

GLOBAL TERMS AND CONDITIONS

FOR

OPEN IT

**SOFTWARE LICENSES, HOSTED SERVICES AND
PROFESSIONAL SERVICES**

| | |
|--------------------------------|-------------------|
| Current version no.: | 10.2 |
| Version dated: | 26. June 2022 |
| Previous version nr.: | 10.1 |
| Replaced version dated: | 12. November 2021 |

CONTENTS

| | |
|--|----|
| INTRODUCTION | 4 |
| 1. DEFINITIONS..... | 5 |
| 2. SOFTWARE LICENSE..... | 6 |
| 3. RESTRICTIONS ON SOFTWARE LICENSE USE | 6 |
| 4. SOFTWARE LICENSE OWNERSHIP | 7 |
| 5. INDEMNITY | 7 |
| 6. SOFTWARE LICENSE FEES | 8 |
| 8. SUPPORT FEES..... | 9 |
| 9. SOFTWARE LICENSE VERIFICATION..... | 9 |
| 10. OPEN IT HOSTED SERVICES..... | 10 |
| 11. RESTRICTIONS ON HOSTED SERVICE USE..... | 10 |
| 12. HOSTED SERVICE OWNERSHIP..... | 11 |
| 17. PROFESSIONAL SERVICES | 12 |
| 18. TECHNICAL SERVICES..... | 13 |
| 19. MANAGED SERVICES | 13 |
| 20. PROFESSIONAL SERVICES FEES | 14 |
| 21. STANDARD OF CARE FOR ALL PROFESSIONAL SERVICES. | 14 |
| 22. GENERAL PROVISIONS FOR ALL OPEN IT DELIVERABLES..... | 14 |
| 23. PURCHASE OF ADDITIONAL DELIVERABLES..... | 14 |
| 24. COOPERATION | 14 |
| 26. LIMITED WARRANTY | 15 |
| 27. LIMITATION OF LIABILITY | 16 |
| 28. FORCE MAJEURE | 17 |
| 29. ASSIGNMENT | 17 |
| 30. TRANSFERABILITY | 17 |
| 31. TERMINATION..... | 18 |
| 33. NONSOLICITATION OF EMPLOYEES | 19 |
| 34. SURVIVAL OF TERMS..... | 19 |
| 35. SEVERABILITY | 19 |
| 36. HEADINGS | 19 |

| | | |
|-----|--|----|
| 37. | GOVERNING LAW AND VENUE | 20 |
| 38. | ENTIRE AGREEMENT | 20 |
| 39. | WAIVER..... | 20 |
| 40. | ATTORNEYS' FEES | 20 |
| 41. | NOTICES..... | 20 |
| 42. | RIGHTS NOT EXCLUSIVE..... | 21 |
| 43. | INDEPENDENT CONTRACTOR..... | 21 |
| 44. | COMPLIANCE WITH LAWS | 21 |
| 45. | SIGNATURE ON ORDER FORM OR QUOTATION | 21 |

INTRODUCTION

A Customer ordering Products and/or Services from Open iT under the Open iT Order Form (“**Order Form**”) or as specified in an Open iT Quotation (“**Quotation**”) agreed to by the Customer will be bound by these **Open iT Terms and Conditions** (hereinafter referred to as “**T&Cs**”).

In case Customer do not accept these terms, or want other terms, this will have to be specified and mutually agreed to in writing in Sec. 4 of the **Order Form**, the **Quotation** or otherwise specified in writing between Customer and Open iT.

The T&Cs will apply from when Customer has submitted and signed the Order Form or accepted the Quotation. The agreement will be between Customer and the Open iT entity listed on the Order Form or Quotation.

Open iT may revise these T&Cs from time to time, where renewals or additional purchase may be subject to the revised T&Cs.

These T&Cs may cover one or more of the following types of Open iT Products and/or Services to be delivered by Open iT to Customer (hereinafter referred to as “**Deliverables**”):

- A. Open iT Software delivered as a License (perpetual or time-limited subscription) and related Documentation (“**Software License**”), which may include Open iT Maintenance and Software Support Services (“**Support Services**”)
- B. Open iT Software delivered as a Hosted Service and related Documentation (“**Hosted Services**”), which includes Open iT Maintenance and Software Support Services (“**Support Services**”)
- C. Open iT Professional Services (“**Professional Services**”) which may include Open iT Software Installation, Configuration, Customization and Training, hereinafter referred to as (“**Technical Services**”), and assistance in running the Open iT Software License or Service, which may include analysis and strategic consulting giving advice to Customers on how to procure, (re)negotiate, and optimize a portfolio of IT assets hereinafter referred to as (“**Managed Services**”).

The relevant Deliverables for Customer are detailed and specified in the Order Form or Quotation and may cover Software Licenses, Hosted Services, Support Services, and Professional Services.

The date on which the Deliverables are scheduled to be made available to the Customer (the “**Effective Date**”) is specified in the Order Form or Quotation.

1. DEFINITIONS

Addendum: Addition to Order Form in case of additional or new Deliverables.

Agreement Date: Date of Open iT countersignature on the Order Form or Customer acceptance of Quotation.

Agreement: This document with attachment(s), and the Order Form or Quotation.

Application Service Levels: The uptime level for the Open iT application running on the Host Provider's infrastructure.

Attachment: Attachment included in these Terms and Conditions, specifying Support Procedures, Infrastructure Availability Terms for Hosted Services, and terms governing Microsoft SQL Licenses if Product is delivered with a SQL Server.

Customer: Customer and any majority owned subsidiary of Customer.

Deliverables: Products and Services delivered by Open iT to Customer.

Duration: Period between Effective Date and End Date or Renewal Date.

Effective Date: Start date for Deliverables.

Host Provider: Company providing cloud hosting services for Open iT on behalf of Customer.

Hosted Service Fee(s): Fees including both hosting fees from cloud provider as well as fees for Open iT Software and Services.

Hosted Service(s): Open iT Software installed and delivered in the cloud by Open iT.

Infrastructure Service Levels: The uptime level for the Host Provider infrastructure.

License Fee(s): Fees for Software Licenses.

Licensed Product(s): Software License and Documentation.

Managed Services: Additional services offered in running Open iT and analyzing usage data after installation, normally further specified in a Scope of Work.

Open iT: Any Open iT company in the Open iT Group of companies (parent, subsidiary, or affiliated company (same parent)).

Order Form: Form specifying Deliverables, prices and all other terms specific to Customer.

Professional Services: Technical Services and/or Managed Services

Quotation: Offer from Open iT specifying Deliverables, prices and all other terms specific to Customer.

Renewal Date: Date on which a recurring subscription or support service is to be renewed.

Scope of Work: Document further specifying Technical or Managed Services.

Software Documentation: Online or printed user manuals for Software Licenses.

Software License(s): Open iT delivered as a Software License.

Subscription Fee(s): Fees for time-limited Software Licenses or Hosted Services.

Subscription: Time-limited Software Licenses or Hosted Services.

Support Fee(s): Fees for Support Services.

Support Service(s): Maintenance and Support.

Technical Services: Additional services offered when installing or implementing Open iT

Termination Date: End-date of Deliverables.

Terms & Conditions: This document.

Updates: Periodic updates to new major and minor new versions of the Software License or Software Service.

User Capacity: The max number of monthly users of applications metered by Open iT allowed, for the purchased Open iT Products or Services.

User: A distinct physical user in the customer environment using applications being metered by Open iT.

Warranty Period: Period where Open iT has an obligation to rectify Deliverables free of charge for Customer.

2. SOFTWARE LICENSE

If Deliverables do not include Software Licenses, skip to Section 10.

2.1. In accordance with and subject to the terms and conditions of this Agreement, Open iT grants to Customer a non-transferable, and non-exclusive license to install and use, the version of the Open iT Software (the “**Software License**”) in an amount not to exceed to the user capacity (“**User Capacity**”) and for the term or duration (“**Duration**”) set forth in Section 3 of Attachment 1, solely and exclusively for Customer’s internal business purposes and for none other. Customer hereby accepts the Software License granted in this Section 1, and any license or rights granted under any other provision of this Agreement, subject to all trademark rights, copyrights, patents, or other intellectual property rights owned or otherwise assertible by Open iT.

2.2. The Software License includes related printed and online or electronic guides and manuals and other materials (collectively, the “**Documentation**”) provided or made available to Customer by Open iT and including any updates to such Software License and Documentation (the “**Updates**”) that may be provided or made available to Customer by Open iT from time to time during the term hereof. The Software and Documentation, together with any Updates thereto, are sometimes hereinafter collectively referred to as the “**Licensed Products**.”

2.3. Documentation relating to the Software License is available to Customer online at no additional charge. Customer may purchase printed copies of such Documentation at Open iT’s prevailing rates at the time of purchase.

2.4. Customer may use the Software License only to process Customer’s own data or that of its majority-owned subsidiaries/affiliates or parent. Customer may use the Software License in a cloud or hosting environment owned or operated by the Customer, or by a Third Party, only to process Customer’s own data. Customer may not use the Software License to process data of a third party offered as a cloud or hosting service unless this is specifically agreed to in the Order Form or Quotation.

3. RESTRICTIONS ON SOFTWARE LICENSE USE

3.1. Customer acknowledges and agrees that the Licensed Products comprise the valuable trade secrets and confidential, proprietary information of Open iT and/or its parent/affiliates. Customer shall keep confidential and protect the Licensed Products (including all copies) and the contents thereof from unauthorized access, use, copying, publication, disclosure or distribution. Customer shall use the same degree of care (but in no event less than a reasonable

degree of care) to protect the Licensed Products as it uses to protect its own trade secrets and confidential, proprietary information of similar importance.

3.2. Customer may make reasonable copies of the Licensed Products for archival and backup purposes. In addition, Customer may copy the Software License as reasonably necessary to use the same for its intended purpose and may copy the on-line Documentation as reasonably necessary to support its authorized users. Each such copy shall include Open iT's product identification, copyright notice and other proprietary rights notices. Customer may not copy the Licensed Products or any part thereof except as provided in this Agreement. Any copy or copies of the Licensed Products made by Customer in accordance with this Agreement shall remain the sole and exclusive property of Open iT.

3.3. Customer shall not reverse engineer, disassemble, decompile, create any derivative works or otherwise attempt to derive the Licensed Products source code from the object code or otherwise. Customer shall not alter, maintain, enhance, adapt, or otherwise modify, or create or sell derivative works based on, the Licensed Products. Customer shall not sublicense, rent, lease, lend, transfer, resell, reprint, or otherwise distribute the Licensed Products to any third party, and shall keep the Licensed Products free and clear of all claims, liens and encumbrances.

3.4 Customer shall not release or publish the results of any performance or benchmarking tests or functional evaluation or any other analysis relating to the Software without the written permission of Open iT which may be withheld or denied in Open iT's sole discretion.

4. SOFTWARE LICENSE OWNERSHIP

Open iT represents that it has all rights required for the Software License, and all portions thereof, to Customer and otherwise to fulfill its obligations under the terms of this Agreement. As between Open iT and Customer, title to all copies of the Licensed Products and all associated intellectual property rights (including copyright, trade secret, trademark, patent, or other proprietary rights) remains with Open iT and/or its parent/affiliates. Customer may not remove any product identification, copyright notice, or other proprietary rights notice from the Licensed Products.

5. INDEMNITY

5.1. Open iT will defend any action brought by a third party against Customer to the extent that such action is based on a claim that the Licensed Products or any part thereof, used within the scope of the license granted herein, infringe a copyright, trade secret or United States/WIPO patent; and agrees to pay costs and damages finally awarded in such action, provided that Customer promptly notifies Open iT in writing of any such claim and permits Open iT to have sole control of the defense or settlement of any such claim or claims.

5.2. The foregoing shall not apply to, and Open iT shall have no liability for, any claim of infringement based upon (i) use of anything other than a current, unaltered, released version of the Licensed Products, (ii) use of the Licensed Products in combination with other non-Open iT products, processes, data or materials, (iii) services performed using the Licensed Products, or

modifications or derivative works thereof for Customer by a third party independent consultant not contracted by Open iT, or (iv) use of the Licensed Products other than in accordance with this Agreement.

5.3. In the case of any actual or possible claim of intellectual property infringement, Open iT shall be entitled, at its option, either to make modifications to the Licensed Product to make it non-infringing; or to terminate the license for the Licensed Product by payment to Customer of an amount equal to the License Fee paid by Customer for the Licensed Product giving rise to the claim less two per cent (2%) per month for each month elapsed from the Effective Date to the date of termination of the license. For time-based subscriptions, the payment to Customer will be prorated from the Effective Date to the date of termination of the Software License.

5.4. Open iT and Customer acknowledge that the damages resulting from an intellectual property infringement claim will be difficult or impossible to ascertain and therefore the foregoing constitutes Open iT's sole liability and Customer's sole remedy for any intellectual property infringement. In no event shall Open iT be liable for incidental, consequential, punitive, special, exemplary, speculative, or indirect damages arising out of the use of the Licensed Products or damages for loss of opportunity or lost profit or lost savings. Any warranties of non-infringement are hereby expressly disclaimed.

5.5. Customer hereby agrees to indemnify, defend, and hold Open iT harmless from and against any and all claims, actions, losses, damages, liabilities, costs or expenses suffered or incurred by Open iT as a result of any breach by Customer of its obligations under this Agreement. The provisions of this subparagraph 5.5 shall survive the expiration or termination of this Agreement.

6. SOFTWARE LICENSE FEES

In consideration of the license granted to Customer hereunder, Customer shall pay to Open iT the license fees ("**License Fees**") specified in the Order Form or Quotation, which are License Fees exclusive of taxes. If not otherwise specified in the Order Form or Quotation, License Fees are due and payable net thirty (30) days after receipt of Open iT's invoice. Overdue payments shall bear interest at the rate of twelve percent (12%) per annum on the amount outstanding from the date when the payment was due until the date payment in full is received by Open iT.

7. SOFTWARE SUPPORT SERVICES

7.1. Customers that have purchased a perpetual license of Open iT Software under this agreement may elect to purchase Support Services for those licenses. Customers that have purchased time-limited (subscription) licenses of Open iT Software will have Support Services included in the Subscription Fees.

7.2. Upon payment of the applicable Support Fees specified in the Order Form or Quotation, Open iT will provide Customer with such services in accordance with provisions in Attachment 1: **Open iT Procedures for Support Service.**

7.3. Open iT will also provide Customer with periodic Updates to the Deliverables without additional charge to Customer where Support Services are included in the Deliverables. Updates may include (a) new releases or version updates generally made available on an annual basis near the end of the calendar year; and (b) maintenance releases generally made available periodically throughout the calendar year. Open iT reserves the right to charge Customer for Updates which constitute upgrades to the Deliverables hereunder which include additional or enhanced functionality from the Deliverables purchased hereunder. Customer may only obtain Updates for the specific Deliverables for which Customer has paid the relevant Fees.

7.4. Support Services do not include installation, consulting, configuration, training, customization or managed services, or additional Deliverables that Open iT may provide in addition to the Deliverables offered under this Agreement.

7.5. Support Services will be rendered from the Effective Date for the Term of the Agreement, or to the renewal date ("**Renewal Date**") specified in the Order Form or Quotation.

7.6. Support Services are renewable, thereafter, on an annual basis. Customer shall notify Open iT of termination of renewal in writing at least thirty (30) days prior to the Renewal Date in order to be a valid termination.

8. SUPPORT FEES

8.1. Support Fees are based upon the type of support ordered – Standard or Premium Support – which are defined in Attachment 1. Standard Support is calculated at 20% of the undiscounted Software License Fees, while Premium Support is calculated at 25% of undiscounted Software License Fees, unless other terms are agreed and specified in the Order Form or Quotation.

8.2. Payment of Support Fees is due within thirty (30) days of Customer's receipt of the invoice. Support Fees are subject to change upon any renewal of this Agreement. Open iT will notify Customer of new terms in writing at least sixty (60) days prior to the Renewal Date. Support Fees are subject to Consumer Price Index adjustments. See Section 25 for further specification.

9. SOFTWARE LICENSE VERIFICATION

9.1. Open iT may from time to time ask Customer to run certain scripts to verify how many licenses the Customer is using in order to check compliance with the provisions of this Agreement.

9.2. If a verification reveals that Customer's use of the Licensed Products exceeds the License Capacity for which Customer has paid License Fees, Customer shall pay any outstanding amounts to Open iT within ten (10) days following receipt of such invoice. There are two methods of calculating such outstanding fees, if any:

9.3. If the Order Form or Quotation specifies **True-Up**, Customer will be invoiced for the additional License Fees – and if applicable – Support Fees for the period prior to the verification date (from initial purchase date or the last renewal date) and going forward.

9.4. If the Order Form or Quotation specifies **True-Forward**, Customer will only be invoiced for the additional License Fees – and if applicable – Support Fees for the period from the date of the verification and going forward.

10. OPEN IT HOSTED SERVICE

If Deliverables do not include ‘Hosted Services’, skip to Section 16.

10.1. In accordance with and subject to these T&Cs, Open iT grants to Customer a non-transferable, and non-exclusive right to use, the version of the Hosted Services in an amount not to exceed to the user capacity (“**User Capacity**”) and for the term or duration (“**Duration**”) set forth in the **Order Form or Quotation**, solely and exclusively for Customer’s internal business purposes and for none other. The Hosted Services covered by these T&Cs are specified in the Order Form or Quotation.

10.2. Documentation relating to the Hosted Services is available to Customer online at no additional charge. Customer may purchase printed copies of such Documentation at Open iT’s prevailing rates at the time of purchase.

11. RESTRICTIONS ON HOSTED SERVICE USE

11.1. Customer acknowledges and agrees that the Hosted Service comprise the valuable trade secrets and confidential, proprietary information of Open iT and/or its parent/affiliates. Customer shall keep confidential and protect the Hosted Service and the contents thereof from unauthorized access, use, copying, publication, disclosure or distribution. Customer shall use the same degree of care (but in no event less than a reasonable degree of care) to protect the Hosted Service as it uses to protect its own trade secrets and confidential, proprietary information of similar importance.

11.2. Customer may copy the on-line Documentation as reasonably necessary to support its authorized users. Each such copy shall include Open iT’s product identification, copyright notice and other proprietary rights notices.

11.3. Customer shall not attempt to reverse engineer, disassemble, decompile, create any derivative works or otherwise attempt to derive the Hosted Service source code from the object code or otherwise. Customer shall not alter, maintain, enhance, adapt or otherwise modify, or create or sell derivative works based on, the Hosted Service. Customer shall not rent, lease, lend, transfer, resell, reprint or otherwise distribute the Hosted Service to any third party.

(a) Customer shall not release or publish the results of any performance or benchmarking tests or functional evaluation or any other analysis relating to the Hosted Service without the written permission of Open iT which may be withheld or denied in Open iT’s sole discretion.

11.4. Additional restrictions on the use of the Hosted Service, or specific Hosted Service components, may be set forth in the Order Form or Quotation.

11.5. Customer may use the Hosted Service only to process Customer's own data or that of its majority-owned subsidiaries/affiliates or parent. Customer may not use the Hosted Service to process data of a third party offered as a cloud or hosting service unless this is specifically allowed for in the Order Form.

12. HOSTED SERVICE OWNERSHIP

12.1. Open iT represents that it has all rights required to offer the Hosted Service, and all the underlying Software, to Customer and otherwise to fulfill its obligations under these T&Cs. Open iT retains all right, title and interest in and to the Hosted Service, including without limitation all software used to provide the Hosted Service, and all logos and trademarks reproduced through the Software Service. These T&Cs does not grant Customer any intellectual rights in the Hosted Service or any of its components.

12.2. The Hosted Service is made available to Customer on a maximum number of users' basis. A User is defined as a unique physical user having access to the application(s) monitored by the Hosted Service. User Capacity is defined as the maximum number of unique users of applications being metered by month during the duration of the Agreement.

The User Capacity for the Hosted Service may only be increased pursuant to an additional order documented in an Addendum to the Order Form or Quotation, or other mutually acceptable written document executed by Customer and Open iT.

13. HOSTED SERVICE FEES

In consideration of the Hosted Services offered to Customer hereunder, Customer shall pay to Open iT the Hosted Services fees ("***Hosted Services Fees***") specified in the Order Form or Quotation, which are Hosted Services Fees exclusive of taxes. If not otherwise specified in the Order Form or Quotation, Hosted Services Fees are due and payable net thirty (30) days after receipt of Open iT's invoice. Overdue payments shall bear interest at the rate of twelve percent (12%) per annum on the amount outstanding from the date when the payment was due until the date payment in full is received by Open iT.

14. SUPPORT SERVICES

Support Services are included in the Hosted Services. Open iT will provide Customer with Support Services in accordance with provisions in Attachment 1 to these T&Cs: **Open iT Procedures for Support Service.**

15. HOST PROVIDER AND STORAGE

15.1. Open iT will offer Hosted Services in a hosted environment in agreement with the Customer. The chosen Host Provider may be specified in the Order Form or Quotation.

15.2. Hosted Services includes an additional fee for the cloud hosting in addition to the fees for Open iT Products and Services. The Hosted Services Fee is specified in the Order Form or Quotation.

15.3. Provided that the user capacity and number of applications metered is not increased beyond what is in the original agreement, there are no additional hosting and storage costs in the above Fees.

15.4. Open iT's policy regarding data retention and access for reporting is current calendar year plus two (2) historical years of metered data. Customer direct access to data older than the standard policy of current plus two (2) years metered data may be subject to additional fees.

16. SHARING OF ANONYMIZED CUSTOMER DATA

This section applies if Customer has agreed to share its own usage data for benchmarking purposes.

16.1. **Open iT Benchmarking.** Open iT is offering a discounted version of the Open iT Hosted Service for customers that are willing to share their anonymized usage data with Open iT and with other Open iT customers for benchmarking purposes.

16.2. **Reciprocity.** When Customer shares its own anonymized data, Customer will likewise get access to anonymized data from other customers that have accepted similar sharing provisions, and thereby gain understanding of their own usage in relation to similar companies.

16.3. **Discount.** There will be a discount for customer that allow for sharing of Customer Data. The discount will be agreed between Customer and Open iT and will be reflected in the Fees specified in the Order Form or Quotation.

16.4. **Anonymization techniques.** Open iT has several ways to mask usernames; one option is data anonymization when Customer Data is collected, where the anonymization process is irreversible, i.e. actual usernames cannot later be retrieved. Another option is anonymization at the processing level; where it is possible to reveal the username at a later stage but will require skills and reprocessing of the data to get the real name behind the masked data. And finally, anonymization at the reporting interface level, where the process is reversible, i.e. anonymization can later be turned off to reveal actual usernames. Open iT and Customer will separately agree on the anonymization technique to be used.

17. PROFESSIONAL SERVICES

If Deliverables do not include Professional Services, skip to Section 21.

Open iT Professional Services ("**Professional Services**") may include technical assistance in Open iT Software installation, configuration, customization and training ("**Technical Services**"). Also, ongoing assistance to Customer in running the Open iT Software Licenses or Hosted Service, that may cover everything from regular health checks on the Open iT installation

to usage analysis, management advice with respect to procurement, (re)negotiation, and management of IT assets (“*Managed Services*”) may be included.

18. TECHNICAL SERVICES

18.1. Open iT may provide Customer with related Technical Services in conjunction with installation, configuration, customization, and training related to the Deliverables, at Customer’s request and subject to additional fees. These services will be provided in accordance with the specifications given in the Order Form or Quotation where Technical Services may be further specified in a Scope of Work or Work Order to be agreed between the Parties.

18.2. As the Technical Services progress, Customer may wish to change, add or remove tasks from the Work Order, or Open iT may see that tasks need to be changed, added or removed in order to proceed with a successful Scope of Work. In the case of such changes or additions in the scope, Open iT will use reasonable efforts in accommodating the changes or additions within the agreed Scope of Work.

18.3. In some cases Customer may wish to make changes or additions of such services that cannot be accommodated within the original Scope of Work and agreed fee for the Technical Services. Such changes for adding work will then be agreed in writing between Customer and Open iT. The mutually agreed additions will be made as an Addendum to the Order Form or Quotation, or as a mutually agreed written document executed by Open iT and Customer.

19. MANAGED SERVICES

19.1. Open iT may provide Customer with related Managed Services in conjunction with running the Software Licenses or Hosted Service once installed or implemented, at Customer’s request, and subject to additional fees. Managed Services may include everything from ‘health checks’ at regular intervals to verify that Software Licenses or Hosted Services are running as expected, to more strategic consulting giving advice to Customers on how to analyze usage data, procure, (re)negotiate, and optimize a portfolio of IT assets. Managed services will be provided in accordance with specifications given in the Order Form or Quotation where Managed Services may be further specified in a Scope of Work or Work Order to be agreed upon between Customer and Open iT.

19.2. During agreed Managed Services, Customer may wish to change, add or remove tasks from the Scope of Work. In the case of such changes or additions in the scope, Open iT will use reasonable efforts in accommodating the changes or additions within the agreed Scope of Work.

19.3. In some cases, Customer may wish to make changes or additions to Managed Services that cannot be accommodated within the original Scope of Work and agreed fee for such Managed Services. Such changes for adding work will then be agreed in writing between Customer and Open iT. The mutually agreed additions will be made as an Addendum to the Order Form or Quotation, or as a mutually agreed written document executed by Open iT and Customer.

20. PROFESSIONAL SERVICES FEES

In consideration of the provision of the Professional Services by Open iT, Customer shall pay to Open iT the service fees ("***Professional Services Fees***") specified in the Order Form or Quotation, which are Services Fees exclusive of taxes. If not otherwise specified in the Order Form or Quotation, Services Fees are due and payable net thirty (30) days of Open iT's correct invoice date. Overdue payments shall bear interest at the rate of twelve percent (12%) per annum on the amount outstanding from the date when the payment was due until the date payment in full is received by Open iT.

21. STANDARD OF CARE FOR ALL PROFESSIONAL SERVICES

Open iT warrants that Professional Services to be rendered by Open iT hereunder will be performed by qualified personnel. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any Professional Services performed or any related work product. This paragraph sets forth the only warranties provided by Open iT concerning the Professional Services and related work product. This warranty is made expressly in lieu of all other warranties, express or implied, including any implied warranties of fitness for a particular purpose, merchantability, non-infringement, title or otherwise.

Sections 22-45 applies to all purchases of Open iT Products and Services.

22. GENERAL PROVISIONS FOR ALL OPEN IT DELIVERABLES

Regardless of what type of Deliverables the Customer has purchased from Open iT, the following provisions will apply:

23. PURCHASE OF ADDITIONAL DELIVERABLES

From time-to-time Customer may wish to purchase additional amounts of Deliverables or additional Deliverables. This should be done pursuant to an Addendum to the Order Form or Quotation, or other mutually acceptable written document executed by Customer and Open iT. All such Deliverables shall be subject to and governed by these T&Cs unless the Parties mutually agree otherwise in writing.

24. COOPERATION

Customer will cooperate with Open iT in taking actions and executing documents, as appropriate, to achieve the objectives of these T&Cs. Customer agrees that Open iT's performance is dependent on Customer's timely and effective cooperation with Open iT. Accordingly, Customer acknowledges that any delay by Customer may result in Open iT being released from an obligation or scheduled deadline or in Customer having to pay extra fees for Open iT to meet a specific obligation or deadline despite the delay.

25. CONSUMER PRICE INDEX ADJUSTMENT OF FEES

25.1. Fees for Renewal of Support and Subscription Licenses and other recurring Fees may be adjusted for increases in the Consumer Price Index (“CPI”). CPI increase is defined as the change in CPI from the latest CPI available at the time of signature on the Order Form or Quotation, or last CPI adjustment date, and the latest available CPI figure at the time of the current renewal or adjustment.

25.2. The adjustment formula will be: (The latest current CPI minus the latest CPI figure in effect at the Agreement Date, divided by latest CPI figure in effect for the current Agreement.

The CPI definition to be used, is as follows:

25.3. **For invoices in USD currency:** For purposes hereof, the term “CPI” shall mean the Consumer Price Index- All items in US City Average Urban Wage Earners and Clerical Workers, not seasonally adjusted (CPI-W 1982-84=100, Series ID CWUR0000SA0), published by the Bureau of Labor Statistics of the United States Department of Labor.

25.4. **For invoices in Euro currency:** For purposes hereof, the term “CPI” shall mean the “Harmonized Index of Consumer Prices (HICP) for the Euro Area (online data code: TEICP000), published monthly by Eurostat. ([Statistics | Eurostat \(europa.eu\)](#)).

25.5. **For invoices in GBP currency:** For purposes hereof, the term “Index” shall mean the Consumer Price Index - CPIH-All items (2015=100), published by Office for National Statistics, UK.

25.6. **For invoices in NOK currency:** For purposes hereof, the term “Index” shall mean the Consumer Price Index- CPI All-item index (2015=100), published by Statistics Norway.

25.7. **For invoices in other currencies.** In case of invoices in other currencies, the most applicable CPI for the currency in question should be used.

26. LIMITED WARRANTY

26.1. Open iT warrants that, for a period of sixty (60) days after the Software License or Hosted Service has been made available to Customer (the “**Warranty Period**”), the Software License or Hosted Service will substantially conform to Open iT’s then current published specifications set forth in the Documentation provided to Customer with the Software License or Hosted Service. Open iT’s sole responsibility, and Customer’s exclusive remedy, in the event of a problem during the Warranty Period, is for Open iT to use commercially reasonable efforts to correct such problems, to replace the Software License or Hosted Service with a functionally equivalent solution. The above remedy is available only if Open iT is notified by Customer in writing promptly upon discovery of any problems, and the Software License has not been (a) altered, or modified by any party other than Open iT; (b) subjected to negligence, or computer or electrical malfunction; or (c) used, adjusted, or installed other than in accordance with instructions furnished by Open iT. Upon Open iT’s compliance with its obligations set forth in this

subparagraph 25.1, Customer shall indemnify, defend and hold Open iT harmless of any claims, actions, causes of action, losses, damages, costs and expenses suffered or incurred by Open iT as a result of claims in connection with the use of any malfunctioning copy(ies) of the Software License or Hosted Service.

26.2. THE FOREGOING WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF, AND OPEN IT HEREBY DISCLAIMS ALL CLAIMS, ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE LICENSE OR HOSTED SERVICE. EXCEPT FOR THE FOREGOING WARRANTIES, CUSTOMER ACCEPTS THE SOFTWARE LICENSE OR HOSTED SERVICE ON AN "AS IS" BASIS. OPEN IT DOES NOT WARRANT OR REPRESENT THAT (a) THE SOFTWARE LICENSE OR HOSTED SERVICE WILL MEET CUSTOMER'S NEEDS OR REQUIREMENTS, (b) THE SOFTWARE LICENSE OR HOSTED SERVICE WILL BE FREE FROM ERRORS, OMISSIONS, DEFECTS, (c) THE OPERATION OF THE SOFTWARE LICENSE OR HOSTED SERVICE WILL BE UNINTERRUPTED, OR (d) DEFECTS IN THE SOFTWARE LICENSE OR HOSTED SERVICE IS CORRECTABLE OR WILL BE CORRECTED. FURTHERMORE, OPEN IT DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOFTWARE LICENSE OR HOSTED SERVICES IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY OPEN IT SHALL CREATE A WARRANTY OR IN ANY WAY AMEND THIS SECTION. THERE ARE NO WARRANTIES OF THE SOFTWARE LICENSE OR HOSTED SERVICES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS SECTION. WITHOUT LIMITATION OF THE FOREGOING, OPEN IT MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SOFTWARE LICENSE OR HOSTED SERVICE IS IN COMPLIANCE WITH ANY FEDERAL, STATE OR LOCAL LAWS, RULES OR REGULATIONS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

27. LIMITATION OF LIABILITY

27.1. EXCEPT FOR CLAIMS OF BREACH OF CONFIDENTIALITY AND THIRD-PARTY CLAIMS OF INFRINGEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOSS OF PROFITS, SAVINGS, LOSS OF BUSINESS OR GOODWILL, OR LOSS OF DATA OR USE OF DATA OR OF ANY SPECIAL, EXEMPLARY, CONSEQUENTIAL, SPECULATIVE, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OF REPUDIATION OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

27.2. EXCEPT AS PROVIDED IN SECTION 26 OF THIS AGREEMENT, OPEN IT'S LIABILITY FOR DAMAGES TO CUSTOMER OR ANY THIRD PARTY ARISING FROM THE USE OF THE SOFTWARE LICENSE OR HOSTED SERVICE, OR PROFESSIONAL

SERVICES OR ANY PART THEREOF OR OTHERWISE ARISING FROM OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY, SHALL BE LIMITED TO THE LESSER OF (a) THE AGGREGATE FEES PAID BY CUSTOMER FOR LICENCED SOFTWARE, HOSTED SERVICE, OR PROFESSIONAL SERVICES OR THE PART THEREOF GIVING RISE TO SUCH DAMAGES, OR (b) ACTUAL DAMAGES SUSTAINED BY CUSTOMER.

28. FORCE MAJEURE

Neither Open iT nor Customer shall be responsible for delays or failures (including any delay by Open iT to make progress in the execution of any Support Services or Professional Services) if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God, war, or of the public enemy, terrorism, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, and acts or omissions of third parties, including, but not limited to, subcontractors and other suppliers of Open iT.

29. ASSIGNMENT

Subject to the section on Transferability of this Agreement either party may assign this Agreement in whole or in part with the prior written approval of the other party, in which approval will not be unreasonably withheld. Any such attempted assignment without prior written consent shall be null and void. Notwithstanding the foregoing, either party may assign its right, title and interest in this Agreement to any company with which it may merge or consolidate, or which acquires substantially all of the business and assets of such party.

30. TRANSFERABILITY

30.1. If Customer sells or otherwise transfers the assets or equity ownership of any Customer business unit or part thereof, Customer shall have the right to transfer and assign all of its right, title, and interest in and to such Software License or Hosted Service provided that the transferee agrees to assume all of Customer's rights and obligations under these T&Cs including the specifications in the Order Form or Quotation with respect to such Software License, Hosted Service or Professional Services.

30.2. Upon notification from Customer to Open iT, if Customer elects to at the time of renewal to continue its use of the Software License, Hosted Service or Professional Services in the event of a sale or transfer as described above, then Open iT shall deliver to the transferee Open iT's then current standard Open iT Terms and Conditions including terms specified in the applicable Order Form, with the fees specified in Open iT's then current standard price list for the use of the Software License, Hosted Service or Professional Services by such transferee, but only for use in conjunction with the transferred Customer assets or equity interest.

30.3. If all of Customer's rights under these T&Cs are assigned to the divested entity (or another transferee), then Customer shall have the right to continue to use the Software License or Hosted Service for a reasonable period of time not to exceed six (6) months from the date of the

assignment at no additional charge to Customer during the transition period subject to the T&Cs of this Agreement. After such transition period, Customer's right to use the Software License or Hosted Service shall be subject to execution of a new Order Form or Quotation on Open iT's then standard terms and conditions or on terms mutually agreeable to Open iT and Customer. Notwithstanding the foregoing, Open iT shall not be obligated to enter into new T&Cs with specifications in the Order Form or Quotation with Customer or to provide Software License or Hosted Services and/or Support Services or Professional Services to Customer solely by reason of this provision.

31. TERMINATION

31.1. Open iT may terminate the Agreement with Customer and the service(s) or license(s) granted hereunder if Customer is in material breach of any provision of these T&Cs (including, without limitation, confidentiality and payment), and fails to cure such breach within fourteen (14) days after receiving of written notice thereof from Open iT. In addition, Open iT may terminate the Order by written notice to Customer if Customer becomes insolvent, becomes the subject of any voluntary or involuntary proceeding under the applicable Bankruptcy Codes or state or national insolvency proceeding and such proceedings are not terminated within sixty (60) days of its commencement, or Customer ceases to be actively engaged in business.

31.2. Immediately upon termination of this Agreement and the service(s) or license(s) granted hereunder, Customer shall cease all use of the Software Licenses or Hosted Services. In such event, Customer will certify in writing to Open iT that all copies or partial copies of the Software License and related Documentation have been returned to Open iT or, if not returned, have been deleted from Customer's system and destroyed. Open iT shall not be liable to Customer for damages of any kind, including indirect, exemplary, special, incidental, speculative, punitive or consequential damages (including, but not limited to, lost profits, lost savings or loss of business opportunity), on account of termination of this Agreement or the service(s) rendered or license(s) granted hereunder.

32. CUSTOMER DATA ON USAGE

32.1. Customer possesses and retain all right, title, and interest in and to Customer Data on usage, and Open iT's use and possession thereof is solely on Customer's behalf. Open iT: (i) shall not access, process, or otherwise use Customer Data other than necessary to facilitate performance under this agreement and (ii) shall not give any third part access to Customer Data.

32.2. Most Deliverables are based upon collection of Customer Data on usage that is extracted from a variety of sources in the operation of an IT system. It is the responsibility of the Customer that the collection, processing and reporting of Customer Data is in compliance with all applicable laws and regulations, as well as any corporate privacy policy of the Customer.

32.3. Open iT may use the Customer Data collected and uploaded to an Open iT server to assist with issue resolution, support, analysis, internal testing, performance improvement, and reports and product enhancement. All unmasked data will be kept secured and strictly confidential.

32.4. Open iT is offering a discounted version of the Open iT Software License or Hosted Service for customers that are willing to share their usage data with Open iT for Open iT to perform statistical analysis to improve analytical capabilities and provide more accurate reporting (See section 16 above). Customer can also elect to share anonymized Customer Data on usage with other Open iT customers for benchmarking purposes.

32.5. If Customer shares its own anonymized data, Customer may likewise get access to anonymized data from other customers that have accepted similar sharing provisions, and thereby gain understanding of their own usage in relation to similar companies. Customers that choose this option is entitled to a discount on its purchase. If this option is chosen, this is specified and described in the Order Form or Quotation.

33. NONSOLICITATION OF EMPLOYEES

33.1. During and for one (1) year after the Agreement Date, Customer will not solicit the employment of, or employ Open iT's personnel, without Open iT's prior written consent which consent may be withheld, conditioned or delayed in Open iT's sole discretion.

33.2. Customer agrees that during the term of this Agreement, Customer and its affiliates (including, without limitation, Customer's parent, subsidiary and related companies, and their respective officers and directors) shall not, for itself or on behalf of any other person or entity, contract with any other person or entity to, create, develop, market, distribute, sell or otherwise deal in any product that performs any function similar to the functions performed by, or which compete with, the Software. Customer agrees that the time and area of the covenants contained in this Section 33.2 are reasonable and necessary for the protection of Open iT. Should any court of competent jurisdiction hold that the time and area of the covenants contained herein are too broad to be enforced, Customer specifically agrees, that such court shall not disregard the provisions hereof, but shall instead, enforce these provisions to such time and area as the court deems equitable. The provisions of this Section 33.2 shall survive the termination of this Agreement.

34. SURVIVAL OF TERMS

Sections 2, 3, 5, 26, 27, 31, 32, 33, 37, 38, 39, 40, 42 and 44 shall survive the expiration or termination of this Agreement for any reason.

35. SEVERABILITY

Invalidity or unenforceability of one or more provisions of these T&Cs shall not affect any other provision of these T&Cs.

36. HEADINGS

The headings of articles and sections herein are included solely for convenience, and if there is any conflict between such headings and the text of the Agreement, the text shall control.

37. GOVERNING LAW AND VENUE

These T&Cs shall be governed by and construed in accordance with the law specified in the Order Form or Quotation, or as separately agreed between the Parties, As default -the governing law will be the jurisdiction of where the relevant Open iT supplying entity is located.

38. ENTIRE AGREEMENT

These T&Cs together with the Order Form or Quotation including any Attachments, Addenda or Exhibits, states the entire agreement between the parties and supersedes all previous contracts, proposals, oral or written, and all other communications between the parties respecting the subject matter hereof, and supersedes any and all prior understandings, representations, warranties, agreements or contracts (whether oral or written) between Customer and Open iT respecting the subject matter hereof. These T&Cs may only be amended by attachments, addenda or other mutually agreed documents in writing executed by the parties hereto. Any terms or conditions in any purchase order submitted by Customer to Open iT that conflict with the terms of these T&Cs including terms in the Order Form or Quotation shall be void and of no effect.

39. WAIVER

The failure of any party hereto to enforce at any time any of the provisions in these T&Cs or to require at any time performance by the other party of any of the provisions of these T&Cs, or any part hereof, shall not be construed to be a waiver of said provision or to affect the right of any party to enforce each and every provision in accordance with these T&Cs.

40. ATTORNEYS' FEES

In the event that litigation or arbitration is instituted between the parties in connection with any controversy or dispute arising from, under or related to these T&Cs, the judgment shall include a reasonable sum to be paid to the prevailing party for and on account of attorneys' fees and costs incurred in such litigation or arbitration, including those incurred on appeal.

41. NOTICES

41.1. All notices, demands, requests, consents, approvals, offers, statements and other instruments or communications required or permitted to be given pursuant to the provisions of this Agreement (collectively "**Notice**" or "**Notices**") shall be in writing and shall be deemed to have been given for all purposes on the earlier of receipt or (i) three (3) business days after having been sent by the relevant national mail service, by registered or certified mail, return receipt requested, postage prepaid, addressed to the other party at its address as stated in the Order Form or Quotation, or (ii) one (1) business day after having been sent by a nationally recognized air courier service.

41.2. For the purposes of this Section 41, any party may substitute its address by giving fifteen (15) days' notice to the other party in the manner provided above. Any Notice may be given on behalf of any party by its counsel.

42. RIGHTS NOT EXCLUSIVE

42.1. Customer's rights hereunder with respect to the Software Licenses, Hosted Services or Professional Services are not exclusive, and nothing contained herein shall be deemed to prevent Open iT from exercising all of its rights in and with respect to the Software License, Hosted Service and Professional Services including, without limitation, the right to license or sell Software Licenses, Hosted Services and Professional Services to such persons as Open iT deems appropriate and the right to market or distribute the Software License or Hosted Services in any manner deemed appropriate by Open iT in its sole and absolute discretion.

42.2. Customer understands, acknowledges and agrees that, notwithstanding anything contained in these T&Cs, Open iT may establish Resellers, marketing representatives, as well as dealers, distributors and agents to distribute Software Licenses and/or Hosted Services around the world, and may make direct sales, licensing or other distribution of the Software or Hosted Service, subject to certain sanction restrictions, to any entity at any price.

43. INDEPENDENT CONTRACTOR

These T&Cs are not intended by the parties to constitute or create a joint venture, partnership or formal business organization of any kind. Accordingly, the rights and obligations of the parties shall be only those expressly set forth herein. Neither party shall have authority to bind the other except to the extent authorized herein. Both parties shall perform under the provisions set forth herein as independent contractors, and neither party shall act as an agent of the other and neither party shall be considered an employee of the other party for any purpose.

44. COMPLIANCE WITH LAWS

Customer shall comply with all applicable laws and regulations. Customer warrants that it will not permit or knowingly assist or participate in the transfer of the Software Licenses or Hosted Services to countries or to users not approved to receive technical information under applicable local, state or federal laws and export restrictions.

45. SIGNATURE ON ORDER FORM OR QUOTATION

By signing the Order Form or Quotation, Customer has accepted these T&Cs to govern the purchase of Open iT Products and Services. If Customer does not agree with any provision in these T&Cs, then such objection is referenced in writing in the Order Form or Quotation, and if relevant, special or alternative provisions are described and agreed to in writing.

ATTACHMENT 1: SUPPORT PROCEDURES AND LEVEL OF HOSTED SERVICES

1. OPEN iT SUPPORT PROCEDURES

Open iT Support exists to improve Customer's experience with Open iT Products and Services. Open iT will resolve all issues in a timely and expedient fashion.

Open iT Support is responsible for any issues with Open iT Products that are related to operation of the Open iT Products, and installation and/or configuration if such Professional Services have been performed by Open iT or its subcontractors. Open iT Support will use its best effort to see that each issue is resolved to the satisfaction of the Customer. Open iT Support will act on any issues reported by Customer ("Support Requests").

Likewise, Open iT Support will help the Customer in solving issues related to the running of Open iT Products or Services that are determined to be caused by factors external to the Open iT Products or Services (like configuration errors by Customer), but Open iT does not have a legal obligation to resolve such issues.

2. STANDARD OR PREMIUM SUPPORT

Open iT Support comes with two options Standard Support and Premium Support. Standard Support is generally provided on a 24/5 basis (excluding Saturdays/Sundays) and Premium Support on 24/6 (excluding Sundays), with response times as detailed below:

3. SUPPORT LEVELS

Open iT definitions of support levels are as follows:

| Level 1 (1st line support) | Level 2 (2nd line Support) | Level 3 (3rd line Support) | Level 4 (Development & QA) |
|---|---|---|---|
| <ul style="list-style-type: none">• Customer assistance• General problem investigation & reproduction• Patch distribution | <ul style="list-style-type: none">• Advanced problem investigation & reproduction• Configuration workarounds, patch distribution and installations | <ul style="list-style-type: none">• Temporary patches• Code level workarounds• Bug reproduction and logging | <ul style="list-style-type: none">• Patch development & testing• Patch packaging |

4. PROBLEM SEVERITY AND RESPONSE TIMES

| Severity 1: Fatal | Severity 2: Serious | Severity 3: Medium | Severity 4: Minor |
|--|---|--|--|
| <ul style="list-style-type: none"> Irreversible loss of data collection from tier-1 applications Causing non-Open iT applications or system to fail. | <ul style="list-style-type: none"> Major functionality does not work No workaround. | <ul style="list-style-type: none"> Functionality does not work Major defect has workaround | <ul style="list-style-type: none"> Minor functionality defect Request for information or enhancement |

Open iT Support assigns response times for issues based on their severity. The response times in the chart shown below indicate the targets for providing an initial action plan, and progress updates:

| Severity | Initial Action Plan | | Progress Updates | |
|----------|-----------------------------|---------------|------------------|---------------|
| | Standard | Premium | Standard | Premium |
| 1 | Within 4 hours ¹ | Within 1 hour | Every 2 days | Every 2 days |
| 2 | 1 Day | 1 Day | Every 5 days | Every 5 days |
| 3 | 3 Days | 3 Days | Every 10 days | Every 10 days |
| 4 | 3 Days | 3 Days | Every 10 days | Every 10 days |

5. INFORMATION NEEDED IN A SUPPORT REQUEST

To expedite the problem resolution process, Customer needs to provide the following information when first contacting Open iT Support.

- A sense of the urgency/ priority of the issue. This priority must be as accurate as possible as Support treats urgent requests very seriously.
- Version numbers of the Open iT product and the Operating System (if applicable).
- Accurate, concise, technical English description of the problem, including steps necessary to reproduce a problem, if known.
- Console/screen output showing the problem.
- Relevant configuration files.
- Error logs.

¹ Within 4 hours mean within 4 effective business hours. A response can normally be expected within the same business day, but if an issue is reported late in the day, the response will be on the next business day counting 4 effective hours. (For an issue reported late on a Friday the obligation is to respond within 4 effective business hours on Monday morning).

Failure to provide the above information can result in unnecessary delays in resolving the problem.

6. REPORTING ISSUES BY EMAIL

- Customer sends email to support@openit.com with a short description and severity of the issue in the subject of the mail.
- The request is logged into the Open iT Support database, and a request ID is generated.
- The Customer gets an automatic reply indicating the request ID, and a questionnaire asking the Client to supply additional info (e.g., severity) if it has not been provided. If the Customer does not get this auto reply, the Customer's email was most likely lost due to external factors, and the original request should be resent or the Customer can contact Support by phone.
- Customer will receive an initial action plan via email or call from 1st line Support.
- Subsequently, the same 1st line engineer will work with the Customer until the problem is resolved or until the problem needs to be escalated to 2nd line.
- If the problem needs to be escalated to a 2nd line engineer, the Customer is notified of the escalation. A problem is typically escalated to 2nd line if the problem requires code level investigation.
- 2nd line works with Development to resolve the problem. The same 2nd line engineer will work with the Customer until the problem is resolved.
- The Incident is closed when it is mutually agreed upon by Support and the Customer, or if there is no response from the Customer within 5 days.

7. REPORTING ISSUES BY PHONE

Call the technical contact (given in the Order Form) to initiate a request or to follow up on an opened incident. During office hours, a 1st line Support engineer will normally be available to provide assistance. If a Support engineer is not immediately available, the Customer will be contacted within 2 hours.

8. SUPPORTED VERSIONS

Support is available to the current and past versions based on their release status² as indicated in the download web page. Full Support is available for an official released version for one year following the release of a newer version. Critical Bug Fix Support will be available for an official released version for two years following the release of a newer version. After that there is no obligation to support.

² For Early Availability (EA) versions, the company is not obligated to support the EA version after the superseding official released version has been released.

The Open iT Web Customer Area, have clear overview of supported **versions** and **patches** available for download. If there is a problem with access to the Customer Area, please contact sales@openit.com for username and password.

9. SERVICE LEVEL COMMITMENTS FOR HOSTED SERVICES

Open iT is providing Hosted Services through established Host Providers that have been agreed between Open iT and Customer and specified in the Order Form.

10. INFRASTRUCTURE AVAILABILITY COMMITMENT

The Service Level Commitments in these T&Cs will reflect the service level (up-time etc.) offered by that Host Provider. That is; the terms and conditions from the Host Provider will be passed on to the Customer.

The Infrastructure Service Levels (“**ISL**”) for offered for Hosted Services will reflect the service level offered for Host Providers, for which the ISL is:

| | |
|-------------------------------------|------|
| Infrastructure Availability: | |
| Time Period: | 24x7 |

The Customer shall measure performance against the Infrastructure Availability Commitment during a calendar month based on the following calculation:

$$\frac{\text{Available Minutes} - \text{Unscheduled Downtime}}{\text{Available Minutes}}$$

Infrastructure Availability Commitment excludes downtime due to Scheduled Maintenance.

Customer will be given notice of Scheduled Maintenance at least two weeks in advance which will be used to apply required patches to the IT infrastructure to ensure the continued security, availability, and performance of the system.

11. REMEDIES OF BREACH OF INFRASTRUCTURE AVAILABILITY

Open iT shall provide Customer remedies for any Open iT failure to meet the Infrastructure Availability Commitment during any single calendar month. Open iT shall provide a Service Credit to Customer as described below:

| Infrastructure Availability Service Credit | |
|---|-----------------------|
| 98 % — 99.98% | 5% of Monthly Charge |
| 95 % — 97.99% | 10% of Monthly Charge |
| Below 95% | 25% of Monthly Charge |

Open iT will apply any Service Credits only against future amounts due for Service Fees. Service Credits will not entitle Customer to any refund or payment from Open iT. If Service Credits are issued for two (2) consecutive months or for three (3) months during any six (6) month period, Customer shall have the right to terminate for material breach without further notice.

To receive Service Credits, Customer must submit a claim by opening an Open iT support ticket, that identifies this as an “SLA Credit Request”. The ticket should specify the dates and times of each unavailability incident that Customer is claiming.

If the Monthly Uptime Percentage of such request is confirmed by Open iT and is less than the Infrastructure Availability Commitment, then Open iT will record this as a Service Credit.

At the end of the Service Period, the Service Credits will be added up. If Customer decides to do an annual renewal, the accumulated Service Credits will be deducted from the new annual renewal fee. If Customer will not renew, the Service Credits will be lost.

A link to the Host Provider’s specification of service levels (“*SLAs*”) is also provided in the Order Form if a Hosted Service is ordered.

12. APPLICATION AVAILABILITY COMMITMENT

If Customer reaches the Open iT Portal on the hosted platform but are not able to access Customer Data on usage, then this is defined as a breach of Application Availability, for which the regular Open iT Support Procedures (detailed above) will apply.

13. ADDITIONAL SOFTWARE COMPONENTS

The Open iT Software License may require additional third-party software components for its operation. Such components, if not made available by Customer, shall be provided and installed by Open iT under the terms provided by the component's original software vendor to the licensor (Company).

A copy of the original software vendor End User License Agreement is provided as a separate document.

Additional technical comments on the MS-SQL Server runtime restrictions:

- (a) The MS-SQL Server Runtime license needs to be assigned to a physical server but can be executed in any Virtual Machine running on that server.
- (b) The MS-SQL Server Runtime license cannot be assigned to a different physical server more frequently than every 90 days. There are exceptions to this rule, see the attached Microsoft EULA.
- (c) According to Microsoft's commercial policies, License Mobility (i.e. dynamic virtual machines) can only be acquired by enrolling a product license in the "Software Assurance Program". ISV licenses, such as the MS-SQL Server Runtime, do not qualify for joining that program.