

## GENERAL TERMS AND CONDITIONS OF LEVIY (GT&Cs) – version 2.0 (December 21, 2017)

### Article 1: Definitions

- a. Provider: LEVIY BV
- b. Purchaser: the Party that the Provider concludes an Agreement with for the supply of one or more LEVIY Modules.
- c. App: an application, running on a mobile device (mobile telephone or tablet).
- d. Availability: opposite of Unavailability.
- e. Client: an Organization for which the Purchaser is authorized, under the Agreement, to use the agreed LEVIY Modules.
- f. Location: a standalone structure or building which is considered as such by LEVIY.
- g. LEVIY App: the Provider's App, which is made available to the Purchaser under the General Terms and Conditions of the Agreement, in order to be able to implement the agreed Modules on the agreed Platforms.
- h. LEVIY.com: the online service (dashboard), accessible via the internet domain www.leviy.com, with which Users can view and manage information for the agreed Modules.
- i. LEVIY: The product comprising the LEVIY App and LEVIY.com.
- j. Users: Users of the Purchaser and Users of the Client.
  1. *Users of the Purchaser*: Employees who are authorized to use the LEVIY App (and LEVIY.com) for or on behalf of the Purchaser;
  2. *Users of the Client*: Employees who serve as the contact person(s) for or on behalf of Clients (of the Purchaser) - with respect to an agreement between the Purchaser and the Client - and can use LEVIY.com.
- k. Planned Maintenance: period of maintenance, where LEVIY is not available, which has been made known to the Purchaser via website or other medium.
- l. Unavailability: if LEVIY is not available due to an unplanned event.
- m. Organization: company, institution or association.
- n. Agreement: specific elaboration of arrangements between the Provider and the Purchaser, of which these General Terms and Conditions form an integral part.
- o. Operating System: the IOS and Android Operating Systems. The Store for these Operating Systems indicates which versions are supported.
- p. Generic Content: the Content made available by the Provider
- q. Specific Content: the Content actually generated by the Purchaser.
- r. Store: the Internet location from which the App is distributed (Apple App Store, Google Play Store).
- s. Fixed Hourly Rate: the hourly rate excl. of VAT, which will be charged for all work not included under the work for which fixed amounts have been agreed.

### Article 2: License

- a. The Purchaser is entitled to use LEVIY for its Users. This right of use applies for the duration of the Agreement, as long as all the articles and provisions of the Agreement are respected.
- b. The Purchaser is entitled to new releases (updates) from LEVIY for the Term of this Agreement. Upon termination of this Agreement, LEVIY's obligation or the Purchaser's right to (still) provide / obtain new releases or updates from LEVIY, released during the Term of the Agreement, will come to expire; the provision of new releases or updates only applies to those that are available for Platforms.

### Article 3: Service & Management

- a. The Service aspect pertains to the access to the Provider's online helpdesk system (the JIRA service desk), with the goal of resolving malfunctions experienced by the Purchaser. The Service provided through the JIRA service desk functions as follows:
  1. A maximum of 2 (or an agreed number of) Users of the Purchaser will have access to the JIRA service desk.
  2. Users can report a LEVIY malfunction by generating a ticket in the JIRA service desk.
  3. The helpdesk system will assign a number to each ticket. All activities relating to the relevant report will be recorded under this ticket number.
  4. The Provider is obliged to process the Purchaser's tickets.
  5. The Purchaser is obliged to provide assistance to enable all malfunctions to be resolved, for example:
    - i. By providing information to the Provider, which could be relevant in order to resolve the problem;
    - ii. By granting permission to implement modifications and / or changes to LEVIY, if necessary.
  6. Malfunctions are classified under one of the following priority levels:
    - i. Priority 1, High: the Application is down;
    - ii. Priority 2, Medium: the Application's performance is partially interrupted / the Application's performance has diminished;
    - iii. Priority 3, Low: problems with limited consequences for the Purchaser.

7. The priority level is determined by the Provider's Helpdesk Employee who transfers the notification internally to the correct person.
  8. The response- and resolution times depend on the priority level assigned to the malfunction.
  9. The response time is understood as the time between the malfunction being reported by the Purchaser and the time that the Provider responds to the notification.
  10. The maximum response times are:
    - i. For priority 1: 2 hours;
    - ii. For priority 2: 4 hours;
    - iii. For priority 3: 24 hours.
  11. The response time for priority level 1 applies 24 hours a day, 7 days a week. The response time for priority levels 2 and 3 applies during office hours.
  12. The maximum resolution times are:
    - i. For priority 1: 4 hours;
    - ii. For priority 2: 8 hours;
    - iii. For priority 3: 48 hours.
  13. The response- and resolution time for priority level 1 applies 24 hours a day, 7 days a week. The response- and resolution time for priority levels 2 and 3 applies during office hours. All resolution times will be put on hold if a response or action is awaited from the Purchaser's side.
- b. The Management aspect pertains to the support, provided by the Provider to the Purchaser, with organization of the Specific Content in LEVIY. The Management aspect will be specified in more detail with respect to duration and content. If more detailed specifications are not recorded in the Agreement between the Parties, the Purchaser will be charged at the Fixed Hourly Rate for requests directed at the Provider. The Management aspect will be charged upon commencement of the Agreement, in full, if it entails a one-off amount. The Management aspect will be charged in the first month of each contract year, in full, if it entails an amount agreed upon per year.

#### **Article 4: Expansions**

- a. If the Purchaser would like expansions to LEVIY, the Parties will consult on the matter. The expansions will be implemented and charged based on the Fixed Hourly Rate or possibly based on a specifically agreed upon Contract Price.
- b. The Parties may also decide to draw up an annual Budget. If a Budget is involved, the Provider will Register the chargeable hours. The Maximum Number of Hours in this Budget will be the Budget amount divided by the Fixed Hourly Rate. The Provider will inform the Purchaser if the Maximum Number of Hours has been reached. The Parties can then agree to increase the Budget or to settle the extra hours according to the Fixed Hourly Rate. The Provider will not proceed with expansions until the Purchaser has provided written approval. The Budget is not transferable to a subsequent contract year. A refund will not be provided if the Budget is not used up entirely.

#### **Article 5: Term and termination**

- a. For the Agreement concluded by the Parties, it applies that the Agreement is entered into for the Term agreed upon between the Parties, and in the absence of such, the Agreement will be in place for the Term of one year.
- b. The Term of the Agreement will be tacitly renewed for the Term of the original agreed period, unless the Purchaser or the Provider has terminated the Agreement in writing with due consideration for a three-month notice period, prior to the end of the relevant period.
- c. The Purchaser will always be required to terminate the Agreement in writing, by way of registered letter, with due consideration for the notice period.
- d. If the Provider's registered right of use of LEVIY should terminate, the Agreement will also terminate with immediate effect, without the Provider being liable to reimburse (any part of) the costs.
- e. If the Agreement has been terminated:
  1. The (former) Users will no longer have access to the LEVIY App;
  2. The (former) Users will still have access to LEVIY.com for a maximum period of 180 days, and no new Generic Content will be posted to this website;
  3. The Specific Content will be returned in consultation;
  4. The Provider will destroy the Specific Content and the other data of the (former) Users, between 60 and 365 days following termination of the Agreement.
- f. The User is not allowed, during and for the period of two years following termination of the Agreement, to launch a similar application on the market, for use by third parties.

#### **Article 6: Prices and payment**

- a. Unless expressly indicated otherwise, all prices are exclusive of sales tax (VAT) and other government charges. All prices specified by the Provider will always be in Euro and the Purchaser shall make all payments in Euro.

- b. The Parties will agree to a Fixed Price for the License and Service (excl. Article 3.a.4.), The Fixed Price is a price per contract year and will be charged in the first month (or if this has already lapsed, the next month) of each contract year.
- c. The Parties will agree to a Fixed Price for custom expansions and / or developments or will work on the basis of retrospective costing charged at the Fixed Hourly Rate of EUR 85.00 per hour. With respect to the Agreed upon Fixed Price, 50% will be charged once the relevant expansion has been ordered. The other 50% of the Fixed Price will be charged upon completion of the expansion. Possible development based on retrospective costing will be charged monthly, at the end of the month.
- d. The Provider is entitled to increase the rates and prices once a year, on 1 January, in accordance with the CBS index figures (CPI), in which case the CPI will start at 100 upon commencement of the Agreement). The rates and prices will not be influenced by drops in the CPI.
- e. The Purchaser will pay all invoices of the Provider within 30 days.
- f. Failure to pay on time will result in the Purchaser owing the Provider interest of 1 per cent, for the entire invoice amount, per month or per part of the month. Failure on the part of the Purchaser to pay the Provider on time will result in the Provider being entitled to suspend further execution of the Agreement, after summons and a default notice, without any liability on the Provider's part and without prejudice to any other rights to claim compensation for damages, on the Provider's part.

### **Article 7: Use of LEVIY**

- a. The Purchaser acknowledges that the Agreement is concluded between the Provider and Purchaser; Platform Suppliers are therefore not considered parties to this Agreement. Therefore, the Purchaser will never take legal action against Platform Suppliers.
- b. The Provider grants the Purchaser the non-exclusive, non-transferable, non-sublicensable right to use LEVIY for the Term of this Agreement, on the mobile devices belonging to the Purchaser.
- c. The Purchaser accepts the legal conditions and technical specifications as posted in the Store.
- d. The Purchaser is responsible for the Specific Content (unless agreed otherwise), and the Purchaser will refrain from violating third party (intellectual property) rights.
- e. The Purchaser is not permitted to add direct marketing / commercial statements (advertising, etc.) to the content.
- f. The Purchaser will never be entitled to release of the source code.
- g. The Provider does not guarantee that Generic Content will always be up-to-date, or that such content will always be entirely suited to the purpose for which the Purchaser uses LEVIY. The Generic Content will (to the extent reasonably possible) always be up-to-date when placed on the App. The date included in the publication of a subject will be decisive in this respect.
- h. The User cannot derive any rights from the Content, as presented in LEVIY, and this applies with respect to the Provider and any third party providing the Provider with Content.
- i. The Provider does not guarantee that the specialists will always be reachable or that they will still be employed by the third party that supplied the Content.
- j. The Purchaser is not allowed to:
  - copy LEVIY;
  - provide LEVIY on a lease basis or for sale;
  - issue a sublicense for LEVIY;
  - otherwise make LEVIY available to third parties;
  - modify LEVIY, to retrieve the source code;
  - and / or to develop work derived from LEVIY.
- k. The Purchaser is allowed to share all Generic and Specific Content in LEVIY with clients.
- l. The Purchaser declares, among other things, not to be in a location that falls under an embargo imposed by the United States, whilst using LEVIY.
- m. The Purchaser accepts the interests of Platform Suppliers with respect to the correct use of LEVIY: the Purchaser therefore accepts that Platform Suppliers can take independent actions in connection with violations of these General Terms and Conditions and against violations of the Platform Supplier's terms and conditions.

### **Article 8: Obligations, liability and indemnification**

- a. Provider is entitled to transfer its rights and obligations under this Agreement to a third party. Purchaser is not entitled to do so.
- b. Provider's liability for an attributable failure (in Dutch: 'toerekenbare tekortkoming') to perform this Agreement, for an unlawful act or any other act or omission by Provider, explicitly including any failure to perform a guarantee or indemnification obligation, is at all times (therefore: the cumulative and aggregated liability) limited to compensating for (i) direct damage and (ii) per calendar year limited to the amount paid by the Provider's liability insurer in the relevant case. If the insurer of the Provider does not pay, the aforementioned liability of the Provider is limited to the actual amount paid by the Purchaser in the preceding calendar year for subscription costs, with a maximum of EUR 50,000. Any other liability is excluded, including for indirect damage (such as loss of data) and, for example, damage that arises or results from the incorrect use

of LEVIY and / or damage from the unavailability of LEVIY or from any incorrectly displayed content. No right to damages shall exist unless the damage is notified to Provider in writing as soon as possible after its occurrence. The limitation mentioned in the preceding paragraphs of this article will lapse if and in so far as the damage is the result of intentional or wilful recklessness on the part of Provider or its managers (“own actions”).

- c. Provider indemnifies Purchaser against liability or (other) claims of third parties on the condition that this has been demonstrably and culpably caused by Provider. In all other cases, Purchaser indemnifies Provider and/or suppliers of Platforms against liability or (other) claims by third parties, including liability and (other) claims that arise as (direct or indirect) consequence of con-compliance with these general terms and conditions.

## **Article 9: Intellectual property**

- a. All intellectual and industrial property rights associated with LEVIY (in terms of source- and object code) and associated with the Generic Content (in any form whatsoever: text, photos, video frames, animations, etc.) are held by the Provider.
- b. The Purchaser accepts the terms and conditions imposed by third parties with respect to the use of third party services such as ‘links’ in the Generic or Specific Content, or with the design of Specific Content. The use of such services will take place at the Purchaser’s own risk. The Provider does not guarantee the availability, up-to-date nature, completeness or reliability of any service, nor does any third party provide such guarantee. The information on the LEVIY.com website is also understood under service.
- c. The Provider is entitled to make copies of the Specific Content, for backup purposes, among other things.

## **Article 10: (Personal) data**

- a) The Provider is entitled, at all times, to see how many people use LEVIY, how many actions have been performed, and what information has been posted.
- b) The Provider is entitled to take record of all (personal) data provided by the Purchaser, in its administrative system. This data will only be used by the Provider on an internal basis, for responsible organization of the user administration. The email addresses provided will never be used for commercial purposes. However, the relevant email address can be used to provide practical, non-commercial information directly related to use by the relevant person.
- c) The Provider is entitled to use all user information generated in the system (including technical data on the Purchaser’s hardware) for backups for the Purchaser and to use this data for statistical purposes and to improve LEVIY and the Content in LEVIY, on an aggregated level, not traceable to a person or company.
- d) If necessary for execution of the Agreement, the Purchaser will inform the Provider in writing, upon request, regarding the manner in which the Purchaser fulfils the legislative obligations with respect to personal data protection.
- e) The Purchaser indemnifies the Provider against claims from individuals, regarding the manner in which their personal data is registered or processed in the Purchaser’s register of personal data, for which the Purchaser is otherwise responsible pursuant to the law, unless the Purchaser can prove that the facts on which the claim is based are attributable to the Provider.
- f) The responsibility for the data processed by the Purchaser, when using the Provider’s Service, is fully encompassed with the Purchaser. The Purchaser guarantees the Provider that the content, use and / or processing of the data will not be illegal and will not constitute violation of any third party rights. The Purchaser indemnifies the Provider against any legal claim from a third party, regardless of the basis on which, in connection with this data or the execution of the Agreement.
- g) The Purchaser retains ownership of all data and information entered into the System by the Users of the Purchaser and generated by the System.
- h) Upon termination of the Agreement, the Purchaser will be entitled to a one-off export, in a commonly used format, of all data introduced to the System by the Purchaser. The Provider will deliver this export at the request of the Purchaser, up to 8 weeks following termination of the Agreement.
- i) The Purchaser and the Provider are both obliged to uphold secrecy (and to enforce such) with respect to Confidential Information disclosed by the other Party during the Term of the Agreement.
- j) This duty to maintain confidentiality does not apply for Confidential Information for which it can be indicated that:
  - a. it is part of the public domain for reasons other than disclosure by the Purchaser (directly or indirectly);
  - b. it was already in the possession of the disclosing Party prior to receipt of the information under this Agreement, supported by existing written documents;
  - c. it was released pursuant to a legal obligation or under a court order, in which case the disclosing Party will report such disclosure to the other Party prior to actual disclosure;
  - d. written discharge from the confidentiality obligation has been granted;
  - e. it was independently developed by the disclosing Party or its employees or third parties who have no access to the Confidential Information.
- k) Confidential Information may only be used in the context of execution of the Agreement.

## **Article 11: Confidentiality**

- a. The Purchaser and Provider will take care to ensure that all information received from the other Party, that they know or should reasonably know is of a confidential nature, will remain confidential. This prohibition does not apply to the Provider if and insofar as the relevant information must be provided to a third party pursuant to a court order, a legal measure, or for proper execution of the Agreement on the Provider's part. The Party that receives the confidential information will use this information solely for the purpose for which it was provided. Information will in any event be regarded as confidential when one of the Parties has designated the information as confidential.
- b. The Purchaser acknowledges the fact that the software obtained from the Supplier will always constitute a confidential nature and that it contains company secrets of the Provider or its Suppliers.

## **Article 12: Information security**

- a. The Provider has a management system in place for information security, in accordance with the NEN-EN-ISO 27001 standards.
- b. The Purchaser will ensure that appropriate measures are taken with respect to information security, based on the following risks:
  1. LEVIY access security;
  2. The establishment of safe links between in-house systems and LEVIY;
  3. Availability of the Purchaser's ICT environment, on which LEVIY runs;
  4. The introduction of rules of conduct concerning the use of LEVIY, as it pertains to personal data and confidential information, in particular regarding patient information, if it involves patient environments. The Purchaser will take the Personal Data Protection Act into consideration in this regard.

## **Article 13: Hosting and techniques**

- a. Access to LEVIY.com occurs by way of a HyperText Transfer Protocol Secure (https) connection. The communication between the LEVIY App and LEVIY.com also occurs within a HyperText Transfer Protocol Secure environment.
- b. LEVIY.com is available online via an external hosting service.
- c. The external hosting service provider and supplier may decommission the hosting service temporarily, entirely, or in part, for preventative, corrective or adaptive maintenance. Such decommissioning will not take longer than necessary and will take place outside of office hours if possible.
- d. The Provider is entitled to change the external hosting service supplier. This can take place without any announcement, and the Provider will endeavor to keep the decommissioning period as short as possible.
- e. The following minimum service levels apply in connection with the external hosting service:
  1. 100% Redundancy (N+1) for power supply;
  2. a backup of all data twice (2 times) a day;
  3. 24/7 proactive monitoring;
  4. 24/7 accessibility;
  5. 99.5% annual Availability (outside periods of Planned Maintenance).

## **Article 14: Periods**

- a. The Provider will make every reasonable effort to take the (delivery) periods and / or (completion) dates into account, to the greatest extent possible, as indicated by the Provider or agreed between the Parties. The interim completion (dates) indicated by the Provider or agreed between the Parties will always apply as target dates, will not bind the Provider in any way, and will only be indicative.
- b. If any period threatens to be exceeded, the Provider and Purchaser will consult in order to discuss the consequences of such delay for further planning.
- c. In all cases - therefore also in the event that the Parties would have agreed on a final (delivery) period or (completion) date - the Provider will only be in default on account of the period being exceeded, once the Provider has received a written default notice from the Purchaser, in which the Purchaser gives the Provider a reasonable time frame in which to remedy the shortcoming (regarding the agreed period), and this reasonable time frame has lapsed. The default notice must describe the shortcoming as specifically and with as much detail as possible, so the Provider is given the opportunity to respond adequately.
- d. If the Parties have agreed that the work will be done in phases, the Provider will be entitled to suspend commencement of the work in a specific phase until the Purchaser has approved the results of the previous phase, in writing.
- e. The Provider is not bound by a (completion) date, whether final or not, if the Parties have agreed to a change in the content and scope of the Agreement (additional work, altered specifications, etc.) or a change was agreed to regarding the manner in which the Agreement will be executed, or on account of failure on the Purchaser's part to observe the obligations, to observe them on time, or to observe them in full. The fact that (the request for) additional work might surface during execution of the Agreement will never give the Purchaser grounds for termination or dissolution of the Agreement.

**Article 15: Effectuation**

- a) The Agreement is effectuated between the Parties as soon as the original deed, signed by the Provider, is received in return, signed by the Purchaser.
- b) The Agreement is also effectuated once the Purchaser has legally signed and returned a quotation from the Provider, in which case these GT&Cs were declared applicable in the quotation and were added to the quotation. In this case the signing date applies as the commencement date of the Agreement. If the signing date is not indicated, the date of receipt of the signed quotation will apply as the commencement date of the Agreement.
- c) This Agreement is governed by Dutch law.
- d) If any provision of this Agreement were to be declared invalid by the judge, the Parties will replace the provision in question, with a different, valid provision, which will resemble the provision which was declared invalid, as closely as possible. The fact that any provision of this Agreement is declared invalid or unenforceable will not affect the legality of the other provisions.