

**GENERAL TERMS AND CONDITIONS NOBI**

**TABLE OF CONTENTS**

<b>1</b>	<b>Definitions</b> .....	<b>1</b>
<b>2</b>	<b>Applicability</b> .....	<b>3</b>
<b>3</b>	<b>Term and Termination</b> .....	<b>5</b>
<b>4</b>	<b>Prices, Fees and Payment</b> .....	<b>5</b>
<b>5</b>	<b>Products</b> .....	<b>7</b>
<b>6</b>	<b>Care Membership and Terms of Use</b> .....	<b>8</b>
<b>7</b>	<b>Additional Services</b> .....	<b>10</b>
<b>8</b>	<b>Intellectual Property Rights</b> .....	<b>11</b>
<b>9</b>	<b>Warranties and Liability</b> .....	<b>12</b>
<b>10</b>	<b>Confidentiality</b> .....	<b>14</b>
<b>11</b>	<b>Customer Data</b> .....	<b>14</b>
<b>12</b>	<b>Data Processing Agreement</b> .....	<b>15</b>
<b>13</b>	<b>Miscellaneous</b> .....	<b>19</b>

**1 Definitions**

- 1.1 **“Affiliate”**: means, in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party, where “control” means the direct or indirect ownership of more than fifty per cent (50%) of the voting rights or the ability to direct the management and policies of that entity.
- 1.2 **“Agreement”**: means the agreement between the Parties consisting of the Quotation issued by Nobi, these Terms and Conditions and any annexes, schedules, exhibits or other documents expressly incorporated by reference therein, as amended from time to time.
- 1.3 **“Business Associate Agreement”** or **“BAA”**: means with respect to the customers located in the United States of America, the agreement between the Parties to protect the privacy and provide for the security of PHI, in compliance with HIPAA, the regulations promulgated thereunder, and other applicable laws, including without limitation the requirements of the HITECH Act.
- 1.4 **“Care Membership”**: means a non-exclusive, limited, non-transferable license to allow the Users specified in the Quotation and/or the Agreement to access and use (the specific Features of) the Platform and Services identified in the Quotation and/or the Agreement, without the right to sublicense except to Affiliates under the same restrictions.
- 1.5 **“Confidential Information”**: means any and all information of a confidential nature, disclosed by either Party (or on its behalf) to the other Party, whether orally, in writing or in any format or medium and whether prior to or after the Effective Date. Confidential Information of Nobi will be deemed to include the Products, the Care Membership, the Services and any Prices, Fees, terms, attachments, appendices and all information related to the Products and Services associated with the Agreement, including Customer Data. “Confidential Information” does not include any information that the receiving Party can demonstrate to be: (a) rightfully known prior to disclosure; (b) rightfully obtained from a Third Party authorized to make such a disclosure, without breach of the terms and conditions of the Agreement; (c) independently developed by the receiving Party as demonstrated by contemporaneous documents; (d) available to the public without restrictions; (e) approved for disclosure with the prior written approval of the disclosing Party; or (f) disclosed by court order or as otherwise required by law, provided that the Party required to disclose the information, provides prompt advance notice to enable the other Party to seek a protective order or otherwise prevent such disclosure;
- 1.6 **“Controller”** means the natural or legal person which determines the purposes and means of the Processing of Personal Data for the purposes of the Agreement, being the Customer.
- 1.7 **“Customer Data”** means any information, documentation or (raw, pre-processed or derived) data of or relating to the Customer, the Users or its Residents that is processed, stored, transmitted, captured or otherwise generated by, in or through the Products and/or Services, including sensor / product data, detection signals, measurements, time-stamped event logs, environmental data, event and alert data, related Service data, associated metadata, any visuals or audio captured by the Products and/or Services and any data derived from such use, including analytics, patterns, events, statistics or similar outputs to perform the Services.
- 1.8 **“Customer”**: means the customer of Nobi indicated in the Agreement.
- 1.9 **“Data Act”**: means Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828.
- 1.10 **“Data Breach”** means a personal data breach within the meaning of Article 4, 12) GDPR, being a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise Processed.
- 1.11 **“Data Processing Agreement”** or **“DPA”**: means the data processing agreement within the meaning of Article 28.3 GDPR entered into between Nobi and the Customer pursuant to the Agreement and included in Article 12.

- 1.12 **"Data Protection Legislation"** means the GDPR together with any other (data protection) laws resulting from the GDPR and/or all other applicable laws of any country with regard to the protection of Personal Data or privacy.
- 1.13 **"Data Subject"** means an identified or identifiable natural person to whom the Personal Data relates. An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.
- 1.14 **"Documentation"**: means any documentation provided by Nobi related to the Products and Services, whether or included in the Quotation, including manuals, guides, specifications, policies, training materials and any other Documentation describing, explaining and/supporting the understanding, use, development, operation, maintenance and governance of the Products and Services.
- 1.15 **"Downtime"**: means any period during which the Platform or Services are unavailable or materially degraded in performance, as further defined in the applicable SLA, excluding any periods of scheduled maintenance agreed with the Customer or other exclusions set out in the SLA.
- 1.16 **"Features"**: means the individual functional components, features, modules or functionalities of the Products, Platform and/or Services that can be licensed separately or in combination, and any future features developed by Nobi, and as described in the Documentation. The Features applicable to the Customer will be set out in the Quotation and/or Agreement.
- 1.17 **"Fees"**: means the fees, charges, and other amounts payable by the Customer for the Services (including the Care Membership) as set forth in the Quotation, the Agreement or otherwise agreed upon between the Parties.
- 1.18 **"Force Majeure Event"** means any event, circumstance, or cause beyond a Party's reasonable control that prevents or materially delays such Party's performance under the Agreement, including but not limited to: (a) acts of God, natural disasters, epidemics, or pandemics; (b) war, terrorism, civil unrest, or government actions; (c) cyber-attacks not caused by the affected Party's negligence; (d) failure or interruption of Third Party services essential to performance (including AI providers, cloud infrastructure, or internet services); (e) changes in applicable law or regulations that materially affect performance; or (f) labour disputes not involving the affected Party's employees.
- 1.19 **"GDPR"** means the EU GDPR, i.e. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation) and/or, where applicable, the UK GDPR, i.e. Council regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as implemented through the Data Protection Act 2018.
- 1.20 **"Go-Live"**: means the date on which the Products and the Platform are fully installed, configured and technically integrated at the Customer's site, and has successfully passed initial acceptance testing, such that it is ready for operational use in a live environment.
- 1.21 **"HIPAA"**: means the Health Insurance Portability and Accountability Act of 1996.
- 1.22 **"HITECH Act"**: means the Health Information Technology for Economic and Clinical Health Act (found in Title XIII of the American Recovery and Reinvestment Act of 2009).
- 1.23 **"Intellectual Property Rights"**: means, in any jurisdiction worldwide, registered or unregistered, copyrights, software rights, database rights, design rights, patents, trademarks, trade name rights, trade secret rights, rights related to know how, together with any goodwill related to any of the foregoing, including priority rights, application rights and moral rights.
- 1.24 **"Nobi"**: (i) Nobi NV, a company existing under the laws of Belgium, with registered office at 2018 Antwerp (Belgium), Generaal Lemanstraat 47 box 5, registered with the BCE under number 0849.279.441, (ii) NOBI SMART LAMPS Ltd., a company existing under the laws of the England and Wales, with registered office at 1 Chapel Street, Warwick, United Kingdom, CV34 4HL, and with company number 15726509, or (iii) Nobi USA, Inc., a Delaware corporation, with registered office at 2140 South Dupont Highway, 19934 Camden, County of Kent, Delaware and operational office at 820 Gessner Road, Suite 120, Houston, TX 77077, depending on the specific Nobi entity with which the Customer has entered into the Agreement.
- 1.25 **"Notice(s)"** means any formal notice required or permitted to be given under the Agreement in accordance with Article 13.1.
- 1.26 **"Party"** or **"Parties"**: means Nobi and/or the Customer.
- 1.27 **"Personal Data Breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed following the Agreement.
- 1.28 **"Personal Data"** means any information relating to a Data Subject within the meaning of Article 4, 1) GDPR.
- 1.29 **"Platform"**: means the software platform developed and provided by Nobi through which the Services are provided to the Customer, and which is licensed to the Customer in accordance with the Care Membership, as further described in the Documentation and/or the Quotation.
- 1.30 **"Price"**: means the one-time purchase price payable by the Customer for the purchase of the Product(s), as set forth in the Quotation and/or Agreement.
- 1.31 **"Processing"**, **"Process(es)"** or **"Processed"** means any operation or set of operations which is performed upon Personal Data or on sets of Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- 1.32 **"Processor"** means a natural or legal person, public authority, agency or any other body which is authorized to process Personal Data on behalf of the Customer. Under this Agreement, Nobi acts as the Processor.

- 1.33 **"Product"** or **"Products"**: means the hardware (devices) developed, provided or made available by Nobi for the purposes of fall prevention and/or fall detection, including but not limited to the Nobi light and Nobi nurse call devices, that can be further specified in the Agreement, Quotation or Documentation.
- 1.34 **"Protected Health Information"** or **"PHI"**: refers to and includes both PHI as defined at 45 C.F.R. § 160.103, regardless of the form and media, including paper, oral, and electronic.
- 1.35 **"Quotation"**: means any quotation or proposal issued by Nobi to the Customer and accepted by the Customer, including these Terms and Conditions, which form an integral part thereof.
- 1.36 **"Resident"**: means a natural person residing in a facility operated by the Customer in relation to whom the Products and/or Services are used for the purposes of fall prevention and/or fall detection.
- 1.37 **"Security Measures"** means the technical and organizational measures within the meaning of Article 32 GDPR aiming at protecting Personal Data against accidental or unlawful destruction or loss, as well as against non-authorized access, alteration or transmission.
- 1.38 **"Services"** means the Care Membership, the delivery and installation, consulting, customization, configuration, implementation, integration, training or other professional services provided by Nobi to the Customer that can be further specified in the Agreement, Quotation or Documentation.
- 1.39 **"SLA"** means the service level agreement agreed between Nobi and the Customer setting out the applicable service levels, including availability targets, support procedures, incident response times and other service commitments relating to the Services.
- 1.40 **"SOW"** means a statement of work or similar document agreed between Nobi and the Customer describing the Services to be provided, including where applicable the scope of the work, implementation details, deliverables, timelines and any other specific terms applicable to such Services.
- 1.41 **"Sub-processor"** means any Processor engaged as a sub-processor or subcontractor by Nobi and processes Personal Data for, on behalf of and in accordance with the instructions of Nobi.
- 1.42 **"Supervisory Authority"** means an independent public authority which is established by a EU member state or the United Kingdom pursuant to Article 51 GDPR.
- 1.43 **"Term"**: means the term of the Agreement as set out in the Agreement and/or Quotation.
- 1.44 **"Terms and Conditions"**: means the current general terms and conditions of Nobi forming integral part of the Agreement.
- 1.45 **"Terms of Use"**: means the terms, limitations and requirements applicable to Users with respect to the use of the Products and Services as set out in the Agreement and these Terms and Conditions.
- 1.46 **"Third Party"**: means any legal or natural person that is not a Party, User or Resident, including possible subcontractors, external suppliers or service providers of Nobi, or when used in the context of Article 12, any party who is not a Data Subject, Controller, Processor or Sub-processor under the data processing agreement or a person who is authorized to process Personal Data under the direct authority of the Customer or Nobi.
- 1.47 **"Unit"**: means a room or designated space within the Customer's care facility, for which a Care Membership has been subscribed, whereby each Unit may contain one or more Nobi lights, provided that the total number of Nobi lights within a Unit shall not exceed five (5).
- 1.48 **"User(s)"**: means any natural person authorized by the Customer to access and use the Platform through a dedicated account on behalf of or within the facility of the Customer.
- 1.49 **"User Data"**: means the information provided by a User when creating or using an account on the Platform, including login credentials, passwords and profile information entered by the User.

## 2 Applicability

- 2.1 These Terms and Conditions apply to all Customers. Certain provisions may differ where the Customer is established under the laws of England and Wales, or the federal laws of the United States of America and the laws of the state of Delaware without regard to conflict of law principles (collectively the "US Laws"). Any such differences will be expressly identified in the relevant clause. In the absence of such express indication, these Terms and Conditions shall apply in full and without modification to all Customers.
- 2.2 These Terms and Conditions apply to all Agreements and Quotations related to the use of the Products and Services between Nobi and the Customer, unless agreed upon otherwise in writing. By accepting the Quotation, whether implicitly, explicitly or by delivery of the Products and/or execution of the Services, accessing or using the Platform, placing an order or paying an invoice of Nobi, the Customer accepts and agrees to these Terms and Conditions. If the Parties commence the delivery of Products and/or execution of Services or initiate performance following acceptance of the Quotation before the formal signing or acceptance of the Agreement, the Customer acknowledges that such execution constitutes implicit acceptance of these Terms and Conditions or the terms and conditions set forth in the Quotation. As soon as Nobi delivers Products or provides Services, a binding Agreement is established, and the Customer is obliged to pay Nobi the Price(s) and Fees specified in the Quotation for the delivered Products and/or provided Services, even if the Agreement has not yet been formally signed or entered into in any way.
- 2.3 These Terms and Conditions also apply to any additional order placed by the Customer with Nobi, regardless of whether reference is explicitly made to these Terms and Conditions. Orders for additional Products have to be sent to [orders@nobi.life](mailto:orders@nobi.life). These Terms and Conditions also apply to any contractual relationship between an Affiliate of Nobi and Customer and in particular to any Quotation, order or delivery of Products and/or Services by such Affiliate to the Customer. In such case, references to "Nobi" and "Party", if referring to Nobi, shall be read and replaced as "Affiliate"; the term "Parties" shall then mean the Affiliate and the Customer.

- 2.4 If multiple Products and/or Services are provided to the Customer, each set of rights and obligations arising from each separate order or Quotation confirmation with a distinct subject shall, for purposes of interpretation, validity, performance, and termination, be regarded as a separate Agreement. Consequently, the invalidity or termination of one or more Agreements shall not automatically result in the invalidity or termination of the other Agreements and vice versa. This applies in particular to each Agreement concluded between the Parties.
- 2.5 Unless otherwise stated in the Quotation, Nobi's Quotations are purely informative, only imply a non-binding proposal (not an offer) to conclude a contract and are only valid for fifteen (15) calendar days. Changes made to Nobi's Quotations are only valid if Nobi has expressly accepted them in writing.
- 2.6 In the event that an Agreement also, directly or indirectly, relates to an Affiliate of the Customer, such Affiliate shall also be bound by the provisions of the Agreement, and the Customer guarantees the fulfilment by such Affiliate of all contractual obligations arising from the Agreement. If Nobi enters into an Agreement with more than one natural or legal person, all such persons or entities shall be jointly and severally liable towards Nobi, and the term "Customer" shall be understood to include all such persons or entities. A reference to the "Customer" shall likewise be deemed a reference to all its legal successors.
- 2.7 In the event of a conflict or interpretative discrepancy between the provisions of the various (contractual) documents forming the Agreement, the following hierarchy shall apply (in descending order): (i) the Quotation, (ii) the Agreement; (iii) these Terms and Conditions, (iv) Nobi's invoice terms. In the event of any conflict between the Terms and Conditions and any document submitted by the Customer, the Terms and Conditions shall always prevail, and such conflicting terms in the Customer's documents are hereby rejected by Nobi.
- 2.8 The Terms and Conditions are deemed accepted by the Customer, even when they are conflicting with the Customer's general or special (purchasing or other) terms and conditions. The fact that Nobi did not explicitly reject such terms and conditions of the Customer, referred to in any contract or document, cannot be interpreted as an acceptance by Nobi of any such terms and conditions. The Customer acknowledges and accepts in any case that the applicability of its own general or special terms and conditions is expressly excluded, and that Nobi's Terms and Conditions shall always prevail over any such terms and conditions of the Customer.
- 2.9 These Terms and Conditions are binding for every User of the Products and/or the Services. Notwithstanding the fact that the Customer is bound by these Terms and Conditions and is responsible for compliance therewith, the User also remains individually responsible for complying with the provisions of these Terms and Conditions that apply to Users, in particular the Terms of Use, and the User can also be held directly accountable by Nobi for such compliance. Where these Terms and Conditions refer to the Customer, this also includes all Users, for whom the Customer guarantees compliance with the Agreement and these Terms and Conditions. The Customer and the Users are deemed and acknowledge to have been informed by Nobi of the Terms and Conditions, including the Terms of Use, prior to entering into the Agreement. The User shall accept these Terms and Conditions, including the Terms of Use, in connection with the use of the Products and/or the Services. Notwithstanding such acceptance, only the Terms of Use and other terms of the Agreement applicable to Users shall apply to the User, and not the provisions of the Terms and Conditions which exclusively govern the legal relationship between Nobi and the Customer.
- 2.10 These Terms and Conditions were last amended on the version date stated in this document or on the most current version made available to the Customer (via a hyperlink provided by Nobi). Nobi expressly reserves the right to amend or update the provisions of the Terms and Conditions and/or the specifications or any special conditions of Nobi and/or the Services. Amended, updated, or new versions of the Terms and Conditions or any other contractual documents will always be brought to the Customer's attention via any channel or method Nobi deems appropriate, including but not limited to, a notice on the Customer's invoice or a notification via the Products or the Services, where they may be accepted by the Customer or an authorized User. By signing or accepting the Agreement and the Terms and Conditions or any other contractual documents, the Customer confirms that each User is authorized by them to validly accept such future amendments on behalf of the Customer. However, modifications to the provisions of the Agreement do not include changes resulting from decisions, rulings or obligations imposed by Delaware, United States of America, Belgian, European or United Kingdom regulatory or judicial authorities, or from Delaware, United States of America, Belgian, European or United Kingdom legislation or regulations mandating such changes. Should any such decision, ruling, obligation, law or regulation materially burden or render Nobi's contractual obligations impossible, Nobi is entitled to terminate the relevant Services or Agreement with immediate effect by written notification, without being liable for any cancellation or termination compensation to the Customer. If Nobi makes any unilateral amendment or update to these Terms and Conditions that constitutes a material change adversely affecting the Customer's rights or obligations, Nobi will provide written Notice to the Customer, and the Customer may terminate this Agreement without incurring any termination fee or additional charge by giving written Notice within 30 days of receipt of such Notice, provided that the Customer remains liable for any amounts due and payable up to the effective date of termination. For the avoidance of doubt, this termination right does not apply to amendments or updates that are made by Nobi and which are required to comply with applicable law or regulation.
- 2.11 The Customer is always and solely responsible for all permits and authorisations required for the execution of the Agreement (e.g., permission of the landlord of the Customer's facility to install the Products, informed consent by Residents).
- 2.12 The Customer shall provide Nobi with all information (e.g., with respect to the Customer's address' electrical drawings and infrastructure, and/or defects therein) and provide all cooperation in order to enable Nobi to execute the Agreement and to mitigate any risks.

### **3 Term and Termination**

- 3.1 The Agreement (in particular the Care Membership) shall enter into force and shall take effect as from the Effective Date and shall have the Term as set out in the Agreement and/or Quotation. Depending on what is set out in the Agreement and/or Quotation, the Agreement can be entered into for (i) a fixed Term, (ii) a fixed minimum Term, or (iii) an indefinite Term, as set out in the Articles below.
- 3.2 Option 1 - Fixed Term: The Agreement (in particular the Care Membership) is entered into for a fixed Term as specified in the Quotation and shall automatically terminate at the end of the agreed fixed Term.
- 3.3 Option 2 - Fixed Minimum Term: The Agreement (in particular the Care Membership) is entered into for a fixed minimum Term as specified in the Quotation. Upon the expiry of the fixed minimum Term, the Agreement shall automatically be renewed for successive periods equal to the initial minimum Term, unless it is terminated by either Party by providing a written Notice of termination at least three (3) months prior to the end of the then-current-Term.
- 3.4 Option 3 - Indefinite Term: The Agreement (in particular the Care Membership) is entered into for an indefinite Term, unless it is terminated by either Party providing the other Party with a three (3) months prior written Notice.
- 3.5 Only if no specific Term is agreed upon or set forth in the Agreement or Quotation, the Agreement (in particular the Care Membership) shall have a Term of one (1) year commencing on the Effective Date. Thereafter, the Agreement and the Care Membership shall automatically renew for successive one (1) year periods, unless either Party provided written Notice of termination at least three (3) months prior to the end of the then-current-Term.
- 3.6 Either Party may terminate the Agreement with immediate effect and without prior judicial intervention by written Notice to the other Party if the other Party materially breaches the Agreement and fails to remedy such breach within thirty (30) calendar days from receipt of a default Notice, unless such remedy period is useless given the nature and/or effect of the breach.
- 3.7 Either Party may terminate the Agreement without prior judicial intervention by written Notice to the other Party, effective as of the date of delivery of such Notice, if the other Party becomes the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding or otherwise liquidates or ceases to do business.
- 3.8 Nobi may terminate the Agreement with immediate effect and without prior judicial intervention upon written Notice if the Customer undergoes a change of control whereby the Customer becomes controlled by a competitor of Nobi meaning that a direct or indirect acquisition of control over the Customer by an entity offering products or services that are in competition with the Products or Services, including through merger, consolidation, transfer of shares or assets, or any similar transaction resulting in obtaining control of the Customer, has occurred.
- 3.9 Upon termination of the Agreement for whatever reason: (i) the Customer shall promptly pay Nobi all Prices, Fees and other amounts due to Nobi pursuant to the Agreement, up to and including the date of termination, (ii) all User rights granted to the Customer pursuant to the Agreement, including the rights to use the Platform as per Article 0 (Care Membership), shall automatically terminate; (iii) the Customer shall have thirty (30) calendar days from the termination date upon request to export Customer Data and/or other relevant data by sending an email to [privacy@nobi.life](mailto:privacy@nobi.life); (iv) Nobi shall maintain Customer Data and/or other relevant data during this period solely for the purpose of allowing the Customer to retrieve such data; and (v) after expiration of this period, Nobi shall delete all Customer Data in accordance with its applicable data retention policies and applicable law. Termination of the Agreement on whatever ground shall be without prejudice to any right or remedy that has accrued prior to the actual termination.
- 3.10 Without prejudice to any other rights or remedies, Nobi may temporarily suspend its obligations under the Agreement, such as suspending Customer's access to the Products, Platform and/or Services, upon written Notice in the following events: (a) the Customer fails to pay any undisputed Prices or Fees within thirty (30) calendar days after the due date; (b) Nobi reasonably believes that Customer's use of the Products and/or Services poses a security or other risk to the Products, Services, other customers or Third Parties; (c) the Customer breaches any applicable (fair) use policies, acceptable use provisions or use terms, including the Terms of Use; (d) suspension is required by law or court order. During any suspension period: (i) Customer remains liable for payment of all Prices and/or Fees that are due; (ii) Customer retains the ability to export Customer Data; (iii) Nobi shall promptly restore access upon remedy of the condition causing suspension and/or Nobi shall promptly recommence the performance of the obligations under the Agreement that it had suspended. Any suspension shall not relieve the Customer of its payment obligations under the Agreement, and Nobi shall not be liable for any damages resulting from suspension in accordance with this provision.
- 3.11 Termination of the Agreement at the Customer's expense does not affect Nobi's right to compensation and its other rights as a result of termination (where applicable).
- 3.12 Upon termination of the Agreement, Customer shall not be entitled to any refund of Fees or Prices, costs, taxes or other amount paid by Customer in connection with its use of the Products.
- 3.13 The provisions of the Agreement that are expressly or implicitly intended to survive termination shall survive any expiration or termination of the Agreement and shall remain in force.

### **4 Prices, Fees and Payment**

- 4.1 The Customer agrees to pay the Prices and Fees as set forth in the Quotation and/or the Agreement or agreed upon between Parties.
- 4.2 If the Agreement is concluded for a fixed Term in accordance with Article 3.2, the full Fee for the agreed fixed Term shall be invoiced and payable upfront as a one-off payment, unless Parties agree otherwise in the Agreement and/or Quotation (e.g. invoicing and payment on an annual basis in advance of each year of the fixed Term). All fees due for the fixed Term shall remain payable in full and are non-refundable.

- 4.3 If the Agreement is concluded for a fixed minimum Term in accordance with Article 3.3, the Fees shall be invoiced and payable on a monthly basis. Notwithstanding any earlier termination, all Fees due for the fixed minimum Term shall remain payable in full and are non-refundable.
- 4.4 If the Agreement is concluded for an indefinite Term in accordance with Article 3.4, the Fees shall be invoiced and payable on a monthly basis for the Term.
- 4.5 For recurring Fees, Nobi shall invoice as specified in the Quotation and/or the Agreement. Invoices are sent electronically to the Customer's designated billing contact.
- 4.6 Unless otherwise agreed upon in the Agreement and/or Quotation, invoicing and payment shall happen as follows: (i) for Products without installation by Nobi: 50% upon conclusion of the Agreement and 50% upon delivery of the Products and, (ii) for Products with installation by Nobi: 50% upon conclusion of the Agreement, 30% upon commencement of the installation, and 20% upon completion of the installation. The payment conditions for all Services, excluding the Care Membership, shall happen as follows: (i) 50% is payable upon conclusion of the Agreement, with the remaining 50% due on the day the Service is completed. The Fee for the Care Membership shall be payable and invoiced as from the date of Go-Live, as confirmed in the Agreement or otherwise agreed upon in writing between the Parties.
- 4.7 Invoices of Nobi are due and payable within fourteen (14) calendar days of the invoice date, unless agreed upon otherwise in the Quotation or otherwise in writing.
- 4.8 All Fees and amounts payable under the Agreement shall be denominated in the currency specified in the Quotation and exclusive of applicable taxes, levies or duties for which only the Customer is responsible for payment of such amounts. Unless otherwise stated therein, Fees and amounts shall be expressed in euro (EUR) for Customers established in the European Union, in pounds sterling (GBP) for Customers established in the United Kingdom, and in United States dollars for Customers established in the United States of America.
- 4.9 Payment shall be made by bank transfer to the account specified on the invoice. Alternative payment methods may be available upon request and may be subject to additional processing fees. All bank charges related to the payment shall be borne by the Customer.
- 4.10 All payments are non-cancellable, and all amounts paid to Nobi are non-refundable.
- 4.11 Nobi may adjust Prices / Fees as follows:
- (a) Annual Indexation:
- For Customers in the European Union:*  
Fees are adjusted annually according to the Agoria Digital Index using the following formula:  $P=P0*(0.2 + 0.8 S/S0)$  where Y=current year, Y0=year Y-1, P0=price in year Y0, S0=Agoria Digital index reference salary cost January Y0, S=Agoria Digital index reference salary cost January Y.
- For Customers in the United Kingdom:*  
Fees shall be adjusted annually with effect from each anniversary of the Agreement in line with the percentage increase in the UK Consumer Prices Index (CPI) (or any successor index published by the Office for National Statistics) over the preceding 12-month period. If CPI is discontinued or materially altered, a comparable index reasonably selected by Nobi shall apply.
- For Customers in the United States of America:*  
On each anniversary of the Effective Date, all Fees shall each be automatically adjusted upward or downward by the percentage change in the Chained Consumer Price Index for All Urban Consumers, all items less food and energy, as and when published and considered final by the U.S. Department of Labor Bureau of Labor Statistics calculated for the twelve (12) Months immediately preceding the date of escalation; provided, however, no Fee shall ever be adjusted below its original amount as of the Effective Date; and, provided, further, that the amount of adjustment for each year shall not exceed five percent (5%) per annum.
- (b) Third Party Cost Increases:  
If Third Party costs increase by more than 20%, Nobi may adjust affected Prices or Fees: in case of monthly Care Membership, upon thirty (30) days Notice and for annual Care Membership at the next renewal, unless increase exceeds 25%, then immediate price adjustment applies. Customer may terminate affected Services without penalty for mid-term increases, in accordance with the Agreement. All Price or Fee adjustments require thirty (30) days written Notice to the Customer.
- 4.12 The Customer shall notify Nobi in writing of any disputed invoice and/or charge within ten (10) business days from the invoice date, specifying in reasonable detail the nature and grounds of the dispute. Any undisputed amounts shall be paid in accordance with the payment terms as set out in these Terms and Conditions. The Parties shall work in good faith and use reasonable efforts to resolve any disputes promptly. If the Customer fails to notify Nobi of a disputed invoice and/or charge within the above-mentioned period, the Customer will be deemed to have accepted such invoice and/or charge.
- 4.13 Amounts not paid by the Customer on the due date mentioned on the invoice: (i) shall bear late payment interests in accordance with the (Belgian) Law of 8 August 2002 for Customers in the European Union, (ii) in accordance with the UK Late Payment of Commercial Debts (Interest) Act 1998 for Customers in the United Kingdom, or (iii) shall be subject to interest charges, from the date due until paid, at the rate of one and one half percent (1.5%) per month, or the highest interest rate allowable by Delaware law (whichever is less), payable monthly for Customers in the United States of America.
- 4.14 If the Customer fails to pay any undisputed invoice within thirty (30) calendar days of the due date all outstanding but not yet due invoices from Nobi to the Customer become due and Nobi may, without prejudice to other remedies: (i) suspend the Customer's access to the Products, Platform and Services upon a five (5) business days' written Notice (in accordance with Article 3.10); (ii) charge late payment interest as specified in Article 4.13; (iii) require advance payment for future Products and/or Services; and (iv) engage collection agencies or legal counsel at the Customer's expense.

The Customer shall reimburse Nobli for all reasonable costs of collection, including attorney fees, court costs, and collection agency fees, whether or not legal proceedings are commenced. No suspension of Products and/or Services shall relieve the Customer of its payment obligations, and all accrued charges, Prices and/or Fees shall remain due during any suspension period.

- 4.15 Nobli may terminate the Agreement immediately upon written Notice and without prior judicial intervention if the Customer's payment is more than sixty (60) days overdue.

## **5 Products**

### **5.1 Delivery and Installation**

- 5.1.1 The Customer agrees to have the Products delivered and installed as set forth in the Quotation and/or the Agreement or as agreed upon between Parties. Depending on what is set out in the Agreement and/or Quotation, the delivery can be (i) Ex Works (Incoterms 2020) or, (ii) to the Customer's designated address and the installation can either be (i) carried out by Nobli or, (ii) by the Customer itself.
- 5.1.2 *Delivery Ex Works (Incoterms 2020)*. If the Customer has decided for delivery Ex Works in the Quotation and/or the Agreement, the delivery takes place at Nobli's designated warehouse. Customer is responsible for arranging pick-up and transportation from Nobli's designated warehouse to its designated address. Customer bears full responsibility for shipping and related costs and risks as from Nobli's designated warehouse to its designated address, including (as the case may be) any customs duties or taxes. In case the Quotation and/or the Agreement do not contain any provision with respect to delivery, the delivery will be Ex Works.
- 5.1.3 *Delivery to Customer's designated address*. If the Customer has decided for delivery at its designated address, Nobli will handle the delivery. Nobli will provide an offer for the shipping costs, which Customer must accept at the time of placing the order. The shipping costs will be specified in the Agreement and/or Quotation, and Customer will be responsible for these costs in addition to the Product purchase price and any risks with respect to transportation of the Products.
- 5.1.4 Although Nobli makes reasonable efforts to deliver the Products in time, delivery periods shall at all times be indicative and circumstances may arise that make it impossible for Nobli to respect delivery periods, such as (i) the Products being temporarily sold out or unavailable, (ii) the inability to purchase certain components necessary for the assembly of the Products, (iii) delays in production by Nobli's manufacturer of components of the Products, and (iv) delays in transportation. In such cases, Nobli will contact Customer in advance to work out a solution in consultation with Customer. Nobli waives all responsibility for any delay caused by non-delivery, defective or delayed delivery.
- 5.1.5 Nobli will conduct, and the Customer will enable, an on-site assessment on the location where the Products will be installed. If causes are found that may hinder the proper functioning of the Products, the Customer will resolve them at its own cost and risk before the Products can be installed. Failing to do this, will lead to the acceptance by the Customer that the Products may not function properly (without the Customer being entitled to any compensation whatsoever in this regard).
- 5.1.6 *Installation carried out by Nobli*. If the Customer has decided for installation by Nobli, Nobli (or any of its subcontractors) shall install the Products at the Customer's designated address. Installation includes on-site assessment, physical mounting and connecting of the Products with the Customer's infrastructure, configuration of the Products for the Customer and activation of the Products in the Platform (*onboarding*). Should any issues occur or any damages be caused during or by the installation, Nobli will take all reasonable efforts to resolve them. Costs for installation will be charged to the Customer according to the Quotation and/or Agreement.
- 5.1.7 *Installation carried out by Customer*. If the Customer has decided to install the Products itself or to have them installed by a designated Third Party and Nobli has expressly given its prior written approval, Customer (or the designated Third Party) shall at its own cost and risk, install the Products. The Customer shall for this purpose only rely on a designated Third Party that has been trained or approved by Nobli, or has had its own personnel follow a Nobli led training before installation. The training, assessment, configuration and activation (*remote care onboarding*) of the Products, shall be subject to a separate fee quote of Nobli specified in the Quotation and/or Agreement. In any case, Nobli shall not be liable for (i) any malfunction or damage resulting from installation performed by the Customer or any designated Third Party or, (ii) for any malfunction or damage resulting from installation performed by a Third Party that has not been approved by Nobli in advance.
- 5.1.8 The Customer shall ensure that adequate WiFi connection and electricity supply are available at the installation location prior to the installation of the Products and shall inform Nobli accordingly. If adequate WiFi connectivity and/or electricity supply are not available, the necessary connections (including between the Product(s) and the Platform) and the intended Functionalities of the Products may not operate or may not be realised. In such case, the Customer shall have no claim against Nobli in relation thereto. If, after installation, the required WiFi connectivity and/or electricity supply becomes unavailable (for example due to infrastructural works or changes made by the Customer or Third Parties), the Customer shall take all necessary steps to restore such connectivity and electricity supply. Following restoration, Nobli may, upon the Customer's request, reinstall the Products at Nobli's then-applicable rates.
- 5.1.9 Notwithstanding the agreed payment method, ownership of the Products shall only transfer to the Customer upon Nobli's receipt of full payment of the Price(s) due for the Products. Notwithstanding the foregoing, the risk of loss or damage to the Products shall pass to the Customer upon delivery.

### **5.2 Intended use, Warranty and Non-conformity**

- 5.2.1 The Customer shall only use the Product for its intended purpose, being lighting, fall prevention and fall detection, strictly in accordance with the instructions, specifications and limitations set out in the Documentation. The Customer shall ensure that the Products are used, handled and maintained in accordance with such Documentation and shall refrain from any misuse, modification or use of the Products in a manner inconsistent with their intended purpose. Nobi shall not be liable for any malfunction, damage or reduced performance of the Products resulting from use of the Products contrary to the Documentation, their intended purpose, outside of normal circumstances, or any other use that could not reasonably be expected for Nobi.
- 5.2.2 The Customer expressly acknowledges and agrees that the Products are not designed to replace, nor shall they be used as a substitute for, appropriate human supervision, care, monitoring, or intervention in the provision of healthcare. The Customer and its Users remain at all times solely responsible for ensuring the delivery of adequate and appropriate care to Residents, including proper supervision and timely intervention, in accordance with all applicable laws, regulations, and professional standards.
- 5.2.3 Without prejudice to any mandatory statutory rights of the Customer under applicable law, the sale of each Product includes a limited warranty of two years ("**Warranty Period**"). The Warranty Period shall commence on the date of delivery of the Product or, where the Product is installed by Nobi, on the date of installation, provided that such installation takes place within two (2) months following delivery. Where installation occurs more than two (2) months after delivery, the Warranty Period shall commence on the date of delivery. If, during the Warranty Period, the Product develops a technical defect which results in it no longer functioning in accordance with its normal specifications, the Customer may notify Nobi in accordance with the warranty claim procedure set in the applicable warranty documentation. The scope, extent and limitations of this warranty, including (without limitation) the types of defects covered, any exclusions, conditions for validity, and the procedure for making a warranty claim, shall be governed by Nobi's warranty policy as made available to the Customer from time to time ("**Warranty Policy**"). The Customer acknowledges and agrees that it has received or has had the opportunity to review the Warranty Policy prior to entering into the Agreement. Except as expressly set out in this Article 5.2.3 and the Warranty Policy, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded. Nobi's obligations under this warranty are limited to the remedies set out in the Warranty Policy, which may include repair, replacement, or refund at Nobi's discretion. Nobi shall not be liable for any defect arising from misuse, neglect, improper installation by persons other than Nobi, unauthorized modifications or normal wear and tear.
- 5.2.4 In case Nobi determines, based on the information provided by Customer and/or remote troubleshooting, that the problem with the Product is due to a defective Product, Nobi will issue a return material authorization pursuant to which Customer shall be entitled to ship the defective Product concerned to Nobi's designated address in the return material authorization. Upon receipt of the defective Product and provided that Nobi has determined that Customer is entitled to the warranty services, Nobi shall ship a replacement Product to Customer within a period of fifteen (15) calendar days as from receipt by Nobi of Product concerned. Nobi has the discretionary right to use a new or a refurbished Product as a replacement Product, provided that such replacement Product is functioning properly. Nobi shall be entitled to replace the defective Product by a new type of Product if, at the time of such replacement, the initial model sold to the Customer is no longer available. The replaced defective Product shall automatically and by operation of law become Nobi's exclusive property and Customer waives all rights and claims to the defective Product.
- 5.2.5 Customer acknowledges and accepts that during the replacement procedure the Product and its features will not be available, without being able to hold Nobi liable in any way or Nobi owing any damage compensation or reimbursement. Transportation costs of the defective Product shall be at Customer's charge. Transportation costs of the replacement Product shall be at Nobi's charge. Customer shall install the replacement Product. Any additional Services to be provided by Nobi shall be charged to Customer at Nobi's then current rates. If the Product concerned is a Nobi light, this standard two-year warranty is subject to (i) the Nobi light being continuously mounted on and not being removed from the place where it has initially been installed and (ii) being "active" (i.e. onboarded and active in the Platform) without interruption during this two-year warranty period. In case the Nobi light is removed or does not maintain an "active" status, even temporary, during the two-year warranty period, the warranty shall no longer apply and the Customer shall no longer be entitled to claim under the two-year warranty.
- 5.2.6 Customers located in the United States of America are subject to the following additional terms: Disclaimer. EXCEPT AND TO THE EXTENT EXPRESSLY PROVIDED IN THIS SECTION 5.2 AND IN LIEU OF ALL OTHER WARRANTIES, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE PRODUCT AND SERVICE(S), THE CONTENTS THEREIN, AND ANY ACCOMPANYING DOCUMENTATION ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS AND NOBI DOES NOT MAKE ANY AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.
- 5.2.7 Any complaint and/or any request with respect to the Products can be notified to Nobi via [product@nobi.life](mailto:product@nobi.life). Documentation with respect to the Products is available at <https://www.nobi.life/en/datasheets>.

## **6 Care Membership and Terms of Use**

- 6.1 Subject to the Terms and Conditions of the Agreement and timely payment of the Fees by the Customer, Nobi grants the Customer as of the Effective Date and until the expiry of the Term, a Care Membership.
- 6.2 Nobi reserves the right to make, in its sole discretion, updates, enhancements and modifications to the Platform from time to time and may require the Customer to download and install certain updates. Non-material changes (such as UI

- improvements, performance optimizations, or new Features) may be implemented without prior notice. Material changes, defined as: (i) removal of Features or functionality; (ii) modifications breaking documented API compatibility; (iii) changes requiring significant User retraining; or (iv) modifications affecting compliance standards, shall be subject to Customer notification via email or notice. Nobi shall not implement material changes that significantly degrade the core functionality of the Platform existing on the Effective Date without Customer's consent. Such changes shall be deemed to have been accepted by the Customer if no written objection is raised within fourteen (14) calendar days after such notice. Nobi cannot be held liable for limited or temporary unavailability of the Platform as a result of these changes.
- 6.3 The Customer acknowledges that any suggestions or feedback, including propositions of changes, additions, additional features or other suggestions to or in relation to the Products, Platform and/or Services (if and insofar as these do not conflict with any rights of Third Parties) are entirely voluntary and that Nobi is under no obligation to implement such feedback. If, however, the Customer or any of its Users send or transmit such feedback, excluding Customer Data, to Nobi, Nobi and its Affiliates are free to use such feedback in any manner for any purpose. The Customer hereby grants Nobi a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to (a) copy, distribute, transmit, display, perform, and create derivative works of such feedback; and (b) use the feedback and/or any subject matter thereof, including without limitation, the right to develop, manufacture, have manufactured, market, promote, sell, have sold, offer for sale, have offered for sale, import, have imported, rent, provide and/or lease products or services which practice or embody, or are configured for use in practicing, the feedback and/or any subject matter thereof. The Customer acknowledges that similar ideas may be developed independently by Nobi or suggested by Third Parties, and that no compensation or attribution is due for any feedback provided.
- 6.4 To access and use the Platform, the Customer must set up an administrator account. When setting up the administrator account, the Customer must provide current, complete and accurate information. The Customer will identify the Users who will be able to set up logins to use the Products, Platform and/or Services for the purposes permitted under the Agreement. The Customer will maintain a list of logins using the administrator account. It is strictly forbidden that one login is used by more than one User. The Customer will take such actions as are necessary in order for it to maintain the confidentiality of, and prevent the unauthorized use of, each password and login. The Customer will immediately notify Nobi in writing if the Customer determines, or has reason to believe, that an unauthorized staff member or unauthorized Third Party has gained access to a password or login. The Customer authorizes Nobi to rely upon any information and/or instructions set forth in any data transmission using the assigned password or login, without making further investigation or inquiry, and regardless of the actual identity of the individual transmitting the same, in connection with the operation of the Platform. Use of the assigned password or login, whether or not authorized by the Customer, will be solely the responsibility of and the risk of the Customer. The Customer will indemnify, defend, and hold harmless Nobi from any claim, proceeding, loss or damages based upon any use, misuse, or unauthorized use of Customer's passwords and logins. Nobi maintains system access logs for twelve (12) months which the Customer may request for compliance or audit purposes with reasonable advance Notice.
- 6.5 The rights of use under the Care Membership granted to the Customer are expressly limited to the applicable license conditions and the number of Units confirmed in the Quotation and/or the Agreement or in writing by Nobi to the Customer. The Customer may request additional Users at any time. Upon Nobi's confirmation, additional Fees apply pro-rata for the remainder of the current Term.
- 6.6 The Products, Platform and/or Services are, without prejudice to the other provisions of the Agreement and the Terms of Use, included in these Terms and Conditions, subject to (fair) use limitations as specified in the Documentation or Quotation / Agreement.
- 6.7 The Customer expressly acknowledges and agrees that the Platform and Services are not designed to replace, nor shall they be used as a substitute for, appropriate human supervision, care, monitoring, or intervention in the provision of healthcare. The Customer remains at all times solely responsible for its use of the Platform and Services and for ensuring the delivery of adequate and appropriate care to Residents, including proper supervision and timely intervention, in accordance with all applicable laws, regulations, and professional standards.
- 6.8 The Customer shall not, and shall ensure its Users to not: (a) use the Products, Platform and/or Services for any unlawful purpose or in violation of any applicable laws; (b) share login credentials or attempt to circumvent user limitations or Terms of Use; (c) use the Products or Services to process data for competitors of Nobi nor use the Products, Platform or the Services in any way for the development of products or software with the same or similar functionalities, Features, design, architecture or specifications as or in any other way competing with the Products, Platform or Services; (d) resell, rent, lease or commercially exploit the Products or Services without written agreement; (e) remove or alter any proprietary notices or branding; (f) export or re-export the Products or Services in violation of applicable export laws and regulations; (g) copy, modify, or create derivative works of the Products, Platform or Services; (h) reverse engineer, decompile, or attempt to discover source code; (i) interfere with or disrupt the Products, Services or servers; (j) introduce malicious code, viruses, or harmful components; (k) conduct automated security scans without prior approval; (l) attempt to bypass or circumvent any security measures, access controls, or technical protective measures (the Customer may however conduct internal performance testing for operational purposes, but publishing or sharing benchmark results externally requires Nobi's prior written consent); or (m) any other use that could damage, disable, overburden, or impair the Products or Services or harm Nobi, its customers, or the Product or Service integrity. Violations may result in immediate suspension or termination of access in accordance with Article 3.10 and Article 6.14.
- 6.9 The Customer shall ensure that the Users comply with Article 0, all applicable Data Protection Legislation, and all relevant Documentation and training requirements, and that the Users maintain at all times the confidentiality and security of any Personal Data Processed through the use of the Services.
- 6.10 The Customer and the Users shall create a strong and secure password and shall at all times keep their username and password secret and treat them as confidential, without prejudice to the technical security measures implemented by

- Nobi with respect to the Products, Platform and the Services. The User is responsible for his/her User Data and account. Nobi is under no obligation to create backups of any User Data and may delete such data at any time.
- 6.11 In order to be able to use the Product, Platform and Services, the Customer and Users shall use hardware that is sufficiently recent and compatible with the technical specifications and requirement communicated by Nobi prior to entering into the Agreement and/or in the Documentation and/or during the Term of the Agreement.
- 6.12 The Customer and the Users are entitled to access and use the Platform (i) for the purpose of fall prevention and fall detection of Residents in their facility (ii) for the purpose of processing Personal Data with respect to a Resident in relation to whom the Products are being used and, (iii) for technology integration, testing and/or other similar purposes.
- 6.13 If a User believes that the Agreement or the Terms of Use are being infringed, the User shall immediately notify Nobi thereof in writing.
- 6.14 Nobi has the right to terminate, block or suspend a User's account in the event of a breach by the User of one or more provisions of the Terms of Use and/or the Agreement, and if the User fails to remedy such breach within seven (7) calendar days following a Notice to that effect (if the breach cannot be remedied, no remediation period shall apply; the same applies to breaches or exceptional circumstances that definitively render any further cooperation with the User impossible). Nobi shall not be liable in any way for any damage suffered by the User or any Third Party as a result of such termination or suspension.

## **7 Additional Services**

- 7.1 Upon request of the Customer and as set forth in the Agreement and/or Quotation, Nobi may provide additional Services beyond the use of the Products, provision of the Care Membership and use of the Platform. Such (professional) Services may include, but are not limited to, support and maintenance, software development, configuration and implementation, training and consultancy or any other Services, as further detailed in this Article or in the Quotation and/or Agreement. These Services are subject to separate Fees, scope and specifications as agreed between the Parties in a Quotation, separate Agreement or otherwise in writing.
- 7.2 Any such Services are always provided on a reasonable efforts basis (*middelenverbintenis*), unless explicitly agreed otherwise in writing. Nobi does not guarantee the achievement of specific outcomes or results unless explicitly confirmed in writing by an authorised representative of Nobi. The scope, duration, deliverables or requirements, specifications and applicable Fees for any such Services shall be defined in the Agreement, Quotation or written confirmation, which shall form an integral part of the Agreement. Unless otherwise agreed, Services are provided on a time and materials basis at Nobi's applicable Fees. Nobi shall not be obliged to commence or continue any Services unless and until the scope and commercial terms have been duly confirmed in writing. The absence of such confirmation releases Nobi from any obligation or liability relating to delays or non-performance. Nobi retains the right to subcontract or delegate the performance of any Services to qualified Third Parties, without prejudice to its responsibility for proper execution in accordance with the Agreement.
- 7.3 Software development, configuration and/or implementation. Nobi may provide implementation Services, including Services to configure, set up and deploy the Products and/or Platform for the Customer's initial use, system integration, data migration support, workflow configuration and initial User training, as specified in the Quotation and/or Agreement and assist the Customer with custom development of specific features or integrations related to the Platform or Services. Such Services shall be explicitly requested by the Customer, set forth in a Quotation or SOW and accepted in writing by Nobi. Any delivery timeline, milestones, deliverables, acceptance criteria, and specifications shall be documented in a written SOW, project plan, Quotation or equivalent document forming part of the Agreement. Changes to agreed specifications after project commencement require written change request approval, without prejudice to 6.3 above on feedback. Change requests may impact timeline and Fees, which will be communicated and approved before implementation. Deliverables are subject to acceptance criteria defined in the SOW. If no specific criteria are defined, deliverables are deemed accepted five (5) business days after delivery unless the Customer provides written Notice of specific deficiencies based on the agreed specifications. Nobi is not liable for any delays, errors, or failures caused by inadequate cooperation, lack of timely feedback, incomplete or incorrect information provided by the Customer, or changes to agreed specifications after project commencement. Unless explicitly agreed otherwise, any such custom developments, implementation or configurations shall remain the intellectual property of Nobi and may be reused or commercialised at Nobi's discretion. The Customer shall only be granted a non-exclusive, non-transferable right to use such developments in connection with the Products, Platform or Services. The Customer acknowledges that the successful performance of such Services depends on its timely input, cooperation and provision of access to necessary systems, environments, or resources of Customer.
- 7.4 Support and maintenance. Support and maintenance may include, at Nobi's discretion and within the agreed scope: technical assistance, diagnosis, management and resolution of incidents, provision of software updates and patches, and remote system monitoring or diagnostics. Standard support hours are Monday-Friday, 8:30-17:30 CET, excluding applicable public holidays in the country of the Nobi entity with which the Customer has entered into the Agreement. Support shall be provided through the designated support channel (email: [support@nobi.life](mailto:support@nobi.life)). Service levels and response times are indicative only, unless formalised in an SLA accepted by both Parties in writing. If the Parties agree on a separate SLA, the provisions of that SLA shall prevail over the provisions of this Article 7.4. Support and maintenance shall not cover issues arising from: (i) incorrect or unauthorised use of the Platform or Services; (ii) Third Party software or hardware not delivered or certified by Nobi; (iii) system failures beyond Nobi's reasonable control (e.g. hosting disruptions, cyberattacks); or (iv) modifications made by or on behalf of the Customer without Nobi's prior written consent. Any on-site intervention, emergency response, or additional work beyond standard support may be charged separately and subject to availability. Nobi shall use commercially reasonable efforts to remedy bugs reported by the

- Customer, to provide the Services without any material Downtime, and, to the extent such Downtime occurs, to resolve such Downtime as soon as commercially practicable.
- 7.5 Training and consultancy. Nobi may provide training sessions, either remotely or on-site, aimed at assisting the Customer's Users or personnel in the use and optimisation of the Products, Platform or Services. On-site training incurs additional travel and accommodation expenses as specified in the Quotation and/or the Agreement. Training materials or Documentation always remain the exclusive property of Nobi and any Intellectual Property Rights in or to such materials or Documentation remain with Nobi at all times. Customer receives a non-exclusive, non-transferable license to use training materials solely for internal training of its personnel. Consultancy Services may include technical or organisational advice in relation to the implementation, configuration or use of the Products, Platform or Services. Such Services are advisory in nature and do not constitute any healthcare, legal, tax or financial advice or technical certification or guarantees. All training and consultancy Services shall be scheduled based on mutual availability. Unless otherwise agreed, cancellations by the Customer less than five (5) working days in advance shall be fully chargeable. The Customer is and remains solely responsible for implementing any advice or recommendations provided by Nobi in the context of these Services.
- 7.6 The Customer accepts that any intervention by Nobi within the scope of the Agreement (whether or not with a view to providing support or other Services) may result in the Products, Platform, Services and/or the other data or User Data being unusable or unavailable during the duration of these intervention(s), without Nobi being liable in any way for this and without prejudice to applicable legislation. However, Nobi will endeavour to minimise any inconvenience to the Customer and/or its Users and, if necessary, coordinate with the Customer in advance.
- 7.7 If any Services are to be performed in Customer's facility, Customer must provide, free of charge, all necessary access to and information with respect to its infrastructure (incl. internet connection) and (staff) assistance. The Customer shall provide all necessary assistance to enable Nobi's employees and subcontractors to provide the Services and guarantees that Nobi's employees and subcontractors shall work in a safe and sound working environment. The Customer guarantees compliance with all applicable legislation on health and safety on workplaces.
- 7.8 The Services rely on Third Party infrastructure or services, including cloud providers and/or integrated systems. The Customer acknowledges that the availability and performance of the Services may be affected by issues relating to such Third Party providers that are beyond Nobi's reasonable control, without prejudice to applicable legislation. Nobi shall use commercially reasonable efforts to select reliable providers and to implement appropriate backup or redundancy measures.

## **8 Intellectual Property Rights**

- 8.1 All Intellectual Property Rights in and to the Products, Platform and Services, including any and all updates, enhancements, derivatives, creations, works, modifications, developments, configurations, implementations or improvements thereof created by or on behalf of Nobi, as well as the source code(s) of the Platform, are and shall remain the exclusive property of Nobi, its Affiliates or its licensors. No license or other rights are granted to the Customer except as to the use of the Platform (Care Membership) as expressly stated herein.
- 8.2 The Customer agrees that it will not claim any rights to or do anything that may adversely affect the Intellectual Property Rights of Nobi, its Affiliates or its licensors.
- 8.3 Parties undertake to promptly notify each other of any act of unfair competition, illegal trade practices, infringements or piracy, or infringement of any Intellectual Property Rights that a Party may discover. Parties shall not take any actions with regard to any of the foregoing without having obtained the other Party's prior written consent.
- 8.4 The Customer acknowledges that Nobi will have the right to use techniques, methodologies, tools, ideas and other know-how gained during the Term or in the context of the Agreement, in the furtherance of its own business and to perfect all other Intellectual Property Rights related thereto.
- 8.5 Nobi's name(s), logo(s), sign(s) and Product or Service names or signs associated with the Products, Platform and/or Services are trademarks of Nobi or Third Parties, and may not be used without Nobi's prior written consent.
- 8.6 The Customer shall defend and indemnify Nobi against any founded and well-substantiated claims brought by Third Parties to the extent such claim is based on (i) an infringement of any Intellectual Property Rights of such Third Party by Customer Data or other Customer products, devices, systems, materials or software, (ii) any breach or violation by the Customer or its personnel of any provisions of the Agreement, and/or (iii) fraud, intentional misconduct, or gross negligence committed by the Customer or its personnel. Such indemnity obligation shall be conditional upon the following: (i) the Customer is given prompt written Notice of any such claim; (ii) the Customer is granted sole control of the defence and settlement of such a claim; (iii) upon the Customer's request, Nobi fully cooperates with the Customer in the defence and settlement of such a claim, at the Customer's expense, and (iv) Nobi makes no admission as to the Customer's liability in respect of such a claim, nor does Nobi agree to any settlement in respect of such a claim without the Customer's prior written consent. Provided these conditions are met, the Customer shall indemnify Nobi for all direct damages and reasonable costs incurred by Nobi as a result of such a claim, as awarded by a competent court of final instance, or as agreed to by the Customer pursuant to a settlement agreement.
- 8.7 Nobi shall defend and indemnify the Customer against any founded and well-substantiated claims brought by Third Parties to the extent such claim is based on an infringement of any Intellectual Property Right of such Third Party by the Products, Platform or Services, excluding any claims resulting from (i) any unauthorized use of the Products, Platform or Services, (ii) modification to the Products, Platform or Services made by the Customer, its employees or any Third Party, (ii) failure of the Customer to use updated or modified Products, Platform or Services provided by Nobi to avoid a claim of infringement or misappropriation, (iii) combination of the Products, Platform or Services with other systems, products, processes or materials to the extent that such claim would have been avoided without such

combination use of the Products, Platform and/or Services. Such indemnity obligation shall be conditional upon the following: (i) Nobi is given prompt written Notice of any such claim; (ii) Nobi is granted sole control of the defence and settlement of such a claim; (iii) upon Nobi's request, the Customer fully cooperates with Nobi in the defence and settlement of such a claim, at Nobi's expense, and (iv) the Customer makes no admission as to Nobi's liability in respect of such a claim, nor does the Customer agree to any settlement in respect of such a claim without Nobi's prior written consent. Provided these conditions are met, Nobi shall indemnify the Customer for all direct damages and reasonable costs incurred by the Customer as a result of such a claim, as awarded by a competent court of final instance, or as agreed to by Nobi pursuant to a settlement agreement. In the event the Products, Platform or Services or any part thereof, in Nobi's reasonable opinion, is likely to become the subject of a Third Party infringement claim, Nobi shall have the right, at its sole option and expense, to: (i) modify the (allegedly) infringing part of the Products, Platform or Services so that it becomes non-infringing while preserving equivalent functionality; (ii) obtain for the Customer a license to continue using the Products, Platform or Services in accordance with the Agreement; or (iii) terminate the Agreement and pay to the Customer an amount equal to a pro rata portion of the Prices or Fees for the remaining part of the Term. The foregoing states the entire liability and obligation of Nobi and shall be the sole remedy of the Customer with respect to any infringement or alleged infringement of any Intellectual Property Rights of a Third Party caused by the Products, Platform or Services or any part thereof.

8.8 The Platform or Services may contain open-source software components which are listed in the Documentation or available upon request. Such components are licensed under their respective open-source licenses. Use of open-source components does not affect the Customer's ownership or controllership of Customer Data or require the Customer to open source its proprietary systems or data.

8.9 To the extent the Services utilize Third Party AI services or other Third Party providers, the Customer acknowledges that the terms of service of such Third Party providers may apply to the use of their systems. Nobi shall use commercially reasonable efforts to ensure that such terms do not materially adversely affect the Customer's rights.

## **9 Warranties and Liability**

9.1 Both Parties represent and warrant to each other that they (and their representatives) have the authority to enter into the binding Agreement. The designated person, officer, representative, director, employee or any other person who represents or acts on behalf of the Customer, is deemed to have the necessary mandate to legally bind the Customer under the Agreement.

9.2 The Customer warrants that the Customer Data shall not infringe any Intellectual Property Rights of Third Parties, misappropriate any trade secret, be deceptive, defamatory, obscene, pornographic or unlawful, contain any viruses, cancelbot, worm, logic bomb, Trojan horse or any other harmful component of software or data, whether or not intended to damage the Products, Platform or Services; or otherwise violate the rights of a Third Party. Any use of the Products, Platform or Services in violation of these representations and warranties by the Customer or any User constitutes unauthorized and improper use of the Products, Platform or Services.

9.3 The Products, Platform and the Services will be provided by Nobi under the Agreement on an 'as-is' and 'as available' basis. Except as expressly provided in the Agreement and to the extent permitted under applicable law, Nobi expressly disclaims all warranties, express or implied, including but not limited to any warranties of merchantability, non-infringement, satisfactory quality and fitness of the Products, Platform and the Services for a particular purpose. Nobi does not warrant that the Products, Platform or Services are error-free or that the use of the Products, Platform or Services shall be uninterrupted, that Nobi will detect any or every defect in Customer's systems or that any or all problems with respect to the Platform or Services can be solved, and hereby disclaims any and all liability thereof. This Article is without prejudice to any applicable mandatory legislation.

9.4 In no event will Nobi, its licensors or its suppliers have any liability to the Customer for any consequential or incidental damages or losses, including but not limited to lost profits, loss of business, loss of use or of data, any unauthorized access to, alteration, theft or destruction of the Customer's or its trading partners' computers, computer systems, data files, programs or information, or costs of procurement of substitute goods or services, or for any indirect, special or consequential damages however caused and under any theory of liability and whether or not Nobi has been advised of the possibility of such damage.

9.5 To the maximum extent permitted by applicable law, Nobi shall not be liable for any loss, damage or claims arising from acts or omissions of a Third Party, products or services for which Nobi is not responsible, the unlawful use of the Products, Platform or the Services, errors in the texts or content of or on the Products, Platform or the Services, for example as a result of automatic translations, technical issues or other defects, deficiencies or errors of, in, on or in connection with the Products, Platform or the Services. Nobi shall also not be liable for any damage resulting from the malfunction or improper functioning of the device or infrastructure on which the Nobi Platform or Services are installed or used or other device-related failures. Nobi shall neither be liable in case the defect that caused the damage did not exist upon delivery, in case the damage is caused due to compliance with legal requirements, and/or in case the objective state of scientific and technical knowledge at the time the Products were placed on the market or put into service or during the period in which the Products were within Nobi's control was not such that the defectiveness could be discovered.

9.6 Where the Customer is established under the laws of Belgium, the Parties agree, as an exception upon article 6.3, §1 Civil Code, that they cannot bring extra-contractual (tort) claims against each other with respect to errors or damages that also constitute a breach of the Agreement. The foregoing exclusion of extra-contractual (tort) claims shall not apply to the extent that it is compulsorily excluded by law. The Parties agree, as an exception upon article 6.3, §2 of the Civil Code, that they cannot bring extra-contractual (tort) claims regarding errors or damage that also constitute a breach of

- the Agreement against the following of each other's auxiliary persons: (i) directors, management, executives or project managers regardless of whether they work on a self-employed basis or under an employment contract and (ii) employees. The foregoing exclusion of extra-contractual claims shall not apply to the extent that it is compulsorily excluded by law.
- 9.7 Nothing in this Agreement shall limit or exclude liability for death or personal injury caused by negligence, fraud or any liability to the extent that it cannot be excluded or limited by law. Subject to the foregoing, and to the maximum extent permitted under applicable law, the maximum and aggregated liability of Nobi arising out of or in connection with any claim or series of related claims under the Agreement shall in no event exceed the total Prices / Fees paid by the Customer to Nobi for the Products, Platform and/or Services during the twelve (12) months preceding the event giving rise to the claim (or, if twelve (12) months have not yet elapsed, twelve (12) times the average monthly Prices / Fees paid by the Customer to Nobi under the Agreement from the Effective Date until the date of the earliest event giving rise to the claim), subject always to a maximum of 50.000,- EUR as a single aggregate cap for all claims arising out of or in connection with the Agreement. Nobi's total aggregate liability arising out of or in connection with this Agreement, whether in contract, tort (including negligence), misrepresentation, restitution or otherwise, shall in no event exceed the overall maximum amount of 50.000,- EUR, regardless of the number of claims, events or causes of action. For the purpose of this Article, all claims arising out of the same or substantially the same facts, circumstances or events or series of connected events shall be treated as a single claim. The limitation set out in this Article 9.7 shall not apply: (i) to the indemnification obligations set forth in Article 8 above, (ii) in case of fraud or wilful misconduct; or (iii) in case of a breach of confidentiality or data protection obligations under Articles 10 and **Error! Reference source not found.**, provided that in such case Nobi's total aggregate maximum liability under the Agreement shall be limited to the amount recoverable under any applicable insurance policies maintained by Nobi.
- 9.8 Limitation of Liability. CUSTOMERS LOCATED IN THE UNITED STATES OF AMERICA ARE SUBJECT TO THE FOLLOWING ADDITIONAL TERMS: NOBI AND ITS SUBSIDIARIES, AFFILIATES, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES AND LICENSORS ("THE PARTIES") WILL NOT BE LIABLE (JOINTLY OR SEVERALLY) TO CUSTOMER, AUTHORIZED USERS, OR ANY THIRD PARTY, FOR INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS AND LOST REVENUES (COLLECTIVELY, THE "EXCLUDED DAMAGES"), WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, EVEN IF ANY OF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN ANY OF THE EXCLUDED DAMAGES, AND IRRESPECTIVE OF ANY FAILURE OF AN ESSENTIAL PURPOSE OF A LIMITED REMEDY. IN NO EVENT WILL THE LIABILITY OF THE PARTIES ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEPT FOR INTELLECTUAL PROPERTY INFRINGEMENT OR THE SUBJECT MATTER HEREOF EXCEED THE AGGREGATE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IF ANY APPLICABLE AUTHORITY HOLDS ANY PORTION OF THIS SECTION TO BE UNENFORCEABLE, THEN THE PARTIES' LIABILITY WILL BE LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY APPLICABLE LAW. CUSTOMER WILL INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR FOR ANY LOSS, DAMAGE OR COST IN CONNECTION WITH ANY CLAIM OR ACTION WHICH MAY BE BROUGHT BY ANY THIRD PARTY AGAINST NOBI RELATING TO ANY BREACH OF THIS AGREEMENT BY CUSTOMER.
- 9.9 The Customer shall be obliged to notify Nobi in writing of any damage within 10 days after becoming aware thereof, in accordance with Article 13.1. Any claim for damages against Nobi shall in any event lapse twelve (12) months after the first occurrence or discovery of the damage.
- 9.10 The Customer acknowledges that the Products, Platform or Services may utilize Third Party AI to provide certain Services or Features. Nobi makes no warranties regarding the availability, accuracy, or performance of such AI Services. Any interruption, modification, or discontinuation of AI Services by Third Party providers may affect the Product's or Platform's Features or Services. Nobi shall use commercially reasonable efforts to provide alternative solutions or workarounds if AI Services become unavailable, but shall not be liable for any resulting service interruptions or functionality changes.
- 9.11 The Customer acknowledges that the Services may incorporate AI-based functionalities or Features that involve inherent uncertainties and may not achieve perfect accuracy in all circumstances. Nobi makes no warranties regarding specific accuracy rates, learning speeds or performance improvements over time. The performance of such AI functionalities or Features depends, among other things, on the quality, volume and consistency of the data available. The Customer further acknowledges that AI functionalities or Features may undergo learning or optimisation phases during which performance may evolve over time, and that initial accuracy may differ from steady-state performance.
- 9.12 The Customer is solely responsible for obtaining and maintaining all equipment and support services necessary to access the Products, Platform and/or Services, including hardware, software, operating systems, networks, and internet connectivity. Nobi makes no warranties regarding Product or Service performance when dependent on Customer's equipment or infrastructure.
- 9.13 The Platform may be integrated, through an application programming interface (API) or other technical means, with Third Party platforms used by the Customer, subject to prior written consent of Nobi. Where such integrations are implemented, the Customer shall be solely responsible and liable for: (i) the infrastructure and technical environment used to establish and maintain the connection between the Platform and the relevant Third Party platform, (ii) its contractual relationship with the provider of such Third Party platform, (iii) obtaining and maintaining all necessary consents, permissions, and legal bases required for the Processing of Personal Data of Residents through the Third Party platform, and (iv) the handling and processing of any alerts, notifications, or escalations generated through or transmitted via such Third Party platform integration. Nobi shall not be liable for any damage, loss, or claims arising from or related to the use, operation, availability, or performance of any Third Party platform or its integration with the Platform.

- 9.14 The Customer acknowledges that the Services, including its fall detection functionality and related notifications, can rely on AI and machine learning technologies that involve inherent uncertainties and may not achieve perfect accuracy in all circumstances. Nobi does not warrant that all falls will be detected, correctly classified, or notified, nor that false positives will not occur. Nobi makes no warranties regarding specific accuracy rates, detection performance, learning speeds, or performance improvements over time. The performance of the AI-system depends on environmental factors (such as room layout, lighting conditions, and installation), as well as on data quality, volume, and consistency. Poor or inconsistent input data may result in suboptimal performance. The Customer acknowledges that such AI systems undergo learning phases during which performance may evolve over time, and initial performance may differ from performance in a later, more stable phase.
- 9.15 If a Force Majeure Event prevents or materially delays a Party's performance, the affected Party shall: (a) promptly notify the other Party in writing of the Force Majeure Event and its expected duration; (b) use commercially reasonable efforts to mitigate the effects and resume performance; and (c) provide regular updates on remediation efforts. During a Force Majeure Event: (a) the affected Party's obligations are suspended to the extent prevented by the event; (b) neither Party shall be liable for delays or failures in performance caused by the Force Majeure Event; (c) payment obligations for services actually received remain in effect; and (d) service level commitments and availability guarantees are suspended. If a Force Majeure Event continues for more than sixty (60) consecutive days, either Party may terminate the Agreement upon thirty (30) days' written Notice. Upon such termination, the Customer shall pay for all Services received through the termination date, and neither Party shall have further obligations except those that expressly survive termination of the Agreement.
- 9.16 The Parties acknowledge and agree that each has had the opportunity to seek legal advice and to negotiate the terms of this Agreement, including the limitation of liability provisions. Each Party enters into this Agreement in its own respective commercial interests..

## **10 Confidentiality**

- 10.1 Neither Party will use the other Party's Confidential Information except as reasonably required for the performance of the Agreement. Each Party will hold in confidence the other Party's Confidential Information by means that are no less restrictive than those used for its own Confidential Information. Each Party agrees not to disclose the other Party's Confidential Information to anyone other than its representatives, employees or subcontractors who are bound by confidentiality obligations and who need to know the same to perform such Party's obligations hereunder.
- 10.2 Each individual or entity receiving Confidential Information pursuant to this Article must have entered into a written confidentiality agreement the sole objectives of which are to further the intent of this Article. The Customer will not disclose, orally or in writing, any benchmark tests of the Products, Platform or Services to any Third Party.
- 10.3 Each Party agrees to notify the other Party of any unauthorized use or disclosure of Confidential Information and to provide reasonable assistance to such other Party, and its licensors, in the investigation and prosecution of such unauthorized use or disclosure.
- 10.4 The confidentiality obligations set forth in this Article will survive for at least five (5) years after the termination or expiration of the Agreement.
- 10.5 Upon termination or expiration of the Agreement, except as otherwise agreed in writing or otherwise stated in the Agreement, each Party will, upon the request of the disclosing Party, either: (i) return all of such Confidential Information of the disclosing Party and all copies thereof in the receiving Party's possession or control to the disclosing Party; or (ii) destroy all Confidential Information and all copies thereof in the receiving Party's possession or control. The receiving Party will then, at the request of the disclosing Party, certify in writing that no copies have been retained by the receiving Party, its employees or agents.

## **11 Customer Data**

### **11.1 General**

- 11.1.1 The Customer remains at any time the sole owner or controller of the Customer Data following the use of the Products and Services. The Customer grants Nobi, for the Term, a non-exclusive, worldwide, royalty-free right and license to use, copy, store, process, modify, transmit and display the Customer Data to the extent necessary to provide the Services under the Agreement.
- 11.1.2 Nobi may use anonymized or aggregated Customer Data to improve and/or train the Products or Services, provided no Data Subjects can be identified and without prejudice to its obligations under Article 12 and the applicable Data Protection Legislation as well under any other applicable (mandatory) legislation.
- 11.1.3 Unless explicitly agreed otherwise or in the absence of any specific instructions from the Customer, Nobi shall, in principle, have no obligation to archive or retain any documents, communications, information, or data of the Customer, including Customer Data, unless required by law or under the Agreement. The foregoing is without prejudice to Nobi's obligations under applicable legislation and Article 12. In the event that there is nevertheless a legal or statutory archiving or retention obligation, the Customer guarantees that any instructions regarding the archiving and retaining of such data will comply with the applicable legislation, including Data Protection Legislation and the Data Act.
- 11.1.4 Unless otherwise agreed in writing, Nobi is not obliged, upon termination of the Agreement, to carry out any data transfer, relocation, migration, or data conversion, including with regard to Customer Data, other than in accordance with Nobi's obligations under applicable Data Protection Legislation, the Data Act, or other legislation and/or Article 12. If the Customer explicitly requests such Services, all associated Fees shall be borne by the Customer and reimbursed as

agreed upon (unless this would be breaching any mandatory applicable legislation such as the Chapter VI obligations under the Data Act).

- 11.1.5 Upon termination of the Agreement, the Customer's User accounts shall be deactivated by Nobi without delay. The Customer will be informed of this via email or a notice through the Products or Services.
- 11.1.6 If the Agreement is terminated by the Customer, the Customer may, prior to the effective termination date, export the Customer Data using the export functionality made available by Nobi or by submitting a request through the designated process. The Customer Data shall be made available in commonly used formats.
- 11.1.7 If the Agreement is terminated by Nobi or otherwise terminates without the Customer's initiative, the Customer may request an export of the Customer Data through the process made available by Nobi within the period communicated by Nobi in the termination Notice.
- 11.1.8 Nobi maintains commercially reasonable backups and disaster recovery procedures but is not liable for any data loss or corruption except in cases of gross negligence or wilful misconduct. The Customer is responsible for maintaining its own backups of critical data.
- 11.1.9 The Customer is solely responsible for the accuracy, quality, integrity, and legality of the Customer Data and the means by which the Customer acquired or processes such data. The Customer warrants that it has all necessary rights, legal grounds (if any) and consents to provide Customer Data to Nobi for processing under the Agreement.
- 11.1.10 This Article 11.1 shall apply without prejudice to applicable Data Protection Legislation, the Data Act, other applicable laws and Articles 11.2 and 12, and without prejudice to any other provisions of the Agreement. In the event of any conflict with such mandatory laws or regulations, the latter shall prevail.

## 11.2 Data Act Compliance

- 11.2.1 To the extent applicable, the parties agree that the Model Contractual Terms for data access and use between a data holder and a user (Annex II) set out in the Annex to the Commission Recommendation on non-binding Model Contractual Terms for data access and use adopted pursuant to Article 41 of Regulation (EU) 2023/2854 (Data Act) (the "MCT") shall govern the access to and use of Customer Data generated by the Customer's use of the Products, Platform and/or Services. The MCT are incorporated into the Agreement and these Terms and Conditions by reference, as amended or supplemented by the provisions of the Agreement and these Terms and Conditions. In the event of any conflict between the MCT, the Agreement and these Terms and Conditions, the following order of precedence shall apply: (i) the specific provisions of the Agreement; (ii) these Terms and Conditions; (iii) the MCT. Nobi may adapt the MCT where necessary to ensure consistency with applicable law, including the Data Act and Data Protection Legislation. The MCT referred to in this Article 11 shall be deemed to be adapted and completed as necessary to reflect the specific characteristics of the Products and Services provided by Nobi. In particular, references in the MCT to the categories of Customer Data, the means of access to the Customer Data, the technical modalities of data access, and any other operational or technical specifications, shall be interpreted in accordance with the Agreement, these Terms and Conditions, the applicable Documentation, user manuals, and any other information made available by Nobi in relation to the relevant connected Product or related Services. To the extent necessary, such Documentation and information shall be deemed to supplement and clarify the MCT. Nothing in this Article shall be interpreted however as extending the obligations of Nobi beyond those applicable under the MCT and the Data Act.
- 11.2.2 To the extent applicable, the Parties agree that the Standard Contractual Clauses on non-binding standard contractual clauses for cloud computing contracts (Annex VI) set out in the Annex to the Commission Recommendation on non-binding standard contractual clauses for cloud computing contracts adopted pursuant to Article 41 of Regulation (EU) 2023/2854 (Data Act) (the "SCC") shall govern the switching and exit process of Customer Data to another (data processing service) provider as well as the termination process and security and business continuity. The SCC are incorporated into the Agreement and these Terms and Conditions by reference, as amended or supplemented by the provisions of the Agreement and these Terms and Conditions. In the event of any conflict between the SCC, the Agreement and these Terms and Conditions, the following order of precedence shall apply: (i) the specific provisions of the Agreement; (ii) these Terms and Conditions; (iii) the SCC. Nobi may adapt the SCC where necessary to ensure consistency with applicable law, including the Data Act and Data Protection Legislation. The SCC referred to in this Article 11 shall be deemed to be adapted and completed as necessary to reflect the specific characteristics, technical architecture and operational modalities of the data processing services provided by Nobi. In particular, references in the SCC to Customer Data, switching and exit plans, self-service automated switching tools, or any other operational or technical specifications relating to switching to another provider, exit, termination and security and business continuity shall be understood in light of the Agreement, these Terms and Conditions, the applicable Documentation, user manuals, and any other information or technical guidance made available by Nobi in relation to the relevant services. To the extent necessary, such Documentation and information shall be deemed to supplement and clarify the SCC. Nothing in this Article shall be interpreted however as extending the obligations of Nobi beyond those applicable under the SCC and the Data Act.

## 12 **Data Processing Agreement – Business Associate Agreement**

### 12.1 Scope

- 12.1.1 In the course of providing the Products and Services to the Customer under the Agreement, Nobi may Process Personal Data on behalf of the Customer in which case Parties agree to comply with the provisions of this DPA. The provisions of this DPA shall only apply to the extent that (and as the case may be) Nobi (as the Processor) Processes Personal Data on behalf of the Customer (as the Controller) under the Agreement.

- 12.1.2 Customers established in the United States of America are subject to the following additional terms: to the extent that the Parties qualify as a 'covered entity' or 'business associate', as applicable, under HIPAA and to the extent that Nobi processes PHI on behalf of Customer, the Parties agree that Nobi qualifies as a business associate under HIPAA and that the provisions set out in Article 12 shall apply as a BAA. To the extent that any provision of Article 12 does not satisfy the requirements of HIPAA, the mandatory provisions of 45 C.F.R. §164.504(e) shall apply automatically and supersede any conflicting provision. Any reference in this Article 12 to "Personal Data" shall, where applicable, be deemed to include "PHI" as defined under HIPAA. Likewise, any reference to "Processor" shall, where applicable, be deemed to refer to a "Business Associate", and any reference to "Controller" shall, where applicable, be deemed to refer to a "Covered Entity", each as defined under HIPAA.
- 12.1.3 In case of conflict between any provision of this DPA-BAA and any provision or another part of the Agreement, this DPA-BAA shall prevail.
- 12.1.4 If at any time any provision of this DPA-BAA is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, in whole or in part neither the legality, validity or enforceability of the remaining provisions of this DPA-BAA nor the legality, validity or enforceability of such provisions under the laws of any other jurisdiction will in any way be affected or impaired. Parties shall make all reasonable efforts and take all necessary actions to replace any illegal, invalid or unenforceable provision of this DPA-BAA with a valid, legal and enforceable provision having the same economic and legal effect for the Parties and reflecting to the fullest extent permitted by law the provision to be replaced.
- 12.1.5 The DPA-BAA is entered into for the term of the Agreement and remains in full force until the Processing of Personal Data is no longer required pursuant to the Agreement, or for longer, if required by law or Data Protection Legislation.
- 12.1.6 If the Customer has any questions regarding the Processing of Personal Data by Nobi, the Customer may send such questions to [privacy@nobi.life](mailto:privacy@nobi.life).

12.2 **Details of the Processing**

- 12.2.1 **Nature**: the Processing of Personal Data by Nobi (as Processor) on behalf of the Customer (as Controller) relates to the use of the Products and Services as described in the Agreement, the Quotation and/or as further specified in the Documentation, and/or as further instructed by the Customer in its use of the Products and Services of Nobi.
- 12.2.2 **Category of Data Subjects**: Residents and Users of the Platform. Family members, visitors or caregivers that may incidentally be captured by the visuals generated by the Nobi lamp.
- 12.2.3 **Means of the Processing**: The Personal Data is collected via the Products or the Platform, related systems, software, products, Services, tools and/or servers of Nobi to ensure the proper functioning of the Products and Services.
- 12.2.4 **Categories of Personal Data**:

<b>Residents</b>	<b>Customer and Users</b>
<ul style="list-style-type: none"> <li>• Identification data</li> <li>• Housing, environment and location data</li> <li>• Lifestyle information (movements, sleep)</li> <li>• Sensitive data (incl. a fall)</li> <li>• Visuals and audio captured by the Nobi light</li> <li>• Sound (confirm or reject a fall)</li> <li>• Health data (only if necessary and with consent).</li> </ul>	<ul style="list-style-type: none"> <li>• Identification data, including name, address and email address, registered office, company registration number and VAT number of the Customer, as well as names, positions and email addresses of the contact persons, appointees or employees.</li> <li>• Telephone number.</li> <li>• Financial and commercial information, including account number and other payment-related information,</li> <li>• Technical data: User Data – electronic / connection data (IP address, username, ID data for authentication purposes).</li> </ul>

A complete list of Personal Data processed, categorized by role (Resident, Customer, User), is set out in Nobi's privacy policy available at <https://eu.nobi.cloud/privacy>.

- 12.2.5 **Purpose of the Processing**: to deliver the Products and perform the Services as described in the Agreement and/or Quotation or Services related hereto and/or to comply with other Documentation or written reasonable instructions provided by the Customer where such instructions are consistent with the terms of the Agreement; to optimise the Products and Services. Nobi may not use or disclose PHI or Personal Data other than as permitted or required by this Agreement or as required by law.
- 12.2.6 **Retention period(s)**: Nobi will Process Personal Data for the Term of the Agreement, unless otherwise agreed upon in writing or as required by applicable law and no longer than is necessary for the purposes for which the Personal Data are Processed, unless applicable law requires longer storage of the Personal Data. More information on specific retention periods can be found on <https://eu.nobi.cloud/privacy>.
- 12.3 **General**
- 12.3.1 Nobi Processes the Personal Data only on behalf of the Customer and in accordance with the Documentation or written instructions of the Customer, including with regard to the transfer of Personal Data to a third country or an international organization, unless required to do so by law to which Nobi is subject; in such a case, Nobi shall inform the Customer

of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest. The Agreement, including this DPA-BAA, and the Documentation is the Customer's complete instruction to Nobi with regard to the Processing of Personal Data. Any additional or alternate instructions must be given in writing and agreed upon by the Parties.

- 12.3.2 Nobi shall only Process Personal Data in accordance with the purposes specified in Article 12.2.5 above. Nobi may use Personal Data for internal management and administration of Nobi in the context of this Agreement.
- 12.3.3 Any Processing of Personal Data by Nobi under the Agreement shall be performed in accordance with the applicable Data Protection Legislation, including the GDPR. Nobi shall immediately inform the Customer if, in its opinion, an instruction infringes the GDPR or other Data Protection Legislation. Nobi is not responsible for compliance with any legislation that only applies specifically to the Customer or the Customer's industry and that is not generally applicable to Nobi.
- 12.3.4 The Customer shall comply with the applicable Data Protection Legislation, including the GDPR, as well as any other laws applicable to the Customer or the Customer's industry. The Customer is solely responsible for the lawfulness of the (Processing of the) Personal Data. The Customer represents and warrants that, where it provides any Personal Data to Nobi for Processing, it has duly informed the relevant Data Subject of their rights and obligations, and in particular has informed them of the possibility of Nobi processing their Personal Data on the Customer's behalf and in accordance with its instructions. The Customer represents and warrants that it has obtained the necessary consents from the Data Subjects where required, e.g., for the Processing of health data or sensitive data of the Data Subjects. The Customer represents and warrants that the Processing of the Personal Data under the DPA-BAA is lawful.
- 12.3.5 Nobi ensures that the Personal Data is only disclosed to the personnel or persons acting on behalf of Nobi and that are authorized to Process the Personal Data and who need it to perform the Services under the Agreement. Nobi ensures that persons authorized to Process the Personal Data and/or its Sub-processors have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 12.3.6 Where Nobi Processes special category data (as defined in Article 9 of the GDPR), including health data or other sensitive information relating to Residents or other Data Subjects, Nobi and the Customer shall ensure full compliance with applicable Data Protection Legislation, including implementing appropriate safeguards, obtaining explicit consent where required and following all legal requirements for Processing, storage and transfer of such data.

#### 12.4 Transfer of Personal Data

- 12.4.1 Nobi agrees to keep all Personal Data and its Processing strictly secret and shall not disclose or reveal it, in whole or in part, directly or indirectly, to any Third Party, unless with prior written consent by the Customer or required by law.
- 12.4.2 The Customer agrees to allow the transfer of Personal Data outside the country from which it was originally collected provided that such transfers are required in connection with the provision of the Products and Services under the Agreement and such transfers take place in accordance with Data Protection Legislation, including, without limitation, completing any prior assessments required by Data Protection Legislation and/or pursuant to the applicable standard contractual clauses.
- 12.4.3 For the avoidance of doubt, where Personal Data is transferred from the United Kingdom to a country outside the United Kingdom that does not benefit from an adequacy decision, the Parties shall enter into and comply with the United Kingdom International Data Transfer Agreement (IDTA) or the United Kingdom Addendum to the EU Standard Contractual Clauses as approved by the UK Information Commissioner's Office (ICO), as applicable.
- 12.4.4 Nobi does not control and is not responsible for the location from which the Customer or its Users (may) Process Personal Data. In any event, Customer shall fully indemnify and hold Nobi harmless for any damage suffered by Third Parties in this regard.

#### 12.5 Security Measures

- 12.5.1 Nobi shall implement and maintain all appropriate Security Measures to ensure a level of security to the risks in accordance with Article 32 GDPR, including measures on confidentiality (access authorization, separation control, pseudonymization), integrity (transfer and input control), availability and resilience (availability control, recoverability) and procedures for regular review, assessment and evaluation (data protection management, pen-testing and incident response management).
- 12.5.2 For Customers established in the United States of America, Nobi shall maintain appropriate safeguards in accordance with HIPAA to prevent any unauthorized use or disclosure of PHI.
- 12.5.3 An updated description of the implemented Security Measures is available in Nobi's Trust Centre or upon request via [privacy@nobi.life](mailto:privacy@nobi.life).

#### 12.6 Sub-processors

- 12.6.1 The Customer authorizes Nobi to engage Sub-processors for the provision of the Products and Services under the Agreement and to transfer Personal Data to these Sub-processors in this context.
- 12.6.2 Customer grants Nobi authorization to engage the Sub-processors listed in Nobi's Trust Centre. The list can be requested via [privacy@nobi.life](mailto:privacy@nobi.life). Customer expressly agrees to these Sub-processors.
- 12.6.3 Before authorizing any new Sub-processor to Process Personal Data in connection with the provision of the Services, Nobi will provide the Customer with a Notice of that update. This notice mechanism represents Nobi's duty to inform and request consent from the Customer for the use of a new Sub-processor.

- 12.6.4 If the Customer reasonably objects to the Processing of Personal Data by one or more Sub-processors, the Customer shall notify Nobi in writing (including e-mail to [privacy@nobi.life](mailto:privacy@nobi.life)) within fifteen (15) calendar days after receipt of Nobi's Notice.
- 12.6.5 Where applicable, Nobi shall make reasonable efforts to propose alternative arrangements to Customer in order to avoid the involvement of the Sub-processor(s) in question. If Nobi is unable to make available or propose alternatives within sixty (60) calendar days, the Customer may terminate the relevant part of the Agreement regarding those Services which cannot be provided by Nobi without the use of the Sub-processor concerned. To that end, the Customer shall provide written Notice of termination taking into account a notice period of six (6) months and providing a reasonable motivation for non-approval. The foregoing goes without prejudice to the (payment or other) obligations of the Customer under the Agreement.
- 12.6.6 Nobi shall enter into a written agreement with any engaged Sub-processor that contains data protection obligations no less protective than those contained in this DPA-BAA.
- 12.6.7 Where such Sub-processor fails to fulfil its Personal Data protection obligations in accordance with this DPA-BAA and/or Data Protection Legislation, Nobi shall be liable for the performance of that Sub-processor's obligations.
- 12.7 Assistance and Information Obligations
- 12.7.1 Nobi shall make available to the Customer all Documentation necessary to demonstrate compliance with the GDPR and in particular with the obligations laid down in Article 28 GDPR.
- 12.7.2 Taking into account the nature of the Processing and the Documentation available to Nobi, Nobi shall assist the Customer (i) by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of the GDPR and (ii) in ensuring compliance with the obligations pursuant to Article 32-36 GDPR.
- 12.7.3 Should a Data Subject contact Nobi directly with a request to access, obtain a copy of, rectify, erase or restrict the Processing of their Personal Data, Nobi shall refer the Data Subject to Customer and shall not take any further action in relation to the request. However, Nobi may, by way of assistance, provide the Data Subject with basic contact details of Customer. Customer shall inform Data Subjects that they may exercise their rights only against Customer. Customer shall respond to any such requests from Data Subjects and shall comply with its obligations under applicable Data Protection Legislation.
- 12.7.4 Nobi shall assist the Customer as it carries out Data Protection Impact Assessments in accordance with Article 35 GDPR.
- 12.7.5 Nobi shall be entitled to invoice the Customer on a time and material basis at the then-current applicable Fees for any time expended for any such assistance within the meaning of this Article 12.7.
- 12.7.6 For Customers established in the United States of America, to the extent required under HIPAA, Nobi shall make PHI available to the Customer in a manner that enables the Customer to comply with its obligations to provide access to PHI to individuals under 45 C.F.R. §164.524.
- 12.7.7 Where applicable under HIPAA, Nobi shall, at the request of the Customer, amend PHI or incorporate amendments to PHI in accordance with 45 C.F.R. §164.526.
- 12.7.8 To the extent required under HIPAA, Nobi shall make available to the Customer the information necessary to enable the Customer to provide an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.
- 12.8 Audits
- 12.8.1 The Customer is entitled to reasonably verify Nobi's compliance with the DPA-BAA and the Data Protection Legislation, provided that Nobi shall have no obligation to provide confidential and/or proprietary information, including Confidential Information. To this extent, the Customer may, upon request in writing and with prior written Notice of thirty (30) calendar days, at its own expense, instruct acknowledged audit professionals to execute such audit or inspection: (i) once every twelve (12) months provided that such additional audit inquiries take place during normal office hours and shall not unreasonably impact in an adverse manner Nobi's regular operations and do not prove to be incompatible with the applicable legislation or with the instructions of a competent authority; (ii) where a competent Supervisory Authority requires this under Data Protection Legislation (including the GDPR); or (iii) following a Personal Data Breach.
- 12.8.2 Before the commencement of any such audit inquiries, Parties shall mutually agree upon the scope, timing and duration of the audit, including conditions of confidentiality. During such audit, Nobi shall provide reasonable cooperation and assistance to the auditors.
- 12.8.3 The Customer shall promptly notify Nobi in writing with information regarding any non-compliance discovered during the course of such audit. Audit reports, any other information to which the Customer or the audit professionals have access pursuant to any audit activities, as well as an attestation of the implementation of the Security Measures, will be considered Confidential Information.
- 12.8.4 Nobi shall be entitled to invoice the Customer on a time and material basis at the then-current applicable Fees for any time expended for any such audit inquiries. The Customer shall not be entitled to claim compensation for any kind of audit expenses incurred by the Customer (unless the audit has revealed any breach or any failure by Nobi in which case Nobi shall bear the costs related to this breach or failure).
- 12.8.5 For Customers established in the United States of America, Nobi shall make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services, or its designee, as required under HIPAA for purposes of determining the Customer's or Nobi's compliance with HIPAA.

## 12.9 Data Breaches

- 12.9.1 In the event of a Data Breach, and irrespective of its cause, Nobli shall notify the Customer without undue delay after having become aware of such Data Breach, specifying where known or readily identifiable: (i) the nature of the Data Breach; (ii) the categories and approximate number of Data Subjects and Personal Data (records) concerned; (iii) as the case may be, any remedial actions taken or proposed to be taken to address the Data Breach, to mitigate its effects and to prevent re-occurrence and (iv) the identity and contact details of any other contact person from whom more information can be obtained.
- 12.9.2 The Party responsible for the Data Breach shall without undue delay further investigate the Data Breach and shall keep the other Party informed of the progress of the investigation and take reasonable steps to further minimize the impact. Both parties agree to fully cooperate with such investigation and to assist each other in complying with any notification requirements and procedures.
- 12.9.3 For Customers established in the United States of America, any breach of unsecured PHI shall be reported in accordance with HIPAA, and in any event no later than sixty (60) days after discovery.

## 12.10 Return and/or deletion of Personal Data

- 12.10.1 Upon termination of the Agreement, for whatever reason or in whatever manner, Nobli shall delete or anonymize all Personal Data then in its possession or control on its systems (without prejudice to any backup archives) at the latest sixty (60) calendar days after the last effective day of the Agreement, unless otherwise instructed by the Customer or unless applicable law requires longer storage of the Personal Data.
- 12.10.2 Personal Data Processed by Nobli in the context of direct marketing will be kept for a maximum of two (2) years after the last contact with the Customer.
- 12.10.3 Upon written request of the Customer, not later than thirty (30) days prior to termination of the Agreement, Nobli will provide the Customer with a readable copy in a standard format of the Personal Data on its systems. The costs related to such request / copy are at the Customer's expense.
- 12.10.4 For Customers established in the United States of America, upon termination of the Agreement, Nobli shall return or destroy all PHI received from, or created or received on behalf of, the Customer, in accordance with 45 C.F.R. §164.504(e)(2)(ii)(J), unless return or destruction is infeasible, in which case Nobli shall continue to extend the protections of this Agreement to such PHI and limit further uses and disclosures to those purposes that make the return or destruction infeasible.

## 12.11 Liability

- 12.11.1 Nobli and Customer shall each be liable in accordance with Article 82 GDPR. Nobli is only liable towards the Customer for any damage resulting from an act or omission where the Processing has not complied with the obligations of the Data Protection Legislation specifically directed to processors, or from an act or omission contrary to the lawful instructions of the Customer.
- 12.11.2 Customer shall be fully liable to Nobli and shall indemnify and hold Nobli harmless from and against all damages, including (but not limited to) interests, legal (including attorney's) or other fees, sanctions imposed by Supervisory Authorities, administrative fines and any damages suffered by Data Subjects or by Nobli, arising from Customer's failure to comply with its obligations under this Agreement and/or the applicable Data Protection Legislation.
- 12.11.3 The provisions of the Agreement and in particular Article 9 above on (exclusion or limitation of) liability fully (remain to) apply for the Processing of Personal Data by Nobli under the DPA-BAA and/or the Agreement. In any event, Nobli's aggregate maximum liability under this DPA-BAA will be limited in accordance with Article 9.7 of these Terms and Conditions.

## 12.12 HIPAA-Specific Termination

- 12.12.1 Where required under HIPAA, and for Customers established in the United States of America, the Customer may terminate the Agreement without penalty if it determines that Nobli has materially violated its obligations as a Business Associate under HIPAA and such violation is not cured within a reasonable period after written notice.

## 13 **Miscellaneous**

- 13.1 Notices. All Notices – other than merely informative or operational correspondence between Parties – to be made under the Agreement shall be communicated in writing in Dutch or English by registered mail or internationally recognized overnight courier service to the addresses first set out in the Agreement or to such other addresses as the Parties may have designated to each other by Notice given in accordance with this Article. Notices may also be delivered by email to [legal@nobi.life](mailto:legal@nobi.life) (or other designated contact addresses), provided that (i) receipt is acknowledged by the receiving Party, and (ii) such email notice is followed by registered mail or courier within three (3) business days. No other notice methods are allowed or valid. Any Notice shall be effective upon receipt and shall be deemed to have been received: at the time of delivery, if delivered by a courier company or on the third Belgian business day following the date of sending if sent by registered mail, provided that both the sender and the addressee reside in Belgium. When at least one of the Parties has its registered office outside of Belgium, a notice sent by registered mail shall only be deemed effective and received the fifth (5e) business day following the day of sending.

- 13.2 No Assignment and Third Party Rights. The Agreement shall be binding upon and inure to the benefit of the Parties to the Agreement and cannot be assigned in full or in part without the prior written consent of the other Party to the Agreement albeit however that Nobi may assign all of its rights and obligations under the Agreement to a party acquiring its business as a whole or an Affiliate. The Customer may not assign or delegate its rights or obligations under the Agreement and/or the Terms of Use, in whole or in part, to any Third Party without the prior written consent of Nobi. A person who is not a Party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 13.3 Severability. If at any time any provision of the Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, in whole or in part neither the legality, validity or enforceability of the remaining provisions of the Agreement nor the legality, validity or enforceability of such provisions under the laws of any other jurisdiction will in any way be affected or impaired. The Parties shall make all reasonable efforts and take all necessary actions to replace any illegal, invalid or unenforceable provision of the Agreement with a valid, legal and enforceable provision having the same economic effect for the Parties and reflecting to the fullest extent admitted by law the provision so replaced.
- 13.4 Waivers and remedies. No Party shall be deemed to have waived any rights or remedies arising out of the Agreement or out of any default or breach hereunder unless such Party executes the waiver in writing. If a Party waives a right or remedy arising out of the Agreement or out of any default or breach hereunder, such waiver shall not be construed to constitute a waiver of any other rights or remedies.
- 13.5 Entire agreement – amendments. The Agreement and these Terms and Conditions supersede and replace any and all prior agreements, negotiations, arrangements and understandings, whether or not in writing, between the Parties with respect to the subject matter of the Agreement. Each Party acknowledges and agrees that it has not relied on any statement, representation, warranty, or promise, except as expressly set out in this Agreement. Nothing in this Agreement shall limit or exclude liability for fraud or fraudulent misrepresentation. No alteration to the Agreement is valid unless it is in writing and signed by or on behalf of each Party. Each individual signing or accepting the Agreement hereby warrants and represents that he or she has the full authority to execute it on behalf of the Party on whose behalf he or she so signs and that all actions taken by him or her are within the scope of such authority. Each Party hereto hereby represents and warrants that all necessary corporate and legal actions to approve the making and execution of the Agreement have been taken and no further action is required therefor and that the making and execution of the Agreement does not violate any provision of law or of its articles of incorporation or bylaws or other charter documents.
- 13.6 Counterparts. The Agreement may be executed in several counterparts, and all counterparts so executed shall constitute one and the same Agreement, which shall be binding on the Parties hereto. Electronic signatures complying with applicable law shall have the same legal effect as handwritten signatures.
- 13.7 Customer References and Publicity. The Customer grants Nobi the non-exclusive right to use the Customer's name, logo, and/or trademark in Nobi's customer lists, marketing materials, website, and promotional activities, provided such use accurately represents the Customer as a user of the Services. The Customer may provide testimonials or case studies for Nobi's use in marketing materials. Any such testimonials shall be subject to the Customer's prior written approval. The Customer may opt out of public identification by providing written notice to Nobi, but such opt-out shall not affect Nobi's right to identify Customer in confidential discussions with prospective customers or investors. This provision shall survive termination for two (2) years, after which Nobi shall remove the Customer references from actively maintained marketing materials, but shall not be required to recall or modify previously distributed materials.
- 13.8 Non-Solicitation. During the Term and for two (2) years following termination, The Customer shall not, directly or indirectly, solicit, induce, recruit, or encourage any employee, consultant, or contractor of Nobi who worked on the Customer's project to leave their engagement with Nobi. In the event of a breach of this provision, the Customer shall pay Nobi liquidated damages of 50.000,- EUR per person solicited, without prejudice to Nobi's right to seek additional damages and injunctive relief. The Parties agree that the liquidated damages stated represent a genuine pre-estimate of Nobi's loss and are not intended to be punitive.
- 13.9 Governing law and jurisdiction. The Agreement shall be governed by and construed in accordance with the laws and jurisdiction rules set out below, depending on the place of establishment of the Customer:
- A. Where the Customer is established under the laws of Belgium or under the laws of any state other than England and Wales or the United States of America, the Agreement shall be governed by and construed in accordance with the laws of Belgium. Any dispute arising out of or in connection with the Agreement which cannot be settled amicably shall be subject to the exclusive jurisdiction of the competent courts of (section(s)) Antwerp, Belgium.
  - B. Where the Customer is established under the laws of England and Wales, the Agreement shall be governed by and construed in accordance with the laws of England and Wales. Any dispute arising out of or in connection with the Agreement which cannot be settled amicably shall be subject to the exclusive jurisdiction of the courts of England and Wales.
  - C. Where the Customer is established under the laws of a state of the United States of America, the Agreement shall be governed by and construed in accordance with the laws of the state of Delaware. Any dispute arising out of or in connection with the Agreement which cannot be settled amicably shall be subject to the exclusive jurisdiction of the federal courts located in the state of Delaware.

In each case, no effect shall be given to any conflict of laws rules or provisions that would result in the application of the laws of any jurisdiction other than those specified above. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

**Last updated: 12.05.2026**