of all or part of the other Party's property; and/or

10.3.4 there has been a material attributable failure to perform the obligations of a Party and such Party remains in default, despite having been given written notice of such failure.

10.4 In the event of termination of the Subscription for any reason, access to the Software for the Company and its Users shall be terminated immediately. Subject to payment of all fees due and any additional charges, the Parties will make further arrangements for retrieval/transfer/downloading of the Data.

10.5 All aspects of the Subscription which by their nature should survive termination of the Subscription, including, but not limited to, accrued rights to payment, confidentiality obligations, warranty disclaimers and limitations of liability shall remain in full force and effect after termination of the Subscription.

ARTICLE 11. SUSPENSION, DISSOLUTION AND (PARTIAL) TERMINATION

11.1 In addition to the provisions of **article 10**, Modelta is entitled at any time to suspend or (partially) terminate its obligations under the Subscription, if:

11.1.1 the Company does not timely and/or fully comply with its obligations under the Agreement, in which case suspension or (partial) termination of the Subscription is permitted only to the extent justified by the failure;

11.1.2 Modelta becomes aware of circumstances that give it good reason to fear that the Company will only partially or improperly fulfil its obligations under the Subscription, in which case suspension or (partial) termination of the Subscription is permitted only to the extent justified by the failure;

11.1.3 Modelta is further entitled to (partially) terminate the Subscription if circumstances arise which are of such a nature that fulfilment of its obligations under the Subscription becomes impossible or that maintenance of the Subscription can no longer reasonably be expected of Modelta.

11.2 If the Subscription is (partially) terminated pursuant to **article 11.1**, Modelta's claims against the Company shall become immediately due and payable. If Modelta suspends performance of its obligations, it retains its rights under applicable law and the Subscription.

11.3 Modelta always reserves the right to claim damages in case of suspension (partial) rescission or termination.

ARTICLE 12. INTELLECTUAL PROPERTY RIGHTS

12.1 Modelta and, if applicable its licensors, reserve all intellectual property rights vested in them by law. This expressly includes the

information presented via the Software (including texts, graphic material and logos) and other copyrights, trademark rights, patent rights, design rights, trade name rights, database rights and related rights, domain names, trade secrets and know-how and related rights.

12.2 All documents provided by Modelta, such as reports, advice, agreements, designs, sketches, drawings, brochures, photographs, films, software (including the Software), are intended exclusively for use by the Company and its Users under the Subscription and may not be reproduced, disclosed, or brought to the notice of third parties by them without the prior consent of Modelta, unless the nature of the documents provided indicates otherwise.

12.3 If the Company or Users provide information or feedback to Modelta about the Services, Modelta obtains an exclusive, unrestricted and perpetual right to use this information.

12.4 Modelta is permitted to use the Company's name and logo in presentations, financial reports, marketing materials, contractor statements, contractor website statements.

ARTICLE 13. DATA AND LICENSE FOR MODELTA

13.1 The Company remains the rightful owner of the Data stored, edited, or processed via the Software. The Company and its Users determine which Data is stored, edited or processed via the Software. The Company itself remains responsible for its entered Data, archiving and retention periods.

13.2 To enable Modelta to provide the Software to the Company, the Company, subject to the terms of the Subscription, hereby grants to Modelta a non-exclusive right to use, copy, distribute and display Data solely in connection with the provision of the Software on behalf of the Company. The Company is responsible for the accuracy, integrity and reliability of the Data, and Modelta shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store Data. Modelta will protect all Data provided to Modelta as confidential in accordance with and **article 18** (Confidentiality).

13.3 The Company grants to Modelta a limited, personal, non-exclusive right to use the Company's Data in an anonymized form for internal product analysis and product development.

ARTICLE 14. THIRD-PARTY SOFTWARE

The Software may contain third-party software that may be governed by separate Intellectual Property Rights and license terms designated or identified in the Software or the Documentation. These separate provisions are incorporated by reference into the Software and the Company agrees to the terms of any such license. Maintenance and support of third party software is provided by the licensor of such products.

ARTICLE 15. SERVICE LEVEL AGREEMENT

15.1 The Parties may enter into a separate service level agreement in which they will specify arrangements for: i) warranty, maintenance, updates and upgrades of the Software and support for its use; and ii) support and maintenance for systems and Software integrated through the Integration Services.

15.2 If no separate service level agreement is concluded, the Software is provided on an "as is" basis without any warranties, express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, or non-infringement. However, the Company shall be entitled to receive general updates and upgrades to the Software that Modelta makes available to all customers without a separate service level agreement.

ARTICLE 16. PERSONAL DATA

16.1 Parties will at all times comply with their legal obligations regarding the protection of (personal) data.

16.2 The processing of personal data by or on behalf of Modelta in connection with the Subscription will take place in accordance with Modelta's privacy statement. If applicable, the Parties shall enter into a data processing agreement.

ARTICLE 17. INFORMATION SECURITY

17.1 Modelta conforms to applicable information security regulations (such as but not limited to ISO 27001 Standard for Information Security or equivalent international standard) and ensures that the Services are provided accordingly.

17.2 Modelta will require employees and other persons performing services on their behalf to maintain confidentiality with respect to the information and Data of which they may become aware.

17.3 The Company shall adequately secure its systems and infrastructure.

ARTICLE 18. CONFIDENTIALITY

18.1 The Parties are bound to maintain total confidentiality of each other's Confidential Information and shall use it solely for the purpose of performing the Subscription. Notwithstanding the foregoing, Modelta reserves the right to share the information provided by the Company with third parties engaged by Modelta to perform its obligations under the Subscription.

18.2 Parties shall require their Users, officers, directors, employees, agents, other engaged third parties and affiliates to comply with the terms of this **article 18**. Each Party shall be responsible for violation of this **article 18** by their Users, officers, directors, employees, agents, other engaged third parties and affiliates.

18.3 Information will not be considered confidential if it: (i) is already in the possession of the public or becomes available to the public, other than through violation of this **article 18** by the receiving Party; (ii) is required to be disclosed by any applicable law, court order, or regulation, or requirement of government or regulatory authority; (iii) was lawfully obtained from a third party not subject to any duty of confidentiality to the disclosing Party; (iv) was independently developed by the receiving Party without use of or reference to the Confidential Information of the disclosing Party. The burden of proof with respect to the foregoing exceptions shall at all times be on the receiving Party.

18.4 If the receiving Party becomes aware that **article 18.3 (ii)** is or may be applicable, it shall promptly notify the disclosing Party and keep the disclosing Party informed at all times - to the extent lawful - so that the disclosing Party may seek an appropriate remedy to prevent such disclosure.

18.5 Upon termination or dissolution of the Subscription, the Company shall return to Modelta all Confidential Information of Modelta upon first request and as soon as reasonably practicable.

ARTICLE 19. LIMITATION OF LIABILITY MODELTA

19.1 Modelta's liability for an attributable failure to perform the Services, as well as any indemnification obligation of Modelta, shall at all times be limited to compensation for direct damages. Thus, Modelta shall not be liable for indirect damages, by which is meant consequential damages arising out of or in connection with the Subscription, including, but not limited to, loss of profits, loss of sales, loss of anticipated savings and other similar financial losses such as loss of goodwill or good name or other incidental, indirect damages, or punitive or exemplary damages of any kind.

19.2 Per calendar year, the total, cumulative liability of Modelta for direct damages is limited to an amount equal to the Fees paid by the Company during the preceding twelve (12) months.

19.3 The limitations of liability set forth in this **article 19** shall not apply if and to the extent that the law mandatorily provides that liability cannot be excluded or limited, or if the damage is the result of intent or deliberate recklessness on the part of Modelta.

ARTICLE 20. LIABILITY AND INDEMNITY COMPANY

20.1 The Company shall be liable to Modelta for and fully indemnify Modelta against all damages, costs and claims of third parties in that regard, resulting from and/or related to:

20.1.1 improper use of the Software by Users;

20.1.2 an attributable failure to comply with the Subscription by the Company and/or Users; and

20.1.3 any act of the Company and/or Users when using the Software, including, but not limited to: an unlawful storage or exchange of Data or of an unlawful act.

ARTICLE 21. FORCE MAJEURE

21.1 Modelta shall not be liable for any failure to perform its obligations under the Subscription to the extent that such performance is delayed or prevented by a circumstance that qualifies as Force Majeure.

21.2 Modelta shall notify the Company as soon as possible in the event of a Force Majeure situation. Parties shall then consult and discuss any necessary measures to minimize the consequences of the Force Majeure situation.

21.3 If the Force Majeure situation continues for a period longer than 2 (two) consecutive months, each Party is entitled to terminate the Subscription with immediate effect without liability for damages by written notice to the other Party.

ARTICLE 22. TRANSFER AND INVOLVEMENT OF THIRD PARTIES

22.1 Modelta is entitled at any time to transfer all or part of its rights and/or obligations under the Subscription to an affiliated company.

22.2 Modelta shall at all times be entitled, at its own expense and risk,

to engage third parties to perform its obligations under the Subscription.

ARTICLE 23. GENERAL PROVISIONS

23.1 The Subscription is the complete and only agreement between Modelta and the Company and supersedes any proposal or previous agreement, oral or written and all other communications between Modelta and the Company relating to the use of the Software.

23.2 The failure of 1 (one) of the two Parties to enforce rights granted under the Subscription or to take action against the other Party in the event of a breach shall not be considered a waiver by that Party with respect to subsequent enforcement of rights or taking action in the event of future breaches.

23.3 If, for any reason, any provision of the Subscription Terms is held invalid or otherwise unenforceable, such invalidity or unenforceability shall not affect the validity of the Subscription and the remainder of the Subscription shall remain in full force and effect to the extent permitted by law.

ARTICLE 24. APPLICABLE LAW AND DISPUTE RESOLUTION

24.1 The Subscription and all matters arising out of or related to the Subscription shall be interpreted, construed and governed solely in accordance with the laws of The Netherlands.

24.2 In the event of disputes arising out of or in connection with the Subscription, Modelta and the Company shall use their best efforts to resolve such disputes amicably. If Modelta and the Company are unable to do so, the dispute shall be submitted exclusively to the competent court of Oost-Brabant, location 's-Hertogenbosch, the Netherlands, provided that, if Modelta is the plaintiff, Modelta may, in its sole discretion, submit such dispute to the competent court in the place of business or address of the Company.