

# Terms & Conditions

Opoura

## 1. Purpose and interpretation

- 1.1** These General Terms and Conditions apply in addition to all agreements entered into between OPOURA and Customer regarding supply of Services as defined herein (hereinafter Agreements).
- 1.2** The Parties agree that verbal agreements, amendments or changes only shall be valid if confirmed in written and signed by both Parties.
- 1.3** In case of any conflict between these General Terms and Conditions and any specific provisions outlined in a separate Agreement between the Parties the following hierarchy applies:
  - 1.3.1** Agreement agreed between the Parties, having special terms.
  - 1.3.2** End User License Agreement, Service and maintenance Agreement (if applicable)
  - 1.3.3** These Terms and Conditions.
  - 1.3.4** Other referenced documents.

## 2. Scope of Services

- 2.1** OPOURA will provide consultancy services, software solutions, implementation work, hardware installations, hardware products and support services (collectively, the "Services") as specified in a separate Agreement between OPOURA and the Customer. The Services will be performed following the terms of the relevant Agreement and any applicable service level agreement (SLA) or license agreements if applicable for the supply of the relevant Services.
- 2.2** The scope of Services provided by OPOURA will be conclusively defined in the contractual documents, including:
  - 2.2.1** The Agreement.
  - 2.2.2** The SLA (if applicable).
  - 2.2.3** License Agreement, Service and Maintenance Agreement (if applicable)
  - 2.2.4** Any referenced special terms or conditions explicitly agreed upon in writing. No additional services, guarantees, or deliverables shall be implied unless explicitly stated in these documents.
- 2.3** OPOURA is obligated to comply with all applicable laws, regulations, and directives during the delivery of the Services.
- 2.4** OPOURA is in the performance of the Services entitled to subcontract parts of the Services to third party, provided however that any subcontractors are bound to the same confidentiality and data protection obligations as OPOURA.

### **3. Change Request:**

- 3.1** If either Party wishes to change the scope of performance of the Services, it must submit details of the requested change to the other Party in writing. Within a reasonable time after the request, OPOURA will provide a written estimate to Customer describing the likely effect of the change on the Services, including adjustments to the estimated performance dates and fees and expenses. OPOURA is not obliged to continue the work before the change estimate provided by OPOURA is accepted by Customer. Any delay resulting from such a delay in accepting any Change Request is not the responsibility of OPOURA.

### **4. Customer obligations**

- 4.1** Customer is obliged to provide OPOURA with all necessary and accurate information, access to systems, office facilities, resources and documentation required for the execution of the Services agreed upon in the Agreement. Customer is to fulfill agreed-upon obligations, milestones or prerequisites to avoid delays in OPOURA's performance. Any delay in OPOURA delivery of Services or Hardware which is due to Customers' delay in fulfilment of Customers' obligations shall be the responsibility of Customer.
- 4.2** Customer is at all times to keep OPOURA informed of any changes to their environment or operations that could impact on the Services to be delivered by OPOURA. If changes occur, such will be handled as a Change Request.
- 4.3** Customer is to promptly respond to OPOURA' requests for instructions, decisions, authorizations or other information that is reasonably necessary to perform the Services.
- 4.4** Before OPOURA starts its performance of the Services, Customer shall inform OPOURA about relevant safety issues and take all necessary safety-related measures to ensure a safe work environment for the people carrying out the Services for OPOURA and shall comply with all legal and other safety regulations.

### **5. Time schedule and delivery**

- 5.1** OPOURA will if a time schedule is agreed with the Customer seek to comply with any milestone and delivery agreed herein. Customer however acknowledges that OPOURA's ability to perform the Services is contingent upon Customer providing OPOURA timely access, information, and resources requested and/or necessary for OPOURA' performance of Service.
- 5.2** OPOURA will under no circumstances be responsible for, i) delays or deficiencies caused by third-party systems or software not provided by OPOURA, ii) delay caused by Customer's non-compliance of Agreement or obligations mentioning in these Terms & Conditions, iii) the performance of services or deliverables not explicitly mentioned in the agreed contract or SLA.
- 5.3** Customer must promptly notify OPOURA of any changes impacting on the performance of the Services. If Customer's lack of cooperation delays the Services, OPOURA is entitled to an extension of time and to recover additional costs and damages resulting from the delay.

- 5.4** The Services to be delivered by OPOURA is to be considered completed and delivered when, i) All the deliverables specified in the Agreement or any SLA have been provided to Customer or ii) if applicable and agreed in the Agreement, a final sign-off or acceptance document has been issued by the Customer or is deemed issued if no objections have been raised within ten (10) business days after delivery.
- 5.5** OPOURA will do its best to ensure that delivery of Hardware complies with any delivery dates agreed between the Parties. OPOURA will immediately contact Customer if OPOURA accesses the risk of a potential delay.

## **6. Fees and Payment Terms**

- 6.1** All fees, including licensing, subscription, maintenance, consultancy fees and one-time implementation costs, are exclusive of VAT and any other applicable taxes, which will be added to the invoice.
- 6.2** Payments will be invoiced as specified in the Agreement, monthly at the end of each month, with a payment term of 10 days from the date of invoice, unless otherwise specified in License Agreement, Service and Maintenance Agreement or similar special agreement entered between the Parties.
- 6.3** In projects requiring specific milestones, OPOURA may invoice for completed work when OPOURA has fulfilled its obligation. Such right to invoice becomes valid one (1) week after delivery of Services from OPOURA regardless of whether it has been possible for Customer to perform a Site Acceptance Test (SAT) or similar implementation not covered by OPOURA' delivery of Services.
- 6.4** Late payment will be considered a material breach of the Agreement and these Terms & Condition as specified in section 13.2. Interest will be charged in accordance with the provisions of the Danish Interest Act, and OPOURA reserves the right to suspend any ongoing work, deliverables, shipments, and access to the software.
- 6.5** OPOURA reserves the right to adjust all fees once per calendar year to ensure alignment with inflation and market conditions.

## **7. Confidentiality and Data Protection**

- 7.1** Both parties agree to treat as confidential all proprietary and business information disclosed by the other party during the term of the agreement ("Confidential Information"). Such Confidential Information shall not be disclosed to any third party without prior written consent from the disclosing party, except as necessary for fulfilling the agreement's obligations.
- 7.2** Confidential Information includes, but is not limited to, technical data, business processes, financial information, and any other proprietary material, whether disclosed orally, in writing, or electronically. Confidential Information does not include information that:
- 7.2.1** Is or becomes publicly available without breach of this agreement;
  - 7.2.2** Is lawfully received from a third party without obligations of confidentiality;
  - 7.2.3** Was independently developed without access to the other party's Confidential Information;

**7.2.4** Is required to be disclosed by law or regulatory authority, provided the disclosing party is promptly notified to allow intervention.

- 7.3** Both parties must ensure that any subcontractors or representatives involved in executing the agreement are bound by equivalent confidentiality obligations.
- 7.4** Upon termination or expiration of the agreement, each party shall return or destroy all Confidential Information, documentation, and materials obtained from the other party, unless retention is required by law or for insurance purposes.
- 7.5** The confidentiality obligations under this section shall survive the termination or expiration of the agreement for a period of three (3) years.
- 7.6** OPOURA shall comply with all applicable data protection laws, including GDPR, ensuring that any Personal Data shared by the Customer is processed lawfully and securely. Personal Data may only be used for purposes specified under the Agreement. OPOURA may utilize anonymized or aggregated data to improve services and software functionalities.

## **8. Intellectual Property and Licensing**

- 8.1 Customers Intellectual Property.** Customer owns and reserves all intellectual property rights, including, without limitation, all patents, copyrights, derivative works, trademarks, service marks, trade names, logos, trade secrets, know-how, and all other rights (collectively, “Intellectual Property Rights”) in and to Customer’s materials. Customer hereby grants OPOURA a non-exclusive, non-transferable, non-sublicensable, fully paid, royalty free, perpetual, and worldwide license to use the Customers Intellectual Property Rights to the extent necessary for OPOURA to provide the Services agreed upon.
- 8.2 OPOURA Intellectual Property.** OPOURA owns and reserves all Intellectual Property Rights in and to all Services, documents, data, information or other materials that are delivered to Customer under these Terms & Conditions, any Agreement or other agreements prepared by or on behalf of OPOURA in the course of performing the Services (collectively, the “Deliverables”).
- 8.3** This also includes any improvements or derivative works resulting from the Services.
- 8.4** Customer is granted a limited, non-exclusive, non-transferable license to use the deliverables and software solely for the purpose defined in the Agreement. This license becomes effective upon full payment of all fees due to OPOURA. The license are specified and regulated by the End User License Agreement, Subscription End User License Agreement or any other special license agreement relevant for the Services and Deliverables supplied by OPOURA to Customer.
- 8.5** OPOURA may freely utilize any general knowledge, concepts, techniques, or know-how acquired during the execution of services for future projects or services.
- 8.6** Customer shall indemnify OPOURA against any claims arising from infringement or alleged infringement for breach of third-party intellectual property if such use where specified by or provided by the Customer.
- 8.7** All intellectual property rights related to Deliverables remain with OPOURA unless explicitly agreed otherwise in writing. Upon termination of the Agreement, Customer must cease use of the software and return or destroy all related materials unless explicitly permitted otherwise.

- 8.8 IPR for consultancy work.** All intellectual property rights and/or ownership rights arising from any consultancy work created by OPOURA as part of any separate Agreement (“Foreground Rights”) shall immediately upon creation be transferred to Customer. However, Customer’s ownership rights shall not prevent OPOURA from utilizing the know-how, methods, or general knowledge acquired during the performance of the consultancy Services.
- 8.9** OPOURA retains all intellectual property rights held prior to the performance of the Consulting Services (“Background Rights”), regardless of whether such rights are incorporated into the products delivered under the Agreement.
- 8.10** If OPOURA incorporates (Background Rights) into the products or deliverables provided to Customer (“Foreground Knowledge”), Customer shall be granted a perpetual, irrevocable, worldwide, royalty-free license to utilize such Background Knowledge in connection with the use of the Foreground Knowledge developed under the Agreement.
- 8.11** Customer warrants and assumes responsibility that the work requested from OPOURA does not infringe on the rights of any third party.
- 8.12** OPOURA warrants that they will not knowingly use materials in the performance of the deliverables that do not belong to them or to OPOURA best of knowledge infringes any third-party rights.
- 8.13 Third-Party Intellectual Property.** In the course of providing the Services, OPOURA may use certain third-party materials consisting of software (which may include open-source software), documents, data, information, or other materials, that are not proprietary to OPOURA (collectively, the “Third-Party Materials”). Customer will have a non-exclusive, non-transferable, non-sublicensable, fully paid, royalty free, perpetual and worldwide license to use the Third-Party Materials (subject to any third-party licenses), but only to the extent necessary for Customer to make reasonable use of the Services provided by OPOURA. Except for this limited license, Customer has no other right or license in or to Third-Party Materials, by implication, waiver, estoppel, or otherwise.

## 9. Service and Support

- 9.1** OPOURA will provide ongoing support and maintenance as defined in the service level agreement (SLA). This includes regular software updates, bug fixes, and support during the agreed service hours.
- 9.2** Any issues or downtime caused by third-party systems or failure to comply with OPOURA’s recommended usage will not be covered under the SLA.

## 10. Delivery of hardware and software. Passing of risk

- 10.1** Delivery of Services shall unless otherwise agreed in the Agreement, be in accordance with INCOTERMS 2020, Ex Works (EXW).
- 10.2** Any delivery of hardware products will be construed in accordance with INCOTERMS 2020, Ex Works (EXW). If OPOURA, at the request of Customer, undertakes to send the hardware to Customer, the risk of the goods will pass to Customer when the hardware is handed over to the first carrier. Partial shipments shall be permitted unless otherwise agreed.

**10.3** If a Site Acceptance Test (SAT) forms part of the Service, the delivery date shall be the date agreed upon by the Parties for the performance of the SAT. Any delay in the actual execution of the SAT, attributable to circumstances beyond OPOURA's control, shall be the sole responsibility of the Customer. In such cases, the delivery shall be deemed completed by OPOURA on the originally agreed delivery date.

## 11. Liability for Defects

- 11.1** OPOURA warrants that the software, hardware, and related services will perform substantially in accordance with the agreed specifications and contractual terms. In the event of defects caused by faulty design, materials, or workmanship, OPOURA's sole obligation is to remedy the defect within a reasonable time or provide an alternative solution.
- 11.2** The liability for defects applies only to issues identified and reported within one (1) year from delivery of the hardware or software and six (6) months for maintenance services.
- 11.3** OPOURA's liability does not extend to defects caused by improper use, inadequate maintenance, modifications made without prior consent, or conditions exceeding those specified in the agreement. Additionally, normal wear and tear or external factors beyond OPOURA's control are excluded from liability.
- 11.4** If a defect is identified, Customer must notify OPOURA in writing without undue delay. Failure to notify within the specified timeframes may result in a loss of rights to claim defect remediation. Upon receipt of proper notice, OPOURA will take prompt corrective action, which may include repair, replacement, or other agreed remedies.
- 11.5** OPOURA will not be liable for any indirect, incidental, or consequential damages, including loss of data, profits, or revenue, arising from any defect of the software, hardware or services.

## 12. Limitation of Liability

- 12.1** OPOURA's total liability under this agreement, whether in contract or tort, shall not exceed an amount equal to Customers' payment for the Deliverables covered by the Agreement delivered by OPOURA in the twelve (12) months preceding the date on which the claim is based or EUR 100,000, whichever is greater.
- 12.2** OPOURA shall not be liable for any special, indirect, or consequential damages, including but not limited to loss of data, profits, or revenue, arising from or in connection with the use of the software solutions, services or hardware provided.

## 13. Termination

- 13.1** The term of these Terms & Conditions will commence on the Order Date and continue until the Services described in the Agreement or order form are complete, or until termination of the separate Agreement between Customer and OPOURA, whichever is earlier.
- 13.2** Either Party may terminate this Agreement without notice in the event of a material breach by the other Party, provided that the breaching Party fails to remedy such breach within 30 days of receiving written notice specifying the breach and the required remedy.

- 13.3** Termination is also permitted if either Party becomes insolvent, enters into bankruptcy proceedings, makes a voluntary arrangement with creditors, has a receiver or administrator appointed, or is otherwise unable to substantially perform its obligations under the Agreement.
- 13.4** Either Party may terminate any Agreements for Consultancy services with ninety 90 days written notice. Customer is upon termination obliged to pay OPOURA for the hours performed up until termination.
- 13.5** In the event that Customer terminates any Agreement, where OPOURA has committed to allocating specific resources or hours for Customers project, such termination shall require ninety (90) days' prior written notice. The Customer shall be liable to pay the full project amount, minus any costs saved by OPOURA as a direct result of the termination.
- 13.6** Upon termination:
- 13.6.1** Customer must immediately cease using any licensed software or services provided under the Agreement and these Terms & Condition, and OPOURA may revoke access to such software or services.
  - 13.6.2** Customer may request data retrieval within 30 days following termination. After this period, OPOURA is entitled to delete all Customer data unless otherwise required by applicable laws or agreements.
  - 13.6.3** For consultancy work. OPOURA is upon termination obligated to return all materials provided by Customer. Additionally, OPOURA will hand over all documentation, project materials, and similar items prepared by OPOURA in connection with consultancy tasks performed for Customer.
- 13.7** If the termination is due to a material breach by Customer, OPOURA retains the right to all payments made and is entitled to claim compensation for any losses, damages, or unrealized profits resulting from the termination. This clause does not affect any other remedies available to either Party under this Agreement or applicable law.

## 14. Force Majeure

- 14.1** In case of Force Majeure, including without limitation any act of God, fire, flood, plant breakdown, malicious damage, theft, industrial action, act of government or other public authority, civil disturbance, terrorism or war, a pandemic or an epidemic with implications for producing, delivering and/or receiving products and services, all obligations of the Parties shall be suspended during the time this situation persists. In the event Force Majeure makes the fulfillment of the Contract entirely impossible, both Parties shall be released from their contractual obligations. Payments for rendered Services shall not be refunded or granted back. In case OPOURA has provided any Services that were not paid until the occurrence of Force Majeure, Customer shall be obligated to pay OPOURA the proper fee for these Services which have been carried out by OPOURA.

## 15. Governing Law and Venue

- 15.1** This agreement shall be governed by Danish law. Any disputes arising from the contract will be subject to the exclusive jurisdiction of the courts in Aarhus, Denmark.



## 16. Miscellaneous

**16.1** Failure to enforce any provision of this agreement does not constitute a waiver of such provision or the right to enforce it later.

**16.2** If any provisions of these Terms and Conditions should be invalid, this shall not affect the validity of the remaining provisions. The Parties will replace the ineffective part with an effective one, which comes closest to the intention of the invalid conditions.