



# General terms and conditions of Advania

November 15<sup>th</sup> 2018



## GENERAL TERMS AND CONDITIONS OF ADVANIA EHF.

### Preamble

The following are the General Terms and Conditions of Advania Íslands ehf (“Advania”). They shall apply to all contracts made between Advania and its customers, whether written or not.

Advania unilaterally reserves the right to amend these Terms and Conditions. Amendments will be announced at 30 day’s notice.

These Terms and Conditions are effective as of 15 November 2018.

### 1. **Definitions**

*Agreement* is the term used for any kind of agreement made between Advania and a customer.

*Agreement Appendices* are documents that supplement Agreements.

*Equipment* is the term used for any kind of hardware or software.

*EULA* means “End User Licence Agreement” which are the Terms and Conditions that apply between suppliers or manufacturers and the final buyer of the product.

*Company*: means Advania hf. and as applicable its subsidiaries

*General Terms and Conditions* means these Terms and Conditions.

*Goods* means any form of software, hardware or other product type sold by Advania.

*Hardware* means any type of equipment used for data processing and other related use.

*Licence Fee* is a fee paid for a licence to use a particular software.

*Licence* means permission to use particular software in accordance with the terms of an Agreement.

*Manufacturer* means any party that manufactures goods that Advania subsequently sells.

*Parties*: refers to the parties of an Agreement

*Services* can be in any form and are provided by Advania to its customers on the basis of an Agreement between the parties.

*Service Fee* is a fee paid for services provided in accordance with a separate service agreement.

*Specific Terms and Conditions* are Terms and Conditions for individual goods or services offered by Advania.

*Software* is a generic term for any type of sentence, command and programme in machine-readable or printed format that relates to the use of data processing systems together with the appropriate documentation, such as specifications, manuals, teaching material and instructions.

*SPLA* means “Service Provider Licence Agreement” and are the Terms and Conditions that apply between suppliers or manufacturers and the final user of the product.

*Standard Software* is a mass produced software without any customisations.

*Supplier* means any party who sells goods to Advania for resale by Advania.

*Terms and Conditions* means the general and the specific Terms and Conditions of Advania.

*Update Fee* is the price for the right to updates of software in accordance with more detailed conditions in an Agreement.

*Update Rights* means permission to use updates and new versions of software in accordance with the terms of an Agreement.

### 2. **Scope**

These Terms and Conditions apply to all transactions and Agreements, including sales offers, between Advania, or as applicable its subsidiaries, and any third party for the purchase of goods and services, unless otherwise agreed to in writing.

Specific Terms and Conditions may also apply to transactions and Agreements between Advania, or as applicable its subsidiaries, and a third party for the purchase of goods and services.

These General Terms and Conditions form an integral part of each Agreement made by Advania, or as applicable its subsidiaries, and third parties, and cannot be deviated from, unless specifically agreed upon in writing between the parties. Any and all amendments to Agreements must be made in writing and signed by both parties. Deviations from these General Terms and Conditions shall only be considered approved upon Advania’s written consent.

Purchases of goods and services by consumers are governed by the provisions of Act No. 48/2003 on Consumer Purchases and Act No. 42/2000 on Consumers Purchases of Services if the provisions of these acts are more favourable to such parties than these Terms and Conditions.

If not provided for in these Terms and Conditions, an Agreement or customary business practices, the purchase of goods shall be governed by Act No. 50/2000 on the Sale of Goods.

### 3. **Agreement**

An Agreement becomes effective when an Agreement, Agreement attachment and/or, as appropriate, an offer has been signed or, if applicable, any of the above said has been approved in writing by both parties in another manner, e.g. acceptance of an offer by e-mail.

#### 3.1. Effective term of an offer

Advania determines the effective term of an offer. Advania shall not be bound by an offer if an offer has not been formally accepted by a customer (including by means of acceptance by e-mail) within its effective term.

#### 3.2. Effective term of Agreements

If the effective term of an Agreement is not defined, the Agreement shall remain in effect for 12 months. During that time the Agreement may not be terminated. After 12 months, the Agreement shall be automatically extended by one year at a time during which it may be terminated at any time in accordance with the provisions of section 3.4 of these Terms and Conditions.

#### 3.3. Notice period

Unless otherwise provided for in writing between the parties, the notice period of an Agreement shall be three months. The notice of termination shall take effect on the first day of the month following the delivery of the termination notice and at that time the notice period shall begin to elapse. The notice of termination shall be made in writing and delivered by verifiable means.

#### 3.4. Discrepancies in the Terms and Conditions

The provisions of specific Terms and Conditions, Agreements, and accepted offers shall take precedence over these General Terms and Conditions.

### 3.5. On-line transactions in relation to product sales

E-commerce agreements agreed to by confirmation by e-mail or electronic signature and confirmed orders made online are equivalent to written contracts. Subject to the following conditions a buyer is entitled to return the purchased goods within 14 days from their receipt:

- The product is returned to Advania;
- seals on the product are not broken;
- the purchased goods are not damaged and are in its original packaging; and
- the purchased goods are not a special order or specially designed for the customer.

The customer is responsible for the shipping costs relating to on-line purchases.

The buyer is responsible for, and shall pay all costs of shipping when returning a product. If the cost of shipping was included in the purchase price of a product, such cost will be deducted from the amount refunded to the customer. In the event a product is returned to Advania, the customer must use the original packaging or other such adequate packaging that ensures that the product will not be damaged during transport. Furthermore, if possible the customer, shall insure the product against transport damages. The customer is responsible for a returned product until the returned product has been received by Advania, this includes responsibility for any damages to the product, the disappearance of the product or its destruction.

## 4. **Remuneration and payment terms**

### 4.1. Fee collection

Remuneration for goods and/or services shall be determined in accordance with the general price list for each product and/or service provided by Advania at any time, unless otherwise provided for in an Agreement.

### 4.2. Cash payment

Goods and/or services shall be paid immediately unless otherwise agreed upon between the parties. Other methods of payment than those specified on payment slips or invoices are considered inadequate.

### 4.3. Card payment transactions

In case payment by credit card the buyer shall specify a payment card to be used for charging monthly fees in accordance with the valid price list at any time.

If charging of fees to a credit card on the due date proves unsuccessful, the seller has the right to invoice the buyer for the outstanding charges. In the event of such overdues, penalty interest will be charged from the due date until the payment date.

### 4.4. Customer accounts

In case of an Agreement between the parties on other payment means than cash or card, Advania will issue invoices for sold goods and/or services. If applicable Advania's invoices shall be supported by relevant documentation. The due date of invoices is fourteen days after their issuance, and the final due date is six days after the due date. Penalty interest will be calculated on invoices that are paid after the final due date in accordance with Act No. 38/2001 on Interest and Price Indexation. In case of overdues, penalty interest will be charged from the due date until the payment date.

Objections to issued invoices must be submitted to Advania's finance department within 30 days of the date of issuance. In the event of a

dispute concerning the amount of an invoice, the customer may only defer payment of the amount in dispute.

### 4.5. Work falling outside the scope of contract

All work not provided for in an Agreement is regarded as work falling outside the scope of a contract. Such work is subject to separate Agreements between the parties and is invoiced separately at hourly rates. Pricing for such work shall be in accordance with Advania's general price list, unless otherwise agreed upon between the parties. If necessary, Advania is authorised to revert to protective actions to avoid damage on behalf of the customer without his prior consent. Such actions will be regarded as falling outside the scope of contract. If customer requires an audit on the systems operated by Advania, projects Advania undertakes or services Advania provides, such requests are regarded as work falling out of the scope of a contract and are subject to hourly rates according to Advania's general price list.

### 4.6. Travel costs

If a customer is located outside the greater Reykjavík area, the customer shall pay for Advania's travel expenses and accommodation, unless otherwise specifically agreed upon. Such costs shall be charged in accordance with Advania's general price list.

The customer shall pay any expenses incurred on Advania on behalf of the customer.

### 4.7. Changes to the price list and negotiated fees

Unless otherwise agreed upon between the parties, Advania unilaterally reserves the right to revise Service Fees, Update Fees and Licence Fees based on the following. Such changes can affect the monthly fees of an agreement;

- 1) The monthly fee specified in a price quote for the resale of software or other goods or services purchased directly from suppliers during the effective term of an Agreement, shall be revised regularly with respect to:
  - the exchange rate of the currency in which the purchases take place; and
  - changes in the price list of the supplier in question.
- 2) The general price list for the work of experts is regularly revised taking into consideration changes to the cost of providing services.
- 3) Other fees are updated regularly in accordance with changes to the consumer price index or changes in the general price list of Advania. If the base value of the index is not stated in an Agreement, the base value shall be set at the value on the date of signing.

The customer's discount terms, shall only change in accordance with a mutual agreement between parties.

## 5. **Transfer of risk**

Risk relating to equipment is transferred from Advania to the customer on delivery or, on the installation date if Advania is the installing party. Equipment is regarded as delivered upon the customer's receipt. The customer carries the risk relating to the equipment from its receipt. Should the customer not be able to receive or collect the equipment on account of events relating to the equipment, then the risk will be transferred to the customer as soon as receipt was possible.

## 6. **Sale of services**

### 6.1. Project agreements

Project agreements remain in effect during the implementation of a project. Project agreements cannot be terminated during the effective term of the agreement unless provisions for termination apply or the parties have specifically negotiated otherwise.

Fees for project agreements are to be negotiated on a case-by-case basis and must be stated in the Basic Agreement, agreement appendices or, as applicable, the offer.

#### 6.2. Service agreements

A service agreement is an agreement between Advania and a customer for certain services to be provided by Advania. Service agreements can be customised for a customer or they can be standardised for a particular service or product. The provisions of such agreements generally include objectives for a certain service level, but not provisions for promises unless specifically stated.

Each party to a service agreement is responsible for the work carried out by their own employees who are involved in the implementation of the service agreement. Advania may, at its own discretion, allocate its own staff to provide the services according to the Agreement or appoint a sub-contractor or the employees of a third party to carry out the work. The Agreement does not prevent Advania or its sub-contractors from undertaking comparable service projects for other parties.

#### 6.3. Warranty service

Advania provides warranty services in accordance with the provisions of these Terms and Conditions, the Act on the Sale of Goods, the Act on the Purchase of Services, the Act on Consumers' Purchases and, as appropriate, in accordance with the sales terms of suppliers or manufacturers.

### 7. **Hosting service**

A hosting agreement is an agreement reached between Advania and the customer to host hardware, electronic data and, as appropriate, the operation of IT systems.

#### 7.1. Legality of hosted data

The customer is responsible for ensuring that data hosted by Advania does not violate laws or the rights of others. In the event of such violations, Advania may take action permitted by law, such as to remove or prevent access to the data in accordance with Article 14 of Act No. 30/2002 on Electronic Commerce and Other Electronic Services.

#### 7.2. Prohibited actions

It is strictly prohibited to use, encourage, promote, communicate or instruct others to use the service for any unlawful harmful end or purposes in violation of common decency. It is forbidden to share, save, preserve, display, distribute or by any other means to make any content accessible that is illegal, harmful or in violation of common decency or the rights of others.

The following actions are strictly prohibited:

- To interfere with other users who use the service or do anything causing an abnormal load on the service and the computer system or do anything disturbing the normal access of others to the service.
- To interfere with, impair, or in any way affect other customers' use by any means, including but not limited to actions such as unsolicited mass distribution of data, any kind of cyber attacks, crawling, scanning of servers and

networks, distribution or use of automatic software, applications or any other automatic methods (such as malware or virus) in order to obtain unauthorised access to the Advania network or its customers.

- To impersonate others in any form of communication, by e-mail or otherwise.
- To attempt in any way to obtain, publish or reverse engineer in other ways the underlying source code from the software used by Advania's systems. Should a user gain access to the underlying programming code by other means, e.g. due to a malfunction, he/she must report that without delay by e-mail to [advania@advania.is](mailto:advania@advania.is).
- To interfere with, impair or in any way to use the service in a manner that such use may have an adverse effect on Advania, the business interests of Advania, the network, equipment and systems of Advania or interferes with the systems operations of Advania and as applicable the company's customers.

Advania reserves the right to determine whether a particular communication is in violation of the above rules.

### 8. **Software sales**

#### 8.1. Software utilisation

Specific user terms and conditions may apply by Advania or the respective software manufacturer for the sale and utilisation of software. The sale of software only transfers user rights for the software but not ownership.

Customers are prohibited from assigning software in any manner whatsoever, copying software, allowing a greater number of users to use the software than provided for in an Agreement, changing or having others change the software, reverse engineering the software, removing programming from the software or breaking the software down, unless authorised by law or with the written permission of Advania.

#### 8.2. Licences

Pursuant to an Agreement on the purchase of a licence, Advania grants a customer permission to use a software for a specified number of users for a particular length of time for a particular type/quantity of hardware. The customer may only use the software on the hardware specified in an Agreement between the parties and to the extent specified in such an Agreement.

The customer pays a Licence Fee for licences based on the rights or service components specified in the Agreement, including but not limited to Update Fees and fees for the installation of equipment. Licence Fees are subject to changes in accordance these Terms and Conditions, unless the parties have agreed otherwise.

#### 8.3. Maintenance Agreements

The customer does not automatically gain rights to updates and transfers to new versions of software. The parties can, however, negotiate such rights in exchange for a fee.

Work and service performed by Advania in relation to updates is not included in update fees unless specifically agreed upon. Such work will be charged according to the price list of Advania in effect at any time. Update Fees are subject to changes in accordance with the provisions of section 4.7 in these Terms and Conditions unless the parties have agreed otherwise.

The termination of a Maintenance Agreement is governed by the provisions of sections 3.2 and 3.3 in these Terms and Conditions. If a customer terminates a Maintenance Agreement, he thereby waives his

rights to licences for new versions of the software and to updates that may be issued after the termination becomes effective. Moreover, by such termination the customer also waives any possible rights to any rectification of errors that may occur after the termination becomes effective. A termination does not affect the customer's right to use the software in its state at the time a termination becomes effective.

Advania does not guarantee new versions of software being released at any particular frequency.

## 9. Hardware sales

Upon the purchase of a computer or other type of data processing equipment, a customer gains user rights to the accompanying operating software and program packages. No other rights to such operating software or program packages are transferred to the customer. When a party engaged in commercial operation purchases hardware, no database licences or user licences for IT systems or other software are included in the purchase unless specifically provided for in an Agreement between the parties.

Hardware sold on open account is considered as the property of Advania until it has been fully paid.

### 9.1. Return of hardware

Hardware can only be returned to Advania's warehouse. The customer is responsible for ensuring that credit invoices and/or delivery receipts are correct. Hardware may only be returned if the following conditions are met:

- the hardware is defective;
- all manuals, accessories, accompanying documentation and packaging are returned in original condition, and the hardware is in its original condition without visible damage;
- less than 30 days have elapsed from either the delivery of the product or the discovery of a defect if the buyer can demonstrate that the defect was discovered later;
- specially ordered hardware cannot be returned unless the hardware is significantly defective; and
- hardware purchased through lease purchase, financing lease or operating lease agreements can only be returned in accordance with the provisions of the relevant Agreement.

In the event that hardware is returned to Advania, the customer must use the original packaging or other such adequate packaging that ensures that the hardware will not be damaged during transport. Additionally, the customer must, if possible, insure the product against transport damages if possible. The customer is responsible for the product from the time of shipment until delivery, including responsibility for any damages, the disappearance of the product or its destruction.

## 10. Obligations and responsibilities of customers

The customer shall enable Advania to carry out the part of the service that takes place at the customer's facilities. If the customer fails to do so, Advania cannot be held liable for any problems that may arise at the customer's facilities.

The customer is responsible for guidelines and instructions that Advania is provided with by the customer and/or as appropriate the customer's employees. Moreover, the customer is responsible information that the customer and/or, as appropriate, the customer's employees provide Advania with being correct.

The customer is responsible for ensuring that the use of the software does not violate acts of law or the rights of others.

The customer is responsible if hardware owned by Advania, and held by the customer is damaged or destroyed.

## 11. Advania's obligations and responsibilities

Advania is liable for ensuring that equipment and services are satisfactory and in accordance with the Agreement between the parties. Liability is dependent on the use of goods being in accordance with the specifications of the relevant manufacturer. If a customer considers that the services provided and equipment delivered are not in accordance with the Agreement between the parties and/or the specifications of the relevant manufacturer, the customer shall direct complaints thereof to Advania. If Advania is not liable for the relevant deficiencies, Advania may invoice for the cost relating to the attempt of remedying such deficiencies.

The warranty term for equipment and services is 12 months. For consumer purchases, i.e. purchases made by parties not engaged in commercial operations, the warranty period is 2 years in accordance with Act No. 48/2003 on Consumers' Purchases. A different warranty term than provided for in this clause must be specifically agreed upon in an Agreement or provided for on a sales receipt.

If not stated in these Terms and Conditions or in an Agreement between the parties, when assessing whether a sales item is defective, notice must be taken of the point in time when risk was transferred to the customer, even if the defect is not discovered until later. Unless otherwise established, a defect discovered within six months from the date that risk was transferred, shall be considered to have been present at the time of transfer of risk. This does not apply, if such a conclusion is incompatible with the nature of the defect or the product.

### 11.1. Special provisions on service and hosting warranties

Advania shall ensure that the standard of the services are satisfactory and in accordance with the Agreement between the parties.

Advania does not warrant that data backups made on the basis of backup agreements are always perfect, as Advania has no possibility of verifying backups unless such verification is specifically negotiated.

Advania is liable for hardware covered by an Agreement while such hardware is in the custody of an employee of Advania and until risk transfer takes place according to section 4 of these Terms and Conditions. Liability under this paragraph applies to both new hardware and hardware that Advania has custody of for repairs or storage.

Advania is not liable for damages that can be traced to the normal wear and tear of hardware, or malfunctions of, including but not limited to, hard drives and/or other hardware from the customer that Advania hosts or services.

Advania is not liable for loss or damage that may occur due to data loss, equipment down-time or delays in the service, unless such loss or damage can be traced to the intention or gross negligence of Advania or its employees.

Advania is not liable for loss or damage caused by the customer or a third party who is not operating on behalf of Advania. Advania is not liable for delays, damages, down-time or the response time of third parties.

### 11.2. Special provisions on software warranties

Advania guarantees that installation of mass produced software will work as may be expected, in accordance with the software's promotional material, for the version of the software available at the time when the sale takes place and with the hardware, operating systems and other system software specified.

When Advania acts as a reseller of a third party software, the warranty limits set forth by the owner of the relevant software rights shall apply so far that such limits do not violate Icelandic laws. The End User License Agreement for the software is considered accepted when the software is opened and installed for the first time.

Advania does not warrant that the software will be free of error or disruptions. The manufacturer's instructions on updates must be followed while the software is in use. If a problem can be solved by following publicly accessible instructions from the manufacturer, work performed by Advania due to such problem is not included in the warranty and will be charged in accordance with Advania's general price list.

If a customer so requests, Advania will install and test software on the customer's equipment. The customer shall pay for such instalment and testing in accordance with Advania's general price list unless otherwise agreed upon. If a customer elects to install and test the software himself, Advania cannot be held liable for any loss or damage or problems that can be traced to such installation and testing performed by the customer.

A customer is solely responsible and liable for the manner in which a software is used. Other than provided for in a Agreement, Advania cannot be held liable for software being intended for a particular use or for software working in or with a particular software/hardware environment. Advania's software warranty terminates if a third party makes changes to the technical environment, database or software of the customer without Advania's written approval for such changes.

### 11.3. Special provisions on hardware warranties

Advania warrants that hardware sold to a customer will function correctly on the date of delivery and during the warranty term of the hardware.

The sales receipt constitutes a warranty certificate and must be presented for confirmation of guarantee.

Unless specifically agreed upon, Advania provides no warranty on refurbished hardware sold to customers.

The Advania's warranty covers only factory defects that are discovered during the effective term of the warranty. A defect must be reported as soon as it is discovered. If the hardware in question proves to have been defective at the time of delivery or if a customer notifies Advania of hardware defect during the warranty term, Advania shall remedy the defect at its own expense.

The warranty period for batteries is one year unless otherwise agreed upon.

Advania reserves the right to replace a product that malfunctions during the warranty term with an identical or comparable product in the event spare parts cannot be obtained from the manufacturer of the item. Moreover, components from other goods, new or barely used, may be used in warranty repairs. A warranty does not grant a customer the right to require that a defective product be replaced with a new one.

If installation of an operation system is necessary post repair of a computer, such installation shall be done in accordance with Advania's standards on the basic installation of an operating system, i.e. without specialised settings in the installation.

Advania's warranties on hardware and the customer's right of refund for repair costs shall terminate in the event of the following:

- the instructions of the manufacturer of the hardware and the instructions of Advania on the care, use, load, components or maintenance have not been followed;

- the serial number has been removed;
- the malfunction or damage can be traced to poor or incorrect treatment, humidity or impact damage, incorrect installation, poor maintenance, accidents or mishaps;
- the regular wear and tear of hardware;
- a repair or attempted repair has been performed by someone other than an Advania employee;
- a third party has opened or interfered with the hardware, changed it or added to it in some manner;
- the hardware has been tampered with in such a manner that it has become damaged;
- the warranty seal has been broken (applies to hardware that has a warranty seal);
- the malfunction or damage can be traced to the hardware being connected to the incorrect voltage, changes to supply voltages or electrical disruptions and other external incidents that the equipment may be subjected to;
- the malfunction or damage caused by incorrect connections to electrical systems or networks;
- the malfunction can be traced to inappropriate environmental aspects, such as dust, temperature or humidity; or
- the malfunction can be traced to goods and/or services for which Advania is not responsible.

If a customer purchases hardware with pre-installed software, the software manufacturer's Terms and Conditions shall apply to the software's use and warranty as of the time the customer begins to use the hardware. Advania is not liable for updating software installed on hardware unless the malfunction can be traced to the software.

Advania is not responsible for any data that may be stored on the hardware.

If a product is sent to Advania's for repair, the customer must use the product's original packaging or other such adequate packaging that ensures that the hardware will not be damaged during transport. Moreover, the customer must insure the product against transport damages. The customer is liable for the product until Advania accepts delivery of it, this includes but is not limited to liability for damages to the product, the disappearance of the product or the products destruction.

If the hardware does not operate in accordance with specifications during the warranty term and Advania has been unable to either repair the defect or replace the hardware with other comparable hardware, the customer is entitled to return the hardware to Advania and to receive a refund of the sales price.

## 12. **Limitations of liability**

Equipment warranties are only valid in Iceland. Warranties on services are valid where the services are rendered. Services relating to hosting services at Advania's data centers is considered as rendered in Iceland.

Advania does not warrant any particular results from the use of its goods and/or services. The customer has no claim on Advania based on a products inherent qualities or lack thereof, provided such customer had the opportunity to familiarise himself with the product by reading its accompanying instructions or descriptions which are generally accessible, e.g. on the website of Advania or the manufacturer of the purchased item.

The warranty does not cover repairs conducted outside regular business hours.

The warranty does not cover additional expenses, e.g. travel and travel time, if repairs are requested outside Advania's workshop.

The warranty does not cover costs resulting from changes made to hardware or software by persons other than Advania employees.

The warranty does not cover the cost of data recovery or the re-installation of user software.

The normal wear and tear of products falls out of the scope of the warranty and will not be compensated, such as wear and tear of batteries of laptops, provided that the lifetime of the product in question is in accordance with what may be expected.

Advania is not liable for damages caused by the customer or by a third party unrelated to Advania. Advania is not liable for delays, damage, downtime or response time of a third party. Advania can only be held liable for the direct loss or damage of a customer that is a direct result of defects in the product. Advania can under no circumstances be held liable for the operating losses, of a customer and/or that of a third party, nor any consequential or incidental damages to such parties, including loss of profits or inherent gains, irrespective of whether such loss or damage can be traced to defects, damages or the destruction of the purchased item or to other circumstances, even though Advania was notified of the possibility of such damages.

Other than provided for in these Terms and Conditions Advania does not accept liability for any loss or damage caused to persons, property and chattels, attributable to products or services provided by Advania, unless such loss or damage can be traced to the gross negligence or intention of Advania or its employees and that the loss or damage is the result of such conduct.

Except as provided for in these Terms and Conditions, Advania's liability for any mistakes, errors, negligence, disruptions, delays, loss or damage or defects in services, software or hardware shall be limited to the equivalent of the fee that the customer has paid to Advania for the service, software or hardware in question over the past three months prior to the incident that caused the loss or damage.

### 13. Indemnity

Customers undertake to comply with Icelandic laws and the decisions of public authorities. Furthermore, customers undertake to respect the rights of third parties and to refrain from violating such rights, irrespective of whether such rights involve copyrights, ownership rights, right of use or any other form of rights. Customers agree to indemnify Advania for any loss or damage caused by breach of the above. A customer shall not be obliged to indemnify Advania in the event Advania encouraged the customer to engage in the violations.

Advania agrees to indemnify a customer against third party claims of infringement provided that such customer notifies Advania of the claim as soon as he gains knowledge of it and provides Advania with the right to conduct any negotiations or litigation with respect to the claim. Advania may at its sole discretion decide whether it changes the product, provides the customer with another comparable product or negotiates with the relevant third party for the rights to use the product.

Advania's obligations under this section cease to apply if the customer continues to use the product after Advania has offered corrective measure or if a violation or the alleged violation is the result of the customer having altered the product or used the product on or with other hardware in violation of an Agreement.

### 14. Force majeure

Neither party to an Agreement is entitled to compensation from the counterparty when default is caused by reasons beyond such party's

control, including but not limited to labour disputes, wars, revolution, natural disasters, amendments to regulations issued by governmental authorities, intervention by governmental authorities, trade restrictions, blockades, general transport obstacles, energy shortages and comparable uncontrollable events in relations to subcontractors.

### 15. Intellectual property rights

When Advania sells its own software, copyrights and any other form of intellectual property rights, including but not limited to, trademark rights, design rights, patent rights, ownership rights to professional secrets, know-how or other such rights remain with Advania. The same applies to all additions to the software provided by Advania or obtained by Advania through assignment.

When Advania sells third party software, such third party remains the owner of copyrights and any other form of intellectual property rights, including but not limited to trademark rights, design rights, patent rights, ownership rights to professional secrets, know-how or other such rights and as in accordance with the owner's Terms and Conditions applicable to the software in question.

If the assignment of rights (or other such rights) is not provided for in an Agreement, such rights shall not be considered assigned. An Agreement does not constitute a licence to use the software's or software components' trademarks. Moreover, an Agreement shall not be considered assigning Advania's rights (or other similar rights) relating to system components created by Advania. The same shall apply to updates and new versions of software created by Advania, unless the customer has contributed significantly to their creation.

If programs, software, intellectual property and other such items have been developed or created on the basis of co-operation and equal contribution of both parties to the Agreement, both parties gain the rights to the developed products. Each party to an Agreement is free to sell and use in any manner the developed product provided that no confidential information about the counterparty to the Agreement is disclosed.

All rights to programs, software, ideas, standards and other products that have wholly been created, designed and developed on the basis of the contribution of one of the parties to an Agreement, shall belong to that party unless otherwise specifically provided for.

Advania is authorised to reuse all ideas, intellectual property, know-how and methods resulting from the services and products provided in co-operation with a customer.

Advania confirms and guarantees that the company is and will hold title and/or licence to systems or system components licensed to a customer, including title and/or licence to potential rights of a third party relating to the equipment and the data contained by the system at one time or another, including software and confidential data that is connected at present or may become connected to the system at a later date.

Advania shall indemnify and hold harmless a customer from and against third party actions based on the infringement of rights, subject to such violation of infringement rights being the fault of Advania and the customer notifying Advania of such claim without delay. In the event of a dispute regarding the rights to a software, Advania may at its own discretion decide whether it changes the software, procures other comparable software for the customer or negotiates a license for the usage of the software in question during the period of dispute. Advania's obligations under this section cease to apply if a customer continues to use a software after Advania has offered corrective measures or if the alleged is the result of the customer having altered

the software or used it on or with other equipment in violation of an Agreement.

Software owned by Advania may not be leased or lent to a third party with or without compensation.

#### **16. Event of default**

Any of breach of these Terms and Conditions, including a payment default, shall constitute an event of default. Advania reserves the right to cancel the service, and if applicable demand a re-opening fee 14 days after a notification of a default has been sent to a customer.

Advania reserves the right to charge penalty interest on the outstanding amount resulting from a payment default, from the due date of an invoice until payment date in accordance with Act no. 38/2001 on interest and indexation. Additionally, a late payment and notification fee will be charged on the outstanding amounts.

The following is regarded as a substantial default by the customer:

- A payment delay in excess of 30 days after a late payment reminder was sent;
- A default that is pending for more than 30 days from the date of a written notification from Advania about the subject matter particulars;
- A breach of provisions 7.1 and 7.2 of these Terms and Conditions;
- If a customer uses Equipment in a way contrary to what is stated in user terms or in other issued user guides for the Equipment;
- If a customer uses Equipment in excess of what is agreed or stated in an Agreement; or
- If Equipment has been serviced by other employees than those of Advania, without the prior consent of Advania.

In case of a substantial default by the customer, Advania reserves the right to take any or all of the following measures:

- The unilateral termination of an Agreement;
- To take possession of software or make it unusable;
- To collect all due and undue payments; or
- Apply other default measures as appropriate.

In the event of termination of an Agreement, a customer shall immediately cease the use of software and seek immediate removal of software from his hardware. Any data belonging to the software must be delivered to Advania without delay.

A customer may terminate an Agreement in case of substantial default by Advania lasting longer than 60 days and if Advania has not remedied the case despite a formal demand by the customer.

#### **17. Bankruptcy**

An Agreement is automatically terminated in the event of either party entering into bankruptcy proceedings. If either party to the Agreement is granted an authorisation to enter into financial reorganisation or to seek a composition of creditors, the counter party may terminate the Agreement with a one month notice until the financial reorganisation of the party in question has been completed. If a customer is granted authorisation to enter into financial reorganisation or to seek composition from his creditors, Advania may require guarantees for the secure performance of the Agreement during the period in which the financial reorganisation of the customer takes place. Advania may terminate the agreement if such request is not met.

#### **18. Information security and obligations of confidentiality**

Advania must observe strict confidentiality on data and matters becoming known to Advania about the customer and his clients.

The terms of an Agreement are confidential and as such should only be distributed to those involved in its implementation and only to the degree necessary.

The employees of Advania are bound by a signed declaration of confidentiality that relates to the affairs of the customers of Advania of which they may become aware in their work and which must remain confidential pursuant to law, the instructions of the customer or by their nature. The obligation of confidentiality remains when the Agreement has expired.

The customer is bound by a confidentiality obligation as regards the affairs of Advania of which he may become aware due to the implementation of the Agreement. The confidentiality obligations remain in effect after the expiry of the Agreement.

Advania may become obligated by legislation or court rulings to disclose hosted data, disclose information on the business relationship or grant access to hosted hardware to authorities. Under this circumstances Advania will promptly notify the affected customer.

Any cost associated with the actions of Authorities against the customer is regarded as falling outside the scope of the contract and is billed on hourly fees according to current price list.

#### **19. Protection of personal data**

Processing of personal data shall be in accordance with Act no. 90/2018 as further detailed in Advania's privacy policy which is published on company website, [www.advania.is](http://www.advania.is).

#### **20. Regulated entities**

If a customer is a regulated entity in accordance with the law on regulated entities, the right to supervision of Advania's operations that an Agreement covers is ensured. For this purpose, Advania shall maintain a list of employees who have access to a customer's information, together with information on the period that the employee in question had access to the information and all changes to access. It must be ensured that the number of employees who have access to customer information is not greater than necessary. The access of Advania's employees must be personally identifiable. System manager privileges may not be shared. The aforementioned list must be accessible to the customer at any time.

In the event that the customer is a regulated entity, Advania is under an obligation to provide regulators with information and data relating to the customer in connection with the regular examination and/or investigation of cases. Advania shall not provide regulatory parties access of information and data about a customer unless the request is based on acts of law, court rulings or the approval of the customer. In the event of a legitimate request for access of information and data, Advania shall provide the regulatory party access to the data in question and ensure that the examination or investigation can take place in Advania's premises. The regulated entity shall compensate to Advania the work involved in acquiring the data according to Advania's effective price list. If Advania receives a request for data, Advania shall inform the customer thereof without undue delay, in order for the customer to be able take appropriate measure if the customer considers the request without basis.

## **21. Preservation of data and other obligations on the termination of the Agreement**

Advania will not preserve or host customer's data after the expiration or termination of an Agreement. If a customer is under an obligation to preserve data or records on the basis of legal provisions or Agreements, e.g. accounting records, and such data was hosted by Advania, the customer is obliged and undertakes to preserve a copy of such data. Advania is not responsible for preserving the data in question on behalf of a customer after the expiry of the Agreement.

Upon the expiry or the termination of an Agreement, all licenses and software that a customer verifiably owned prior to the Agreement being entered into as well as licenses or software acquired by the customer during the term of the Agreement must be returned to the customer, unless otherwise agreed upon between the parties.

Upon the expiry or the termination of an Agreement a customer must return to Advania all hardware and other goods or licenses owned by Advania in the customer's custody.

All work carried out by Advania due to the expiry of an Agreement will be invoiced at an hourly rate.

## **22. Assignment of rights**

The customer may not assign rights under an Agreement to a third party without the written consent of Advania.

## **23. Laws and legal venue**

Icelandic laws shall apply to these General Terms and Conditions, Agreements, Agreement Appendices and, as appropriate, offers tendered by Advania to its customers. Advania and its customers shall endeavour to amicably resolve any disputes arising in relation to an Agreement. In the event a dispute cannot be resolved, it shall be brought before the District Court of Reykjavík.

Furthermore, a dispute may be referred for arbitrational settlement if both parties so agree, in which case Act No. 53/1989 on Contractual Arbitration shall apply to the proceeding before the arbitration tribunal.