

Terms of Service	Service Level Agreement	Acceptable Use Policy	Data Processing Agreement	Privacy Notice	Cookie Statement
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## TERMS OF SERVICE

### 1. DEFINITIONS

**Agreement:** the agreement between CLIENT and NOVOSERVE, including the Order, these TOS and the applicable Appendices on the basis of which NOVOSERVE provides Services to Customer.

**Appendices:** our Service Level Agreement (“SLA”)(**Appendix 1**), Acceptable Use Policy (“AUP”)(**Appendix 2**) and Data Processing Agreement (“DPA”)(**Appendix 3**), and any other appendix mutually agreed upon by the Parties.

**Confidential Information:** all information, written or oral, that is explicitly regarded as confidential by NOVOSERVICE and/or CLIENT or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. This includes, but is not limited to, business and marketing plans, technology and technical information, product plans and designs and business processes of a Party.

**Client:** the legal person or natural person acting as professional entering into an Agreement with NOVOSERVE.

**Data Center:** a data center out of which or within which NOVOSERVE provides the Services.

**End-users:** customers of NOVOSERVE’s CLIENTS or other users of Customer’s own services.

**NOVOSERVE:** the private company with limited liability NovoServe B.V., with its registered office at Hengelosestraat 201, 7521 AC, Enschede, The Netherlands, with trade register no. 59844299.

**Order:** means the formal acceptance by the CLIENT of the Quote offered by NOVOSERVE. CLIENT may initiate this Order through the electronic ordering system available on NOVOSERVE’s website. An Order is deemed established either upon NOVOSERVE’s written acceptance of the CLIENT’s online purchase request or through a manually signed acknowledgment between NOVOSERVE and the CLIENT.

**Party or Parties:** NOVOSERVE, CLIENT or both.

**Quote:** means any offer, quote, proposal and/or a tender bid made by NOVOSERVE to CLIENT specifying Services and other pertinent information. Quotes cease to apply after thirty (30) days from the date of the relevant Quote or any other period stated in the Quote.

**Services:** the services provided by NOVOSERVE to CLIENT as defined and mutually agreed upon in the Order and as specified in the Quote.

**TOS:** these Terms of Service, including the Appendices that apply on all Quotes, Orders and other agreements between NOVOSERVE and CLIENT.

**Work:** the provision of Services (defined below), without any relationship of subordination and employment or contracting of work.

### 2. APPLICABILITY OF THE TOS

1. The TOS are applicable to each Quote, Order, and agreement between NOVOSERVE and CLIENT. Meaning, CLIENT unconditionally accepts the applicability of these TOS.
2. The applicability of conditions of CLIENT is explicitly excluded.

3. Any departures from these TOS are only applicable insofar as explicitly agreed upon in writing by NOVOSERVE and only apply to the specific agreement to which the departures relate.

### **3. FORMATION OF THE AGREEMENT**

1. Formation of the Agreement:
  - a. with online Orders: upon the CLIENT's utilization of the electronic ordering system on NOVOSERVE's website, an Agreement is constituted when NOVOSERVE sends a confirmation of the Order to the CLIENT;
  - b. with signed Order: an Agreement may be formed when both Parties execute a signed document that acknowledges and accepts the terms of the Order; or
  - c. written approval: alternatively, an Agreement is constituted upon the CLIENT's written approval through communication with NOVOSERVE when CLIENT accepts the terms of the Order made by NOVOSERVE via electronic communication channels. 'Written approval' includes communication by, and approval via, electronic communication channels.
2. By proceeding with the conclusion of an Order, the CLIENT assures their legal capability and authority to enter into the Agreement, binding the entity they represent to the stipulated terms.
3. All Quotes are based on the information provided by CLIENT. If the aforesaid information appears to be incorrect or incomplete, CLIENT will be unable to derive any rights from an (accepted) Quote.
4. NOVOSERVE is not obliged to abide by its Quote if CLIENT can reasonably understand that the Quote, or parts thereof, contains an apparent error or mistake. NOVOSERVE shall be entitled to terminate or refuse an Order by giving written notice to CLIENT within seven (7) days of receiving such Order.
5. CLIENT is not entitled to sell and/or transfer the rights and/or obligations under the Agreement to a third-party without the prior written consent of NOVOSERVE.
6. NOVOSERVE is entitled to transfer its rights and obligations under the Agreement to a third-party without CLIENT's permission.

### **4. EXECUTION OF THE AGREEMENT**

1. All Services are provided based on a best-effort obligation, unless and insofar as NOVOSERVE has explicitly guaranteed a result in the Agreement.
2. If and insofar as required by proper execution of the Agreement, NOVOSERVE is entitled to have specific work carried out by auxiliary personnel and a third-party. If engaging a third-party, NOVOSERVE will exercise due care.
3. CLIENT will ensure that all information concerning which NOVOSERVE indicates that it is required or concerning which CLIENT can reasonably understand that it is required for the execution of the Agreement is made available to NOVOSERVE in time. The execution term does not commence until CLIENT has made the aforementioned information available to NOVOSERVE.
4. CLIENT bears the risk of selecting, using, applying and managing the equipment, software, websites, data files, and other items and materials in its organization and the Services to be provided by NOVOSERVE. CLIENT itself is responsible for the correct installation and settings of the equipment, software, websites, data files, and other items and materials, unless otherwise agreed in writing.
5. CLIENT will be responsible for the correct choice of computer, data, and telecommunications facilities, including internet resources needed and full availability thereof, except for those under the direct use and management of NOVOSERVE. NOVOSERVE will never be liable for losses or costs due to transmission errors, breakdowns, or the non-availability of these facilities unless CLIENT proves that these losses or expenses result from willful intent or gross negligence on the part of NOVOSERVE or its management.
6. All costs to be incurred by NOVOSERVE due to failure by CLIENT to fulfill the obligations as stated in this article, or failure to do so promptly and/or properly, will be at the expense of CLIENT.

### **5. DELIVERY AND RISK**

1. NOVOSERVE reserves the right to reject the Order by giving written notice to Customer, within seven (7) days of receiving such Order upon NOVOSERVE's sole discretion, if CLIENT does not pass NOVOSERVE's Know Your Customer (KYC) Customer verification requirements.
2. All (delivery) terms and dates given or agreed by NOVOSERVE are, to the best of its knowledge, based on the information known to NOVOSERVE at the time the Agreement was concluded. The interim (delivery) dates given by NOVOSERVE or agreed between Parties are always target dates, do not bind NOVOSERVE and are provided for indicative purposes only.
3. NOVOSERVE will make every reasonable effort to honor the agreed and target(delivery) terms and dates as much as possible. NOVOSERVE is not bound by target (delivery) terms and dates, which can no longer be honored due to circumstances beyond its control.
4. The mere failure to honor a target (delivery) term or date, given by NOVOSERVE or agreed between Parties, does not imply that NOVOSERVE is in default.

In all cases – therefore, also if Parties have agreed on deadlines and strict delivery periods or dates and delivery dates – NOVOSERVE is only in default because of a term or period of time being exceeded after CLIENT has served NOVOSERVE with a written notice of default and has set a reasonable period of time for NOVOSERVE to remedy the failure to meet its obligations and this reasonable term has passed. The notice of default must describe NOVOSERVE's breach to meet its obligations as comprehensively and in as much detail as possible so that NOVOSERVE has the opportunity to respond adequately.

## 6. KNOW YOUR CUSTOMER

1. The delivery of Services by NOVOSERVE to CLIENT and the therefore the execution of the Agreement is subject to Know Your Customer (KYC) verification requirements by NOVOSERVE in its sole discretion as a condition for the acceptance process outlined in Clause 5.1.
2. CLIENT is obliged to comply with the KYC requirements set by NOVOSERVE at all times. Should there be any changes in CLIENT's business operations during the term of the Agreement that CLIENT suspects will have any impact on the KYC requirements as set by NOVOSERVE, CLIENT shall notify NOVOSERVE immediately in writing. CLIENT shall keep the information necessary for the KYC requirements updated at all times.

## 7. PRICES AND PAYMENT

1. For the use of the Services, CLIENT shall pay a recurring service charge to NOVOSERVE, as specified in the Quote (the "**Services Charges**"). In addition to the recurring Service Charges, NOVOSERVE may charge CLIENT non-recurring charges, as specified in the Quote.
2. All prices are exclusive of VAT, and exclusive of third-party (e.g., bank and (online) payment provider) payment (gateway) or transaction fees, and any other taxes or duties to be levied by the government. All prices are at all times stated in Euros and must be paid by CLIENT in that currency, unless otherwise agreed.
3. All cost estimates and budgets by NOVOSERVE are issued for indicative purposes only, unless expressed otherwise by NOVOSERVE in writing. CLIENT can never derive rights or expectations from cost estimates or budgets issued by NOVOSERVE.
4. NOVOSERVE has the right to change the rates charged to CLIENT. CLIENT will be notified of these changes by means of email and/or the website of NOVOSERVE, at least one (1) month before they take effect. CLIENT will be entitled to terminate the Agreement with effect from the day that the change takes effect, provided the price change represents an increase in price.
5. NOVOSERVE reserves the right to index the Service Charges on an annual basis using the Service Price Index (DPI) from Statistics Netherlands (CBS). The termination option in the event of an increase in the rates charged from article 7.4 does not apply in the event of an indexation of the rates charged by NOVOSERVE on the basis of the Service Price Index.
6. The payment obligation of CLIENT commences on the day the Agreement is concluded. Payments relate to the period that starts on the day on which the Services of NOVOSERVE become actually available ("ready for service date" or "RFS date").
7. The RFS date should be confirmed by NOVOSERVE.

8. Payment must be made within fourteen (14) days of the invoice date (the “**Payment Term**”), in a manner to be designated by NOVOSERVE.
9. In the event of direct debit payments, CLIENT is obliged to ensure that its account balance holds sufficient funds.
10. In case CLIENT has a complaint with respect to an invoice, CLIENT shall communicate such complaint in writing to NOVOSERVE within the Payment Term. A complaint with respect to an invoice shall only be taken into consideration in the event that the complaint specifies the relevant invoice(s) and provides proper motivation for the complaint. In such case, Parties will use commercially reasonable efforts to resolve the dispute amicably within fourteen (14) days of NOVOSERVE’s receipt of CLIENT’s complaint.
11. If CLIENT fails to pay an invoice in time and/or in full, it will be in default by operation of law. In that case, NOVOSERVE shall, without a warning or notice of default being required, charge CLIENT interest on such sum on a daily basis on the basis of the statutory interest rate plus two (2) percent, without prejudice to NOVOSERVE’s other rights and remedies. The interest on the amount payable is calculated from the moment CLIENT is in default, until the moment that the amount owed has been paid in full.
12. In the event, CLIENT is in default or fails to (timely) fulfill its (payment) obligations, all costs incurred to collect payment and/or to have CLIENT fulfill its obligations under the Agreement, will be at the expense of CLIENT. This includes but is not limited to all extrajudicial and legal expenses made by NOVOSERVE.
13. CLIENT is never entitled to set off any amounts owed to NOVOSERVE. Objections to the amount of the invoice do not suspend the obligation to pay.

## **8. TERM AND TERMINATION OF AGREEMENTS**

1. The Agreement enters into force upon the conclusion of the Agreement (the “**Effective Date**”). Any agreement signed and executed between Parties before the Effective Date will expire upon the Agreement coming into force.
2. The Agreement is entered into for a fixed period of time as specified in the Order (the “**Initial Term**”), unless the Order or the nature or essence of the instruction given dictates an indefinite period of time.
3. At the end of the Term, the Agreement shall be renewed for successive terms equal to the Initial Term (the “**Renewed Term**”), unless either Party notifies the other in writing that it does not agree to a renewal of the Agreement, considering a notice period of at least:
  - a. One (1) business day, in the event of a Term of one (1) month or longer;
  - b. One (1) calendar month, in the event of a Term of twelve (12) months or longer.
4. A fixed-term Agreement cannot be terminated prematurely, unless in events specified in the Agreement.
5. The CLIENT remains obligated to pay to NOVOSERVE, in full, the agreed-on fee, if CLIENT, prematurely, has fully or partially terminated the Agreement in accordance with the clause 8.4 or with mutual approval from Parties.
6. In the event NOVOSERVE has suspended the fulfillment of its obligations under the Agreement due to CLIENT failing to pay an invoice on time or in full, NOVOSERVE is entitled to levy a fee of 15% of the total outstanding invoice amount in addition to the total outstanding invoice amount and the statutory interest due in order to reactivate its obligations under the Agreement. Reactivation will take place following payment by CLIENT of the additional fee and the total outstanding invoice amount and the statutory interest due.
7. If the progress in the execution or completion of the Work is delayed due to default by CLIENT or a Force Majeure Event on the CLIENT’S part, NOVOSERVE will be entitled to charge the agreed amount in full, without prejudice to its right to demand further compensation of costs, damages and interests.
8. Upon termination of the Agreement:
  - a. NOVOSERVE shall cease to provide all Services;
  - b. NOVOSERVE shall, subject to NOVOSERVE’s Privacy Notice, be entitled to erase and delete all data of CLIENT – and any and all data of End-users – from NOVOSERVE’s equipment to the extent permitted by law;
  - c. NOVOSERVE shall be entitled to make the equipment available for use by other CLIENTs;
  - d. Any claims NOVOSERVE has against CLIENT become immediately due and payable upon termination of the Agreement

- e. CLIENT is not eligible to any form of refund for paid.
9. If NOVOSERVE terminates CLIENT's Services during the Initial Terms or the then current Renewed Term due to a violation of the Acceptable Use Policy (**Appendix 3**) by CLIENT, CLIENT shall pay to NOVOSERVE, as liquidated damages and not as a penalty, an amount equal to the sum of 100% (one hundred percent) of the total amount of Service Charges that would have become due during the period from the effective termination date to the expiration date of the Initial or Renewed Term, without limiting other legal remedies available to NOVOSERVE to claim damages ("**Termination Charge**").
  10. CLIENT shall pay the Termination Charge to NOVOSERVE within five (5) business days of the termination date. For the avoidance of doubt: CLIENT's payment of the Termination Charge shall not prevent or limit NOVOSERVE from pursuing any and all other available remedies against CLIENT.
  11. If NOVOSERVE terminates CLIENT's Services during the Initial or Renewed Term, due to a violation of the Acceptable Use Policy by CLIENT, CLIENT is not eligible for a refund whatsoever in a situation in which CLIENT paid a Service Charge for that specific terminated Service.

## 9. LIABILITY

1. In the event of an irregularity due to CLIENT providing incorrect or incomplete information, NOVOSERVE will not be liable for any damage or losses arising from it.
2. In the event of liability for an imputable failure in the performance of the Agreement or arising from any other legal basis whatsoever, NOVOSERVE can only be held liable for direct damage. NOVOSERVE will not be liable for indirect and/or consequential damage or losses (including, but not limited to, lost profits, losses due to business interruptions, loss of relations due to delays and otherwise, loss of data and goodwill, late deliveries, loss as a result of claims of CLIENT's customers and/or defects), other than the direct financial loss of Client.
3. NOVOSERVE cannot be held liable for costs and/or damages as a result of corruption, destruction or loss of files and data of CLIENT. CLIENT is responsible for making readable backups and the permanent storage thereof.
4. The liability of NOVOSERVE on account of attributable failure to perform an Agreement arises only in a situation where CLIENT has given NOVOSERVE immediate and proper notice of default, allowing for a reasonable period to remedy the breach.
5. CLIENT is obliged to notify NOVOSERVE, in writing, within one (1) month of CLIENT having identified an irregularity in the execution of the Agreement and the possible risk of damage. If the notification referred to in this clause is not sent or sent too late, NOVOSERVE will not be obliged to reimburse CLIENT for any damages incurred in any way.
6. If NOVOSERVE is nevertheless liable in any case, this liability is limited to the total amount that is paid out by the insurance of NOVOSERVE in the specific case for direct damages. If the insurance of NOVOSERVE for any reason does not pay out in the specific situation, the liability is limited to the total amount of fees paid by CLIENT to NOVOSERVE during the preceding three months prior to the month in which the liability causing event took place.
7. Nothing in these TOS will exclude or limit our liability if this cannot be excluded or limited under the applicable law, including willful intent or gross negligence.

## 10. FORCE MAJEURE

1. If a Force Majeure Event gives rise to failure or delay in either Party performing any obligation under the Agreement, the Party whose performance of its obligations under the Agreement is affected by the Force Majeure Event shall promptly notify the other Party. Within the context of this Agreement, a "**Force Majeure Event**" means an event, or a series of related events, that is outside the reasonable control of the Party affected (including but not limited to: (i) circumstances beyond the control of NOVOSERVE's suppliers, (ii) the failure by NOVOSERVE to properly meet obligations that were contracted by NOVOSERVE on CLIENT's instructions, (iii) defects in goods, hardware, software or materials of third parties that NOVOSERVE uses on CLIENT's instructions, (iv) measures by public authorities, (v) power failures, (vi) failures of the Internet, data

- network or telecommunication facilities, (vii) (cyber) crime, (cyber) vandalism, war or terrorism and (viii) general transport problems.
2. NOVOSERVE shall be authorized to suspend the Services fully for the duration of the Force Majeure Event. In case of suspension of services by NOVOSERVE attributable to a Force Majeure Event, NOVOSERVE shall never be liable for any damages of CLIENT nor shall NOVOSERVE be obliged to repay CLIENT a proportional part of the fee paid by CLIENT to NOVOSERVE for the Services. NOVOSERVE shall resume its services as soon as possible.
  3. If a Force Majeure Event lasts for more than sixty days, either Party has the right to terminate the Agreement, in writing, for breach of Agreement. In such an event, all that has already been performed under the Agreement must be paid for on a proportional basis, without anything else being due by either Party to the other Party.

## 11. COMPLAINTS

1. Notwithstanding complaints on invoices, any complaints, either in respect of Services provided and/or Work completed and/or matters such as invoice amounts must be submitted, in writing or by email, to NOVOSERVE within seven (7) days after the event causing the complaint took place, providing an accurate breakdown of the facts which, the complaint relates to.
2. Complaints that have been submitted but which do not meet the above conditions are not processed and CLIENT will be deemed to have approved and accepted the delivery of Services.
3. Submitting a complaint does not give CLIENT the right to suspend the fulfillment of its obligations towards NOVOSERVE.
4. NOVOSERVE will only be obliged to process complaints, if the relevant CLIENT, at the time of submitting its complaint, has fulfilled all its obligations towards NOVOSERVE, arising from any commitment between CLIENT and NOVOSERVE.

## 12. SUSPENSION OF SERVICES

1. NOVOSERVE is entitled to suspend the supply of any of the Services upon written notice to CLIENT if one of the following occurs:
  - a. CLIENT fails to fulfill its obligations under the Agreement, or fails to do so in full or in time;
  - b. CLIENT violates the Acceptable Use Policy (**Appendix 2**)(“AUP”) and does not take timely remedial action after receiving a notice from NOVOSERVE;
  - c. after conclusion of the Agreement, NOVOSERVE, on the basis of information it has become aware of, has good reason to fear that CLIENT will not be able to fulfill its obligations;
  - d. due to delays on the part of CLIENT, NOVOSERVE can no longer be required to perform the Agreement under the conditions agreed initially;
  - e. NOVOSERVE obtains a court order, judgment, or other official document to that effect from any (governmental or law enforcement) authority;
  - f. CLIENT has neglected to keep up with the necessary licenses, permissions, and authorizations to use the Services and has failed to correct this failure within seven (7) days after receiving written notification;
  - g. CLIENT or an End-user exported or used the Services in a country that is listed on a sanctions list under international law; and/or
  - h. NOVOSERVE has reasonable doubts that there are changes in CLIENT’s business operations that will have any impact on the KYC requirements as set by NOVOSERVE and CLIENT has not notified NOVOSERVE.

## 13. CONFIDENTIALITY AND PERSONNEL

1. Parties acknowledge that, in connection with this Agreement, each Party (the "**Receiving Party**") may obtain Confidential Information of the other Party (the "**Disclosing Party**"). Such Confidential Information will not be used or disclosed by the Receiving Party except as specifically authorized in writing, or as necessary to perform the Services.
2. Confidential Information will by all means be considered confidential if any one of the Parties indicates it as such.
3. In no event shall CLIENT use NOVOSERVE's Confidential Information to reverse engineer or otherwise develop products or services functionally equivalent to the Services of NOVOSERVE.
4. The foregoing obligations shall survive any termination or expiration of this Agreement.
5. During the term of the Agreement, as well as up to one (1) year after termination there for, neither Parties will hire or employ personnel from the other Party, unless the other Party has granted its prior written approval.

#### **14. INTELLECTUAL PROPERTY AND PENALTY**

1. Subject to Clause 14.3 below, CLIENT will continue to own all rights to designs, programs, documentation and other material developed and/or used for the preparation or implementation of the Agreement that were in existence and owned by CLIENT before the Effective Date.
2. Subject to Clause 14.3 below, NOVOSERVE will continue to own all rights to products and/or services, designs, programs, documentation and other material developed and/or used for the preparation or implementation of the Agreement that: (a) were in existence and owned by NOVOSERVE before the Effective Date; or (b) were made or discovered by NOVOSERVE after the Effective Date.
3. CLIENT hereby grants to NOVOSERVE a non-exclusive, royalty free, unlimited license, during the term of the Agreement, to use CLIENT materials, as referred to in Clause 13.1, as necessary for performing the Services under this Agreement.
4. Violation of the provisions of Articles 13 and 14 of the TOS will result in CLIENT being liable to pay a penalty of € 5,000 (five thousand Euros) for each offense and/or for each day or parts thereof that CLIENT remains in default, without prejudice to the remaining rights that NOVOSERVE may exercise.

#### **15. PRIVACY AND DATA PROTECTION**

1. Client and NOVOSERVE shall process personal data in compliance with all applicable data protection laws and regulations, including but not limited to the General Data Protection Regulation (2016/679/EU) ("**GDPR**"), ePrivacy Directive (2002/58/EC) and any local implementations thereof and parties agree to cooperate to fulfill their respective obligations in this regard.
2. To the extent NOVOSERVE processes personal data as a 'data processor' on behalf of CLIENT, acting either as 'data controller' or 'data processor' within the meaning of applicable data protection laws, Parties agree to enter into and execute the DPA (**Appendix 3**).
3. To the extent the DPA is not applicable, Appendix 3.1 (Security Measures) remains in full force and effect as a stand-alone Appendix to this Agreement, except for the obligations that are specifically aimed at protecting and securing 'personal data' which meaning is defined by the applicable data protection laws.

#### **16. NOTICE AND ACTION**

1. At all times, CLIENT acts with due care in compliance with the AUP (**Appendix 2**) and does not act unlawfully vis-à-vis third parties, more in particular by respecting the intellectual property rights and other rights of third parties and the privacy of third parties, by refraining from spreading information in a manner that is in violation of the law or the Acceptable Use Policy, from granting unauthorized access to systems and from spreading viruses or other harmful programs or data, and by refraining from committing criminal offenses and violating any other legal obligations.

2. To prevent liability to third parties or limit the consequences, NOVOSERVE is always entitled to take measures with respect to an act or omission of CLIENT's. At NOVOSERVE's first request in writing, CLIENT promptly removes data and/or information from NOVOSERVE's systems. If CLIENT fails to do so, NOVOSERVE is entitled, at its own option, to delete the data and/or information itself or to make access to the data and/or information impossible. In addition, in the event of a breach or an imminent breach of the provisions of Clause 16.1, NOVOSERVE is entitled to deny CLIENT access to NOVOSERVE's systems with immediate effect and without prior notice. All of this is without prejudice to NOVOSERVE taking any other measures or exercising any other rights with respect to CLIENT. NOVOSERVE is also entitled in this case to terminate the Agreement by serving notice of termination with immediate effect without being liable to CLIENT for doing so.
3. NOVOSERVE may be ordered by a judicial or administrative authority to act (immediately) against illegal content or provide information about CLIENT. Unless prohibited by law, NOVOSERVE shall inform CLIENT of such an order and provide information on NOVOSERVE's response to it.
4. NOVOSERVE cannot be expected to form an opinion on the validity of the claims of third Parties, or of CLIENT's defense in this regard, or to become involved, in any way whatsoever, in any dispute between a third party and NOVOSERVE to the extent permitted by applicable law. CLIENT shall deal with the relevant third party in this matter and shall inform NOVOSERVE in writing of this dispute, properly substantiated and supported by documents.

## **17. ORDER ADJUSTMENT AND CANCELLATION PROCEDURE**

1. CLIENT may submit Order modification and/or cancellation requests via email or through NOVOSERVE's website.
2. CLIENT may request to upscale the Services at any time, subject to availability, acceptance by NOVOSERVE and additional costs.
3. For downgrading and/or canceling Services during an Agreement with a term of 12 months or longer, CLIENT must submit the request at least one month in advance.
4. For Agreements with a term of one month, CLIENT may request to downscale and/or cancel the Services. CLIENT must provide a written downscaling and/or cancellation request via email or NOVOSERVE's website at least 1 business day before the end of the billing cycle for the change to be effective in the subsequent billing cycle.
5. All modification requests are subject to NOVOSERVE's sole discretion for acceptance.
6. A modification request is valid only upon formal confirmation and update of the Order by NOVOSERVE.

## **18. INDEMNIFICATION**

1. CLIENT shall indemnify, and hold harmless NOVOSERVE from and against any and all third-party claims, losses, damages, liabilities, costs, and expenses (including reasonable attorney's fees) arising out of or related to: (i) the use of the Services by CLIENT or any End-user; (ii) any intentional or negligent act or omission by CLIENT; (iii) any breach of the Agreement by CLIENT; and (iv) any material or data stored or transmitted using the Services by CLIENT or any End-user.
2. CLIENT shall promptly notify NOVOSERVE of any third-party claim referenced in Clause 18.1 and shall provide NOVOSERVE with all necessary assistance, information, and authorization to evaluate and defend such claim. CLIENT shall bear all reasonable costs and expenses incurred by NOVOSERVE in connection with the defense, settlement, or payment of any such third-party claims. CLIENT shall also take all reasonable steps to mitigate losses and facilitate the settlement or defense of any such claims, at CLIENT's own expense.

## **19. ASSIGNMENT AND SUBCONTRACTING**

1. NOVOSERVE is allowed to subcontract its obligations under the Agreement to third parties at its sole discretion without given notice, provided that NOVOSERVE shall remain liable for the performance of the subcontracted obligations.



2. All NOVOSERVE's obligations pursuant to the Agreement are equally applicable to any subcontractor used by NOVOSERVE in accordance with this Agreement. NOVOSERVE will be responsible for the operations performed by such subcontractor, including its compliance to the Agreement and legal obligations.

## **20. MISCELLANEOUS**

1. Each Party warrants its power to enter into the Agreement and has obtained all necessary approvals to do so.
2. The invalidity or unenforceability of any provision of the Agreement shall not affect any other provisions of the Agreement, unless any such provision is inextricably linked to the invalid or unenforceable provision. Any invalid or unenforceable provision shall be replaced or, insofar possible under applicable law, deemed to be replaced, by a valid and enforceable provision which differs as little as possible from the invalid or unenforceable provision and reflects the intent of the invalid or unenforceable provision.
3. NOVOSERVE is entitled to directly and indirectly, in whole or in part, by operation of law or otherwise, assign or transfer this Agreement or delegate any of its obligations under this Agreement.

## **21. GOVERNING LAW**

1. The laws of the Netherlands govern the Agreement and all matters arising therefrom or connected therewith.
2. The competent court, of Overijssel, the Netherlands shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Agreement or other agreements or other legal relationships resulting therefrom.
3. NOVOSERVE is entitled to unilaterally amend (part of) the Agreement and its supporting documentation and CLIENT will be notified of any significant changes. Such amendment also applies to existing Services, unless NOVOSERVE stated otherwise. The amendment comes into effect with an announcement on a later date stated in the announcement. The latest version of the TOS applies to the relationship between NOVOSERVE and CLIENT.

## **22. CONTACT NOVOSERVE**

To ensure that the mutual commitment will result in a sustainable relationship, NOVOSERVE will do its utmost to be as transparent as possible. Contact NOVOSERVE should any questions arise after reading this document. NOVOSERVE's address is: NovoServe B.V., Hengelosestraat 201, 7521 AC, Enschede, the Netherlands. Email: [sales@novoserve.com](mailto:sales@novoserve.com). Telephone: +31 (0) 88 668 62 53. To learn more about NOVOSERVE, please visit <https://www.novoserve.com/>