COSTPERFORM - GENERAL TERMS AND CONDITIONS

1. Definitions

1.1. In these General Terms and Conditions, the terms listed below have the following meaning:

a. **Agreement**: any agreement concluded between CostPerform and the Customer, any amendment or addition to that agreement, and/or any other juridical or other acts performed in the preparation and performance of that agreement.

b. **Beneficiary:** the Customer, provided that, as further set out in the escrow agreement, it can submit to Escrow Agent an invoice issued by CostPerform to Customer including proof of payment for the Software no older than two (2) years from the date on which the right to release the source code and the related documentation arises pursuant to the escrow agreement.

c. **Confidential Information**: as defined in Clause 17.1.

d. **Customer**: any party that enters into or intends to enter into an agreement with CostPerform.

e. **CostPerform**: QPR CostControl B.V., trading under the name "CostPerform", a private company with limited liability, having its registered office at Clarissenhof 15, 4133 AB Vianen, the Netherlands (Chamber of Commerce number 30180051).

f. **Escrow Agent**: Escrow Alliance B.V. (Nieuwe Gracht 98, 2011 NL Haarlem) or another escrow agent with which CostPerform has entered into an escrow agreement, as communicated by CostPerform to Customer from time to time.

g. **Escrow Release Event**: the event, as further set out in the escrow agreement, in which (a) CostPerform suffers bankruptcy, or (b) CostPerform does not comply with its obligation to make the terms of the escrow agreement part of any transfer of the intellectual property rights of the Software to a third party.

h. **General Conditions**: the terms and conditions as set out below.

i. **Know-How:** any know-how and trade secrets, including but not limited to products, production processes, applications, drafts, designs, drawings, inventions, models, techniques, works, procedures, results, creations, presentations, computer programs, know how, data collections and other knowledge.

j. **Intellectual Property Rights**: all intellectual and industrial property rights, including patents, copyrights, database rights, designs, semiconductor rights, trademarks, trade names, and all other similar proprietary rights which exist in any part of the world together with (a) all applications and rights to apply therefore and (b) all renewals, extensions and revivals thereof.

k. **Parties:** CostPerform and the Customer.

l. **Order Form:** the Order Form entered into by CostPerform and the Customer, as well as any other written offer made by CostPerform to the Customer.

m. **Service Level Agreement or SLA**: the service level agreement which describes the service levels relating to the Software, which may be amended from time to time by CostPerform.

n. **Subscription Term**: the term of the subscription as specified in the Order Form;

o. **Support Services**: all support and consulting services provided by CostPerform to the Customer under the Agreement.

p. **Software:** the Software that CostPerform licenses to Customer under the Agreement, as specified in the Order Form.

2. Applicability

2.1. These General Conditions govern (i) all Order Forms provided by CostPerform and Agreements concluded between CostPerform and Customer; and (ii) any further or follow-up agreements between CostPerform and the Customer. The Customer is deemed to have understood and accepted these General Conditions, and to have agreed to the above.

2.2. The applicability of any terms and conditions of the Customer is expressly rejected.

2.3. If CostPerform and the Customer agree to deviate from these General Conditions in one or more Agreements, that does not affect the provisions of any previous or subsequent Agreements between CostPerform and the Customer.

2.4. If one or more of the provisions of these General Conditions are deemed void in whole or in part, the other provisions of these General Conditions will continue to apply in full force and the Parties will consult in order to agree on an alternative provision that is in keeping with the Parties' intention of the void or provision.

3. Order Forms and the conclusion of an Agreement

3.1. All Order Forms proposed by CostPerform to Customer are subject to contract and are valid for the period stated therein by CostPerform. If CostPerform has not stated a period in its Order Form, the Order Form automatically lapses after 30 days.

CostPerform may revoke all Order Forms at any time, also if the Order Form states a term for acceptance.

3.2. The documents that form part of the Order Form, such as but not limited to project proposals, drawings, technical specifications, overviews of expected pricing and costs. pricelists, brochures, catalogues, leaflets, etc., are as accurate as reasonably possible. They are made available to the Customer for information purposes only and cannot bind CostPerform in any manner whatsoever. The documents in question furthermore are and remain CostPerform's (intellectual) property.

3.3. In the event the Customer requests CostPerform to amend an Order Form, CostPerform and the Customer shall discuss such request in good faith, after which CostPerform may at its discretion amend the Order Form in response to the Customer's request. Such amended Order Form shall replace the original Order Form.

3.4. If the acceptance of the Order Form includes any conditions and/or changes by the Customer compared with the Order Form that CostPerform has issued, the Agreement is not concluded, contrary to the above provisions, until CostPerform or its authorized representative accepts those conditions and/or changes in writing.

4. Subscription

4.1. CostPerform shall make the Software available to the Customer as of the Effective Date on a subscription basis, for the Subscription Term specified in the Order Form.

4.2. Unless specified otherwise in the Order Form, the Subscription Term shall automatically renew for consecutive twelve (12) months periods after expiration of the Subscription Term, unless the Customer terminates the Agreement taking into account a notice period of at least three (3) months prior to the end of the Subscription Term or any renewal term. CostPerform shall be entitled to terminate the Agreement taking into account a notice period of at least twelve (12) months prior to the end of the Subscription Term or any renewal term.

4.3. The Customer shall be entitled to terminate its subscription prior to the expiration of the Subscription Term, subject to a one-time payment of the remaining subscription fees for the remainder of the Subscription Term. Clause 11.4 shall apply to any prepayments made by Customer.

5. Software

5.1. CostPerform shall grant the Customer a limited non-exclusive license to use the Software during the Subscription Term, subject to the limitations specified in the Order Form.

5.2. The Customer shall only be entitled to use the Software for the number of users, transactions or other parameters as specified in the Order Form. The Customer shall not be entitled to exceed any of the aforementioned users, transactions or other parameters without CostPerform's prior written approval. Should the Customer's use

exceed the aforementioned users, transactions or other parameters, CostPerform shall bene entitled to charge such additional use in accordance with its then current rates.

5.3. CostPerform shall use commercially reasonable efforts to make the Software available, and to make the Software function in accordance with its specifications. CostPerform does not guarantee that the software will be (i) without errors, (ii) fit for the purpose intended by Customer, or (iii) available without interruption.

5.4. CostPerform shall be entitled to update, upgrade or otherwise change the Software and its functionality. Such updates, upgrades or changes may add or remove certain functionality in the Software. CostPerform shall use reasonably efforts to communicate material changes to the Software as specified in the Service Level Agreement.

5.5. The Software shall be made available by CostPerform on a commercially reasonable efforts basis, in accordance with the terms of the Service Level Agreement.

5.6. CostPerform shall be entitled to (temporarily) suspend Customer's access or any of Customer's users access to the Software in the event (i) the Software is used in breach of this Agreement, (ii) the Software is used in breach of applicable law, (iii) the use of the Software negatively affects the functionality or performance of the Software and/or the use of the software by other users or (iv) the Software is used in a manner which, in CostPerform's reasonable opinion, does not constitute fair or acceptable use.

5.7. In the event CostPerform makes certain functionality available on a Beta or pilot-basis, such functionality shall be made available as is, without any guarantees regarding performance and quality. CostPerform shall be entitled to change or remove such functionality without prior notice.

5.8. The Customer shall not be entitled to (i) use the Software for third parties, (ii) use the Software to provide services to third parties or (iii) allow third parties to access or otherwise use the Software, without prior written approval of CostPerform.

6. Fees and payment

6.1. The Customer shall pay CostPerform the subscription fees as specified in the Pricing Schedule attached to the Order Form.

6.2. CostPerform shall be entitled to increase its fees based on the Dutch Consumer Price Index once every twelve (12) months.

6.3. Unless otherwise stated, the subscription fees and/or prices for Software or Support Services specified in an Order Form are denominated in euro's, are exclusive of VAT, import duties and other government charges, in relation to the Agreement. CostPerform may pass on those charges separately.

6.4. The relevant documents and data in CostPerform's accounting records or systems serve as full evidence of the performances provided by CostPerform and the amounts payable by the Customer for those performances, without prejudice to the Customer's right to provide evidence to the contrary.

7. Escrow

7.1. CostPerform shall deposit the source code for the Software and the related documentation into an escrow account pursuant to an escrow agreement between CostPerform and the Escrow Agent. The escrow agreement shall authorize release of the source code and the related documentation to the Customer as a Beneficiary upon the occurrence of the Escrow Release Event, the receipt by the Escrow Agent from the Customer of a registered letter (including invoice and proof of payment not older than two years) and subject to the terms and conditions as futher set out in the escrow agreement.

8. Delivery of Support Services

8.1. If CostPerform and the Customer agree on the provision of Support Services by CostPerform, CostPerform shall deliver the Services with reasonable skill and care, and shall have the Support Services delivered by sufficiently skilled and experienced personnel.

8.2. CostPerform shall use reasonable efforts to deliver the Support Services in accordance with the timelines specified in the Order Form. CostPerform shall inform the Customer in the event of any delay in the delivery of the Support Services.

8.3. The Customer shall provide all assistance and information reasonably requested by CostPerform to deliver the Support Services. In the event the provision of assistance by the Customer is delayed, CostPerform may delay or suspend its performance of the Support Services.

8.4. Hands-on support is provided per calendar year. At the start of the contract, the days are fixed once or in proportion to the current calendar year. On January 1 of the following calendar year, the number of days is reset to the number of agreed days for a calendar year.

9. Force majeure

9.1. In these General Conditions force majeure means, in addition to its meaning in legislation and case law, all external causes and their consequences, either foreseen or unforeseen, that are beyond CostPerform's control and as a result of which CostPerform is unable to perform its obligations or such performance is onerous and/or unreasonably costly for CostPerform to such an extent that CostPerform cannot reasonably be required to perform the Agreement. Force majeure in any event includes strikes, extreme weather conditions, pandemics, machine breakdowns, machine failures, interruptions in the supply of power, and CostPerform not being provided or not being provided in a timely or proper manner with a performance that is relevant to the performance to be provided by CostPerform itself. CostPerform also has the right to invoke force majeure if the circumstance that prevents performance or further performance of the Agreement occurs after CostPerform should have performed its obligation.

9.2. During the event of force majeure, CostPerform has the right to suspend its obligations under the Agreement. If force majeure continues for more than six (6) months Parties are entitled to terminate the Agreement without being liable for any damages towards the other party.

9.3. CostPerform has the right to claim payment in respect of any performance already provided by or on behalf of CostPerform under the Agreement with the Customer before the occurrence of the event of force majeure or any performance of the obligations under the Agreement during the event of force majeure.

10. Payment

10.1. The Customer shall pay the subscription fees and any other fees due to CostPerform as specified in the Order Form.

10.2. Unless otherwise specified in the Order Form, the Customer must pay any and all amounts owed to CostPerform within thirty (30) days of the invoice date. The Customer shall make payment to the account number specified in the invoice unless specified otherwise in the Order Form.

10.3. If the Customer has any complaints regarding any invoice received, it must inform CostPerform of those complaints in writing within twenty (20) business days after the date of the invoice, failing which the invoice is deemed to be correct.

10.4. Complaints regarding the correctness of an invoice or the services provided in no event give the Customer the right to suspend payment or any of its other obligations under the Agreement.

10.5. The Customer is in no event entitled to settle or set off any amounts owed by it and/or claims held against it by CostPerform with amounts owed to it and/or claims held by the Customer against CostPerform, irrespective of the fact whether such amounts and/or claims are payable.

10.6. If the Customer fails to pay the invoice within the payment term, the Customer is automatically in default without any notice of default being required. The Customer owes contractual interest at a rate of 1% per month or part of a month on the amounts owed and payable to CostPerform, unless the statutory interest or commercial interest is higher, in which case that statutory interest or commercial interest applies. The interest on the amount due is charged from the moment the Customer is in default until the moment of payment of the entire amount due.

10.7. In the event the Customer fails to pay an invoice within the payment term, and fails to make payment after a payment reminder from CostPerform, CostPerform shall be entitled to suspend the Customer's access to the Software until all unpaid invoiced have been paid. Such suspension shall not affect the Customer's obligation to continue to pay the subscription fees during the suspension period.

10.8. All reasonable costs incurred by CostPerform in enforcing its rights under the Agreement are payable by the Customer.

11. Agreement term and termination

11.1. Unless otherwise agreed between the Parties, the term of the Agreement shall equal to the Subscription Term, and any renewal thereof, as specified in the Order Form.

11.2. Nothwithstanding Customer's rights as set out in clause 7 (*escrow*), CostPerform has the right without any judicial intervention to terminate the Agreement concluded between CostPerform and the Customer with immediate effect, without being liable for damages and without prejudice to any of its other rights, if:

    a. the Customer is declared bankrupt or is granted a suspension of payment;

    b. a petition in bankruptcy or a petition for a suspension of payment is filed against the Customer;

    c. the Customer offers its creditors a composition;

    d. the Customer ceases or is about to cease its business;

    e. any circumstances that have come to CostPerform's attention after conclusion of the Agreement that provide valid reason to fear that the Customer will fail to perform its obligations correctly and/or in time, and/or if in CostPerform's opinion collection of current or future claims cannot be guaranteed;

    f. the Customer fails to perform any of its obligations under the Agreement or on the basis of applicable law, or to do so in full or in time, after having been given thirty (30) days to cure any such default by CostPerform; or

    g. circumstances occur of such a nature that performance of the Agreement is impossible or CostPerform cannot reasonably be required to continue the Agreement on the conditions originally agreed upon.

11.3. Upon termination of the Agreement the Customer shall immediately cease use of the Software.

11.4. Early termination of this Agreement shall not require CostPerform to repay any (prepaid) subscription fees to the Customer.

11.5. If after conclusion of the Agreement circumstances come to CostPerform's attention providing CostPerform valid reason to fear that the Customer will fail to perform one of its obligations under the Agreement or to do so correctly and/or in time, CostPerform has the right to suspend performance of its obligations under the Agreement until payment has been made in full and/or security has been provided for all its payment obligations.

12. Liability

12.1. If it is established in court or otherwise that CostPerform may be liable towards the Customer for loss incurred in connection to its obligations under the Agreement, that total liability is in any event limited by the following provisions:

    a. CostPerform will in any event only be liable for direct damages, CostPerform is in no event liable for any indirect damages including, but not limited to loss of profit, lost income, lost turnover, lost savings, or loss caused by business interruption or other interruption;

    b. CostPerform's liability is in any event limited to the amount paid in the case in question by CostPerform's liability insurance;

    c. If for any reason whatsoever CostPerform's liability insurance does not cover the case at hand, CostPerform's liability, is limited to the lower of (i) an amount of EUR 25.000 or (ii): the subscription fees and/or fees for Support Services paid by the Customer to CostPerform during the term of the Agreement.

12.2. Any loss for which CostPerform can be held liable must be reported to CostPerform as soon as possible but no later than fifteen (15) days after the loss occurs, on pain of forfeiture of the right to claim the loss. This term does not apply if the Customer can prove that the loss could not be reported within the stipulated period for a valid reason.

12.3. Any liability claim against CostPerform lapses twelve (12) months after the Customer became or could reasonably have become aware of the event.

13. Indemnification

13.1. The Customer is liable for any and all damages, loss, costs and expenses incurred by CostPerform, the companies affiliated with it or third parties that result from or have arisen in connection with any breach in the performance of the Customer under the Agreement, irrespective of whether the loss, damage, costs or other expenses were caused by the Customer, its employees, or any other natural person or legal entity for which the Customer is reasonably responsible.

13.2. The Customer fully indemnifies and will keep indemnified CostPerform and its affiliated companies and hold them harmless from and against all third party claims regarding damages, loss, costs and expenses of third parties arising from or related to any breach in the performance of the Agreement by the Customer or other third parties for which the Customer is reasonably responsible.

13.3. If CostPerform is held liable by third parties, the Customer must assist to the best of its abilities, CostPerform both in proceedings in and out of court and must immediately do any and all things that may be reasonably expected of it in that case and/or requested by CostPerform. The Customer will always make every effort to limit the loss or damages incurred by CostPerform or any third party.

13.4. If the Customer fails to take adequate measures, including insurance, CostPerform has the right, without any notice of default, to do so itself. All resulting costs and loss on the part of CostPerform and third parties are entirely for the Customer's account and risk.

14. Warranties

14.1. CostPerform warrants that the Software provided to Customer under the Agreement shall be (i) compliant with Dutch law and (ii) shall not infringe any intellectual property rights of third parties.

14.2. CostPerform shall make the system available to Customer on an "as is" basis. Other than specified in clause 14.1, the Software shall be provided without any warranties of any kind, including but not limited to warranties for fitness for purpose, (uninterrupted) availability and useability.

15. Intellectual property rights

15.1. Any Intellectual Property Rights in and to the Software and the Support Services shall be owned by CostPerform and shall remain with CostPerform. Nothing in this Agreement shall imply the assignment of any such Intellectual Property Rights, unless explicitly agreed upon in writing.

15.2. Insofar as necessary CostPerform hereby grants the Customer a limited non-exclusive license to use the Intellectual Property Rights referred to in article 15.1 to use the Software and the Support Services in accordance with this Agreement.

15.3. Any feedback, suggestions and improvements communicated by Customer to CostPerform, including any Intellectual Property Rights thereto, shall be owned by CostPerform. Insofar as necessary, Customer hereby assigns and transfers any and all rights to such feedback, suggestions and improvements, including any intellectual Property Rights thereto, to CostPerform.

16. Privacy and use of data

16.1. CostPerform shall process any personal data of the Customer in accordance with its Privacy Policy and in any event in accordance with the General Data Protection Regulation (GDPR).

16.2. CostPerform shall be entitled to use any data uploaded by the Customer as well as any metadata generated in relation to the Customer's use of the Software for the performance of CostPerform's obligations pursuant to this Agreement. In addition, CostPerform shall be entitled to use such data and metadata, with the express exception of any personal data, to improve the Software and for the development and improvement of any services of CostPerform relating to the Software.

16.3. Customer shall at any time during the term of the Agreement be entitled to download any data it uploaded or otherwise entered into the Software using the File Manager functionality in the Software.

16.4. During a period of two (2) months after the effective date of termination of the Agreement, CostPerform shall allow Customer, at its written request and against pre-payment of the regular subscription fee for use of the Software a period of two (2) months, limited access to the Software to allow Customer to download its data [in accordance with clause 16.3.

17. Confidentiality/non-disclosure

17.1. **"Confidential Information**" means any and all information which is disclosed by either Party to the other verbally, electronically, visually, or in a written or other tangible form which is either identified or should be reasonably understood to be confidential or proprietary.

Confidential Information includes, but is not limited to, trade secrets, computer programs, software, formulas, data, inventions, techniques, marketing plans, strategies, forecasts and customer lists, and the existence and the substance of the Agreement.

17.2. Both parties shall keep Confidential Information in strict confidence and shall not disclose it to any third party, provided, however, the receiving party's internal disclosure of Confidential Information shall be only to those employees and third parties having a need to know such information in connection with this Agreement and only insofar as such persons are bound by nondisclosure obligations consistent with this Agreement. A party shall promptly notify the other of any unauthorized disclosure or use of Confidential Information by any person. A Party that receives or is in possession of Confidential Information of the other Party shall:

a. Take all reasonable measures to ensure safe custody and use of the Confidential Information; and

b. Not use Confidential Information for any purpose other than that for which it has been shared; and

c. Not retain Confidential Information longer than is reasonably necessary for the execution of the Agreement and either return the Confidential Information to the other Party, including any copies which have been made, as soon as possible after the Agreement has terminated or, after having obtained the other Party's written consent, destroy such Confidential Information.

17.3. The Agreement imposes no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence:

a. was in the possession of, or was rightfully known by the receiving Party without an obligation to maintain its confidentiality prior to receipt from the other party;

b. is or becomes generally known to the public without violation of this Agreement;

c. is obtained by the receiving Party in good faith from third party having the right to disclose it without an obligation on confidentiality;

    d.   is independently developed by the receiving Party without the participation of individuals who have had access to the Confidential Information; or

    e.   is required to be disclosed by court order provided diligent efforts are undertaken to limit disclosure.

18. Transfer of rights and obligations

18.1.   The Customer does not have the right to sell and/or transfer its rights and/or obligations under the Agreement, including its license to use the Software, to a third party or to sublicense, encumber or pledge such rights or obligations.

18.2.   CostPerform has the right to sell and/or transfer its rights and/or obligations under the Agreement to a third party and/or to transfer its entitlement to payment of any amounts to a third party without the Customer's prior written consent.

19. Disputes and governing law

19.1.   In the event of a dispute between the Customer and CostPerform the parties shall try to settle such dispute amicably in accordance with the escalation mechanism specified in the Service Level Agreement.

19.2.   The Agreement, these General Conditions and any disputes or claims arising out of or in connection with the Agreement or these General Conditions are governed by the law of The Netherlands exclusively. The applicability of the Vienna Sales Convention 1980 (CISG) is expressly excluded.

19.3.   Any disputes arising in relation to an Agreement (including disputes regarding the existence and validity of an Agreement) will be settled by the competent court in Amsterdam, the Netherlands unless mandatory rules of law provide otherwise.