

GENERAL TERMS AND CONDITIONS

Article 1. Identity dir/Active

Branch address

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Article 2. Terms

In this agreement, the following terms are used with an initial capital letter. These terms mean (in non alphabetical order):

- 2.1 **Department:** an (independent) unit at a Location.
- 2.2 **Equipment:** the IT hardware on which the Software is to be implemented and operated by dir/Active.
- 2.3 **Annexes:** appendices to this Agreement, which, after being initialled by both parties, form part of this Agreement. The Appendices contain the terms and conditions, which are referred to in this Agreement.
- 2.4 **Contract extension:** an additional statement/statement of Software to be made available (and the pricing model), (additional) Modules and other agreements.
- 2.5 **Documentation:** the Documentation accompanying the Software.
- 2.6 **Hosting:** making the Software available outside the Location (either via dirActive's servers or via the servers of certified third parties).
- 2.7 **Implementation Plan:** the plan that determines when and how the Software will be installed, implemented and delivered.
- 2.8 **Effective Date:** the date as stated on the Quotation or the Contract Extension.
- 2.9 **Licence:** (right of use) the right of the Customer to use the Software (developed by dir/Active) in accordance with the provisions of this Agreement.
- 2.10 **Location:** the location where the Software will be used and installed.
- 2.11 **Master Agreement:** the initial agreement.
- 2.12 **Materials:** the auxiliary materials required for the use and Implementation of the Software, such as software, supplies, interfaces, compilers, etc. which are necessary for the Software to function.
- 2.13 **Module:** (a piece of) separate Software with a specific (often specialist) function.
- 2.14 **Quotation (or order confirmation):** the quotation (or order confirmation) issued by dirActive to the Customer stating the Software to be made available (and the price model), (additional) Modules and other agreements.
- 2.15 **Price index:** for Dutch customers, the price index for personnel costs, as published by the Dutch Healthcare Authority (<https://www.nza.nl/regelgeving/prijsindexcijfers/>), will be applied annually. For customers outside the Netherlands, indexation will be applied in accordance with the arrangements in the agreement.
- 2.16 **(Standard) Software:** the software developed by dir/Active or on its instructions (also if this has been modified or extended on behalf of the Client).
- 2.17 **System software:** the independent operating software with associated documentation.
- 2.18 **Working Days:** all office days (Monday / Friday), with the exception of recognised public holidays.
- 2.19 **Working Day Hours:** the hours on Working Days situated between 08.30 hour and 17.00 hour.

Article 3 Applicability

- 3.1 These general terms and conditions apply to every offer made by dir/Active and to every agreement concluded between dir/Active and the Principal. General or specific terms and conditions used by the Client are not accepted by dir/Active and explicitly do not apply to the offer and the agreement.
- 3.2 Before the agreement is concluded, the text of these general terms and conditions shall be made available to the Client. If this is not reasonably possible, dir/Active will, before the agreement is concluded, indicate in which way the general terms and conditions can be inspected at dir/Active.
- 3.3 If one or more provisions in these general terms and conditions are at any time wholly or partially void or annulled, the agreement and these terms and conditions will remain in force for the rest, and the provision in question will be replaced without delay in mutual consultation by a provision that approaches the purport of the original as much as possible.
- 3.4 Situations relating to the agreement that are not regulated in these general terms and conditions should be assessed 'in the spirit' of these general terms and conditions. Uncertainties about the interpretation or content of one or more provisions of these general terms and conditions should be interpreted 'in the spirit' of these general terms and conditions.

Article 4 (A). Licensing.

- 4.1A Dir/Active grants the Customer a Licence to the Software, including the associated Documentation and Materials, as mentioned in the Quotation, Agreement or the (additional) Contract Extension. Dir/Active is always the owner of the license provided.
- 4.2A The scope/scope of the Licence - as regards the Location, the number of Departments, as well as the Modules applicable under the Licence - as well as the consequences in the event of exceeding that included scope, is described in the initial Quotation, Agreement or the (additional) contract extension.
- 4.3A Insofar as the Agreement does not expressly state the contrary, the Licence includes the permission to perform or have performed all actions relating to or connected with the use of the Software, all this only for the benefit of the optimal use of the Software, for which it is intended, provided that in the context of the normal activities of the Customer.
- 4.4A The right of use referred to in this Article shall be non-exclusive and non-transferable or (sub)licensable to third parties. The right of use shall not be tied to specific equipment or workstations, provided that the Customer uses the Software exclusively for the benefit of use within his/her organisation.
- 4.5A The Client shall be entitled - if the Equipment is wholly or partly out of operation due to failure(s) - to use the Software on replacement Equipment, regardless of where this Equipment is located. This right shall continue until such time as the fault in the Equipment is removed and the use of the Software on it is again possible.

Article 4 (B). Method of providing the Software

- 4.1B (or) The Software will be installed by dir/Active at the Customer's Location in a private hosting environment.
- 4.2B (or) The Software will be made available to the Customer by dir/Active by means of Hosting. The Hosting Conditions may be requested in a public hosting environment.

Article 4 (C). Master Agreement

- 4.1C The initial agreement also functions between the parties as a master agreement when entering into a new agreement for additional modules/extensions or new Locations (departments).
- 4.2C Entering into a new agreement for additional modules/extensions or new Locations (departments) shall then be done by completing and signing a (new/additional) contract extension. The provisions and stipulations of this (master) agreement shall then apply to such new agreement(s), unless explicitly deviated from in the agreement.

- 4.3C When entering into a new agreement for additional modules/extensions, the maintenance period for all Modules/extensions - unless parties explicitly agree otherwise - will in principle start (again) as of the (effective) date of signing the new agreement for the additional Modules/extensions.

Article 5. Implementation plan

- 5.1 Prior to installation and implementation, an Implementation Plan will be drawn up by dir/Active.
- 5.2 The Implementation Plan will be signed by both parties. Deviations from the plan shall be recorded in writing.
- 5.3 The responsible contact persons as listed in the Implementation Plan are authorised to represent and bind the party that has appointed them - within the framework of the actual execution of this agreement - unless the opposite is explicitly notified in writing by one party to the other party at any time.
- 5.4 Commissioning of the Software by the Customer shall be considered delivery, at which time the Software shall be considered (unconditionally) approved.

Article 6. Training

- 6.1 Dir/Active shall familiarise the Customer and its personnel with the use of the Software. The support will be provided by experts who are competent and suitable and will be given as much as possible by those experts who are or were involved in the Implementation.
- 6.2 The nature, scope and duration of the support, as well as the nature of experts, will, if necessary, be specified in an Implementation Plan to be drawn up.
- 6.3 During the further term of this agreement, dir/Active is willing and able to provide training(s) to personnel of the Client for the use of the Software at reasonable conditions and rates to be agreed at that time.
- 6.4 The Customer undertakes to make sufficient and (sufficiently) qualified personnel available to and by dir/Active for the implementation of this article within the framework of the training and supervision.
- 6.5 The scope (in persons and duration) and costs of the training are described on Offer or the (additional) Contract Extension.

Article 7. Documentation

- 7.1 Dir/Active shall provide the Customer with Documentation concerning the properties and uses of the Software. The Documentation will be delivered simultaneously with the delivery of the Software or made accessible digitally (whether or not via the website of dir/Active).

Article 8. Maintenance and Support

- 8.1 Dir/Active will maintain the Software in accordance with the provisions of this agreement, the separately drawn up SLA and for the duration as stipulated in Article 7.
- 8.2 Maintenance (Maintenance) shall include:
- a. **Preventive maintenance:** maintaining the Software, i.e. by taking appropriate measures, both preventive and corrective, safeguarding the Software for the duration of this maintenance agreement.
 - b. **Corrective maintenance:** the detection and repair of defects in the Software and Documentation after they have been reported by the Customer.
 - c. **Improving and Developing Maintenance:** making available improved (Updates) and renewed (Upgrades) versions of the Software.
 - d. **Support:** providing assistance by telephone or by electronic means (by logging into the Customer's systems / remote assistance) in the event of defects, as well as advising by telephone (or by e-mail or another channel of communication) about the use and functioning of the Software.

- 8.3 Maintenance does not include making specific or remedying faults in System Software, network facilities, peripheral equipment or regulations.
- 8.4 Repair work will be performed uninterruptedly and on normal working hours and Working Days and completed in the shortest possible time, in accordance with the SLA.
- 8.5 Dir/Active will inform the Customer as early as possible about improved and renewed versions, as well as their content and consequences. Customer must install these versions itself. If the Customer requests dirActive to install these versions, dir/Active is entitled to charge a fee for this at the then current rates.
- 8.6 Dir/Active reserves the right to provide maintenance only with regard to the latest and penultimate version of the Software, without prejudice to the obligations of the Customer under this maintenance agreement.
- 8.7 The Customer undertakes to keep its technical infrastructure (ICT) up to standard (capacity) and up to date.
- 8.8 The SLA contains the agreements in accordance with the place and time of execution of maintenance, the reporting structure, as well as the rates for additional services. The SLA is a standard document and part of the agreement and contains the arrangements made between the parties.

Article 9. Duration of the Agreement and Prices

- 9.1 This Agreement is entered into as of the agreed commencement date. In the absence of an effective date, the date of signature of the contract or the actual commissioning by the Customer shall initially be deemed the Effective Date.
- 9.2 The Licence - as referred to in article 2 - is granted as of the Effective Date, for the duration of the maintenance agreement (as referred to in paragraph 3). The Licence cannot be terminated (prematurely) by dir/Active, subject to the provisions of Article 14.
- 9.3 The Maintenance is entered into as of the Effective Date of the contract for the term specified in the contract and after the expiry of that term is extended each time by 1 year subject to the termination referred to in article 14.
- 9.4 The Customer may cancel at any time, subject to the provisions of article 16(3).
- 9.5 As compensation for the Implementation, Training, the Licence, the Maintenance and the other costs, the Customer shall pay dir/Active the amount specified in the Offer or (additional) Contract Extension and in the SLA.
- 9.6 If as a result of additional wishes of the Customer, a change in the requirements or specifications is needed, the performances to be delivered by dir/Active under this Agreement are made heavier or extended, this will be considered additional work that is eligible for reimbursement. If dir/Active is of the opinion that additional work is involved, it will notify the Customer.
- 9.7 Before commencing the additional work as referred to in the preceding paragraph, Dir/Active will submit an offer regarding the extent of the additional work expected by dir/Active as a result of this change and the costs involved. Dir/Active will not commence the additional work until it has been explicitly instructed to do so in writing by the Customer. The provisions of this contract shall apply to the additional work to be performed by Dir/Active. Dir/Active is not entitled to impose further or more onerous conditions when making the offer.
- 9.8 The agreed prices and rates - with the exception of one-off (licence) fee(s) - will be adjusted once a year - for the first time on 1 January following the year of signature of this agreement - by a percentage taking into account the Price Index and special price-increasing factors on the part of dir/Active.
- 9.9 Insofar as dir/Active is obliged to charge turnover tax, the amounts stated in this agreement will be increased by the percentage of turnover tax applicable at the time of performance of the work. All prices and rates are fixed in Euros.

Article 10. Payment(s)

- 10.1 Dir/Active shall charge the fee(s) to be paid by the Customer to the Customer as included on the Quotation or the (additional) Contract Extension.
- 10.2 Additional work will be invoiced separately by dir/Active - after completion of the additional work. The nature and extent of the additional work performed will be explicitly mentioned and specified in the invoice.
- 10.3 The (annual) maintenance amounts will be invoiced prior to the beginning of a new calendar year. The first maintenance period will be calculated pro rata over the remaining period of the then current calendar year. Dir/Active will send invoices to the Customer, stating the date, project number and other details made known to it in writing by the Customer.
- 10.4 The Customer shall pay the amounts due by him on the basis of this agreement to dirActive within 14 days after receipt of the relevant invoice, without any right to discount, set-off and/or suspension.

Article 11. Intellectual (property) rights

- 11.1 Without prejudice to the powers granted to the Client in this agreement, all intellectual (property) rights that can be exercised with respect to the Software are vested in dir/Active.
- 11.2 If a difference of opinion will exist between the parties regarding the ownership of materials, Software or Documentation respectively the intellectual (property) rights thereof, it will be assumed that such ownership is vested in dir/Active until proven otherwise by the Customer.
- 11.3 Dir/Active indemnifies the Customer against claims by third parties regarding (possible) infringement of intellectual (property) rights of third parties, so-called personality rights, as well as claims regarding know-how, unauthorised competition and the like.

Article 12. Secrecy and security

- 12.1 Without prejudice to the rights granted to the Client in this agreement, both parties will observe strict confidentiality regarding the information about each other's organisation, the operation of the equipment, the files and Software. Except with the prior written permission of the other party, each party shall not make information and data carriers available to third parties outside the scope of what is permitted in this Agreement and shall only disclose to his/her personnel and, insofar as this is permitted under this Agreement, to the third parties in question insofar as this is necessary for the performance of the agreed services. The parties shall require their personnel to comply with these confidentiality provisions.
- 12.2 Personnel of dir/Active involved in the performance of the work, insofar as performed at the Client's premises, are obliged to observe security procedures observed by the Client.
- 12.3 Neither party will mention this agreement in publications or advertisements without written permission from the other party.

Article 13. Insurance

- 13.1 Dir/Active has taken out and will continue to take out adequate insurance for at least the risk of legal liability, up to a maximum of 1 (in words: one) million Euros;
- 13.2 On request, the Customer may inspect these policy/policies.
- 13.3 Dir/Active undertakes to assign all claims relating to the payment(s) of insurance sums to the Principal immediately after the Principal has claimed liability. dirActive undertakes to bring this assignment to the attention of the insurer referred to above, without prejudice to the Principal's right to notify this insurer of this. Insurance proceeds, which are paid directly to the Principal by the insurance company(ies), shall be deducted from the compensation to be paid by dirActive to the Principal in respect of the insured incident.

Article 14. Transfer of rights and obligations, subcontracting

- 14.1 The parties are not entitled to transfer the rights and obligations under this agreement to a third party without the express written consent of the other party. Such consent shall not be refused without reasonable cause. However, the consenting party shall be entitled to attach conditions to the granting of such consent.
- 14.2 If dir/Active wishes to make use of the services of third parties in the execution of this agreement, either as subcontractor or by temporary hiring of personnel, it will only be authorised to do so after obtaining the written permission of the Principal, which permission will not be withheld on unreasonable grounds. When granting approval as referred to in this paragraph, Client shall be entitled to attach conditions to the approval or limit it in time.
- 14.3 Approval given by the Principal shall not affect the responsibility and liability of the dir/Active for the fulfilment of its obligations under this agreement and its obligations as employer under tax and social insurance legislation.

Article 15. Force majeure

- 15.1 If one of the parties is unable to comply with his/her obligations under this agreement for a period of more than 90 days as a result of force majeure, the other party shall be entitled to dissolve the agreement extrajudicially with immediate effect by means of a registered letter, without this giving rise to any right to compensation. agreement by means of a registered letter with immediate effect outside court, without this resulting in any right to compensation.

Article 16. Dissolution and termination

- 16.1 Apart from the provisions elsewhere in this agreement:
- A. Each of the parties is entitled to dissolve this agreement extrajudicially by means of a registered letter if the other party - after a written reminder setting a reasonable term - fails to fulfil his/her obligations under this agreement.
 - B. Either party is entitled, without any reminder or notice of default being required, to dissolve the agreement extrajudicially by registered letter if the other party:
 - Applies for a moratorium or is granted a moratorium;
 - files for bankruptcy or is declared bankrupt;
 - His or her company is liquidated;
 - His or her current business ceases;
 - Otherwise must be deemed no longer able to fulfil the obligations under this agreement.
- 16.2 If this Agreement is terminated by the Customer pursuant to the preceding paragraph, the Customer shall be entitled to continue using the Software in accordance with Article 2. If the Customer makes use of the authorisation under this paragraph, he shall pay dirActive reasonable compensation for this.
- 16.3 Each of the parties may terminate the maintenance - after expiry of any fixed-term term - at the end of each calendar year, subject to a notice period of 3 (in words: three) months. Notice of termination must be given in writing by registered letter or bailiff's writ.
- 16.4 Obligations which by their nature are intended to continue after termination of this agreement shall continue to exist after termination of this agreement. These obligations include, but are not limited to: indemnification for violation of intellectual (property) rights, confidentiality, assignment of insurance payments, settlement of disputes, applicable law and choice of domicile.
- 16.5 Upon termination of the agreement, all outstanding amounts shall become immediately due and payable.

Article 17. Liability & indemnity

- 17.1 If one of the parties fails to comply with one or more of his/her obligations under this agreement, the other party shall declare him/her in default, unless compliance with the obligations in question is already permanently impossible, or if the parties have explicitly agreed otherwise in this respect, in which case the defaulting party shall be immediately in default.
- 17.2 Notice of default shall be given in writing and the defaulting party shall be allowed a reasonable period of time to fulfil his/her obligations. This term shall (only) have the character of a fatal term.
- 17.3 The party that imputably fails to comply with his/her obligation(s) shall be liable to the other party for compensation of the direct damage suffered or to be suffered by the other party.
- 17.4 The liability for direct damage referred to in paragraph 3 shall be limited, per event, to an amount of € 50,000. Direct damage means:
- A. Damage to Software and equipment and data files, including in any case: material damage, defective or non-functioning, reduced reliability and increased susceptibility to interference;
 - B. Damage to other property of the Customer and/or third parties;
 - C. Costs of necessary modifications and/or changes in equipment, Software, specifications, materials or Documentation, made to limit or repair damage;
 - D. The costs of emergency provisions, such as moving to other computer systems, or hiring third parties;
- 17.5 Dir/Active is not liable for any other damage - explicitly including consequential damage - all this in the broadest sense of the word.
- 17.6 Under no circumstances shall the liability of dir/Active extend further than the amount of the amounts paid by the Customer to dir/Active under this agreement.
- 17.7 Under no circumstances will the liability of dir/Active extend beyond the amount covered and paid out by its insurance.
- 17.8 The Client shall indemnify dir/Active against all damages which dir/Active may suffer as a result of claims of third parties related to the goods or services delivered by dir/Active to the Client.

Article 18. Disputes, applicable law and choice of domicile

- 18.1 This Agreement shall be governed by the law of the country where the Supplier has its registered office, unless otherwise agreed in the Agreement.
- 18.2 In the event of a dispute the parties shall first endeavour to resolve it by mutual consultation.
- 18.3 Any dispute between the parties relating to this agreement will (subsequently) be submitted exclusively to the competent court in the district where the dir/Active has its (main) office, unless the parties agree on arbitration or binding advice.
- 18.4 In case a Client has its registered office in Belgium (vide "the undersigned"), the Belgian court of first instance in Antwerp, Turnhout division, will have exclusive jurisdiction, unless the parties agree on arbitration or binding advice as yet.

Article 19. General

- 19.1 Insofar as not contrary or contrary to this agreement, the terms of payment of dir/Active also apply to this agreement.
- 19.2 Notifications which the parties shall make to each other pursuant to the general terms and conditions shall be in writing.
- 19.3 Oral notices, promises, amendments to this agreement or agreements otherwise, shall have no legal force unless confirmed in writing.

- 19.4 Failure by one of the parties to demand performance of any provision within a period specified in the agreement shall not affect the right to still demand performance, unless the party concerned has expressly agreed in writing to the non-performance.
- 19.5 During the term of this agreement - as well as within a period of 2 years after termination thereof - parties will not employ (an) employee(s) of the other party or have them work for them in any other way without prior written consent of the other party.

Article 20. Disclosure.

- 20.1 All points of departure from the above shall be included on the disclosure signed and initialled by both parties.