

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



1. PURPOSE

These Mirakl General Terms and Conditions for Customer Support Services apply to Customer's subscription to Mirakl's Customer Support Services, as identified in an Order Form.

2. PROVISION OF THE CUSTOMER SUPPORT SERVICES

2.1) Cooperation. Mirakl agrees to provide the Customer Support Services ordered by Customer in an Order Form. Customer shall cooperate with Mirakl and ensure that all stakeholders (employees, subcontractors, contractors, etc.) will also cooperate and provide the information necessary for Mirakl to perform the Customer Support Services. In particular, this may include providing Mirakl with relevant information as may be required by Mirakl from time to time. Customer shall also notify Mirakl in writing of any issue that may affect the performance of the Agreement.

2.2) Grant of Access. Subject to the terms and conditions of the Agreement, including Customer's payment obligations, Mirakl grants Customer a limited right to access and use the Customer Support Services, Mirakl Resources, and the Documentation in accordance with the applicable Order Form.

2.3) Unused Man Days. Unless otherwise specified, any Man Days set forth in an applicable Order Form that are unused by Customer within twelve (12) months from their order are forfeited and Customer shall not be entitled to any refund for such unused Man Days. Any additional Man Days shall be subject to an additional order form and shall be billed accordingly by Mirakl.

2.4) Delay and cancellation. Mirakl shall not be deemed to be in breach of its obligations regarding the Customer Support Services to the extent that Mirakl is delayed or prevented from performing due to an act or omission of Customer or a third party. If the Customer Support Services are delayed or postponed by or due to by Customer (including its officers, employees, agents or subcontractors), then Customer shall reimburse Mirakl for any additional costs incurred.

3. PERSONAL DATA

In the context of their contractual relationship, it is understood that the Parties act in their respective capacity as data controllers of the personal data they process and undertake to comply with the regulations in force applicable to the processing of personal data, and in particular Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (hereinafter the "GDPR") and Law No.78-17 of 6 January 1978 on data processing, files and freedoms (as amended), which will apply in all circumstances, notwithstanding any stipulation to the contrary.

The personal data communicated, transmitted, or received during the performance and execution of the Agreement will be processed in strict compliance with the requirements of the applicable regulations by each of the Parties.

As data controller, each Party is responsible for ensuring its own compliance with legal obligations, in particular related to the GDPR, such as, but not limited to the maintenance of a data processing register, the conduct of an impact assessment (if applicable), and the implementation of appropriate technical and organisational measures to secure the processing operations envisaged in the Agreement.

The Parties undertake to communicate the appropriate information to the data subjects, to collect only the personal data strictly necessary for the proper performance of their obligations under the Agreement, and to keep it only for the period necessary for the purposes of the processing.

The Parties also undertake to adopt all appropriate technical and organisational measures to ensure the security of personal data and to prevent their unauthorised destruction, loss, alteration, or disclosure, taking into account the state of technology and knowledge, the nature of the data provided and the risks to which such data is exposed.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



4. FINANCIAL TERMS

4.1) Payments. Customer agrees to pay all amounts due under the Agreement in accordance with the provisions of the Order Form. Payments made by Customer are non-refundable, and Customer may not withhold, deduct, or offset any amount owed to Mirakl [if:conditionLaw-GermanLaws]except where Customer's claims are undisputed or have been confirmed by a final court judgment[endif]. All invoices will be issued in accordance with the applicable Order Form, regardless of the issuance of a purchase order by Customer. Purchase orders, communications, or other documents issued by Customer for its internal administrative procedures shall not add to or alter this Agreement.

4.2) Fees Dispute Resolution. If Customer believes in good faith that Mirakl has incorrectly billed Customer, Customer must contact Mirakl in writing within thirty (30) days of the invoice date, specifying the error. Mirakl and Customer will then meet to resolve the error within thirty (30) days of the Customer notice. Should the invoice not be disputed in full, such a dispute shall not release Customer from its obligation to pay the undisputed portion of said invoice, as provided under Section 4.1.

4.3) Suspension for Late payments. Without prejudice to its other rights and remedies, Mirakl may suspend the provision of Customer Support Services for non-payment of undisputed invoices or amounts in accordance with the applicable Order and this Agreement. Such suspension will not reduce the fees owed by Customer under the applicable Order Form. In addition, Mirakl may also terminate the Agreement, should Customer fail to pay the fees due under the Agreement within thirty (30) days of a late-payment reminder notice by Mirakl. All fees committed by Customer under the Agreement until the end of the then-current Term that are not invoiced/paid by the date of termination or expiration of the Agreement shall become immediately due and payable and will be invoiced accordingly by Mirakl.

4.4) Travel Expenses. Appropriately documented travel, subsistence, and accommodation expenses incurred by Mirakl in connection with the provision of the Customer Support Services shall be reimbursed by Customer upon provision of supporting documents.

5. TERM – TERMINATION

5.1) Term. The Agreement shall take effect on the Effective Date and will remain in force for so long as an applicable Order Form remains in force.

5.2) Termination for Breach. Either Party may terminate the Agreement upon written notice if the other Party materially breaches the Agreement and such breach (i) has not been cured within thirty (30) days of the breaching Party's receipt of notice of the breach, or (b) is incapable of cure.

5.3) Effects of Termination. Upon the termination or expiration of the Agreement:

- (a) Mirakl will cease to provide, and Customer will no longer have access to the Customer Support Services;
- (b) each Party shall return and/or destroy all items, data and Confidential Information provided by the other Party during the Term of the Agreement within thirty (30) days, including but not limited to software, software packages, and documents of any kind, provided that a Party may only retain the other Party's Confidential Information that has been archived in accordance with such Party's own record-keeping and backup procedures, so long as no further use is made of such information the confidentiality obligations of this agreement are observed for such period.
- (c) Sections, 4, 5.3, 7, 8, 9, 10 and 11 will survive the expiration or termination of the Agreement.

6. DISCLAIMERS

6.1) THE CUSTOMER SUPPORT SERVICES IS INFORMATIONAL ONLY AND IS NOT A PROFESSIONAL CONSULTANCY. THE CUSTOMER SUPPORT SERVICES IS NOT INTENDED FOR AND SHALL NOT BE USED AS A REPLACEMENT OF CUSTOMER'S OWN BUSINESS DECISIONS, ACTIVITIES, RESEARCH, OR OPERATIONS. CUSTOMER AT ALL TIMES IS AND REMAINS SOLELY AND EXCLUSIVELY RESPONSIBLE FOR ITS ACTIONS, DECISIONS, ACTIVITIES, AND OPERATIONS. THE CUSTOMER SUPPORT SERVICES IS PROVIDED ON AN AS-IS BASIS, AND MIRAKL, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS MAKE NO GUARANTEES WITH RESPECT THERETO, NOR ANY WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION CONTAINED OR COMMUNICATED BY, IN, OR THROUGH THE CUSTOMER SUPPORT SERVICES. MIRAKL, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS DISCLAIM ANY AND ALL

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, OR ANY RESULTS OF ANY NATURE WHATSOEVER. MIRAKL, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS DISCLAIM ALL RESPONSIBILITY AND LIABILITY OF ANY KIND AND NATURE WITH RESPECT TO ANY ACTIONS, INACTIONS, OR DECISIONS THAT CUSTOMER MAY CHOOSE TO MAKE OR REFRAIN FROM MAKING AS A RESULT OF ITS ACCESS TO OR USE OF THE CUSTOMER SUPPORT SERVICES, INCLUDING ANY MIRAKL SUPPORT MATERIALS.

6.2) CUSTOMER ACKNOWLEDGES THAT ALL DOCUMENTS, STUDIES AND ANALYSES MADE BY MIRAKL ("MIRAKL SUPPORT MATERIALS") DURING OR AS A RESULT OF THE CUSTOMER SUPPORT SERVICES ARE BASED ON INFORMATION PROVIDED BY CUSTOMER. MIRAKL SUPPORT MATERIALS ARE SUBJECT TO CUSTOMER'S REVIEW, ALL DISCLAIMERS ABOVE IN SECTION 6.1, AND ARE NOT IN ANY WAY INTENDED TO BE A BINDING GUIDELINE ON HOW TO OPERATE CUSTOMER'S BUSINESS. MIRAKL SUPPORT MATERIALS ARE INFORMATIONAL ONLY, MAY INCLUDE GENERALIZED PERFORMANCE AND BEST PRACTICES INFORMATION. MIRAKL SUPPORT MATERIALS DO NOT CONSTITUTE (NOR SHALL THEY BE CONSTRUED IN ANY WAY AS) ADVICE, DIRECTION, INSTRUCTION, OR REQUIREMENTS BY MIRAKL AS TO ANY ASPECT OF CUSTOMER'S BUSINESS. MIRAKL RECOMMENDS THAT CUSTOMER DOES NOT RELY ON MIRAKL SUPPORT MATERIALS TO MAKE ITS BUSINESS DECISIONS, AND MIRAKL, ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS SPECIFICALLY DISCLAIM ANY LIABILITY WITH RESPECT TO THE CONTENT OF MIRAKL SUPPORT MATERIALS AND NO CONTRACTUAL OBLIGATIONS OR COMMITMENTS OF ANY KIND ARE FORMED EITHER DIRECTLY OR INDIRECTLY FROM THEM.

7. LIABILITY

7.1) Limitation of Liability. To the maximum extent permitted by applicable law, the total liability of Mirakl (and its Affiliates, officers, employees, agents, and subcontractors) for any and all causes of action arising out of or relating to this Agreement shall be limited to the total amount of fees (excluding taxes) paid by Customer under the relevant Order Form during the six (6) months prior to the first event out of which the liability arose.

7.2) Excluded Damages. To the maximum extent permitted by applicable law, in no event shall Mirakl (and its Affiliates, officers, employees, agents, and subcontractors), whether in contract, extra-contractual liability, tort (including negligence), breach of statutory duty, or otherwise, be liable for (A) any special, incidental, exemplary, punitive, consequential or indirect damages, (B) loss of profits, (C) loss of use or corruption of software, data or information, (D) loss of data, (E) loss of sales or business, (F) loss of or damage to goodwill or reputation, (G) the cost of replacing the Customer Support Services, the inability to use the Customer Support Services, performance or non-performance of the Agreement, even if Mirakl has been notified of the possibility of such damages.

7.3) Exclusions. Nothing in this Agreement excludes or limits either Party's liability resulting from (i) gross negligence or willful misconduct, and (ii) Customer's failure to pay any amounts due under the Agreement;

7.4) Liability and Third Parties. Mirakl only makes a contractual commitment to Customer and makes no commitments to third parties under this Agreement. The access and use of the Customer Support Services by a third party or the direct or indirect use by a third party of all or part of the Customer Support Services shall be Customer's exclusive liability and Customer shall hold Mirakl harmless from any claims brought by any third parties against Mirakl related to their direct or indirect use of the Customer Support Services. It is therefore up to Customer to take the necessary steps to manage the risks with respect to third parties. Mirakl excludes all liability for all products and services sold on the Customer Marketplace.

7.5) Limitation of Time to File Claims. Customer must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one (1) year from the date when Customer knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



8. INTELLECTUAL PROPERTY RIGHTS

8.1) Customer Support Services. All rights, title, and interest in and to the Customer Support Services, Mirakl Resources and any Documentation, and all improvements, modifications, adaptations, corrections, enhancements, and/or derivations of all or any part thereof, including any resulting from the provision of Customer Support Services under this Agreement, are and shall remain the exclusive property of Mirakl and/or its licensors.

If Customer provides any opinions, suggestions, or recommendations (“Feedback”) to Mirakl concerning the Customer Support Services, or the functionalities and performance of Mirakl’s services (including identifying potential errors and improvements), Customer hereby assigns to Mirakl all right, title, and interest in and to the Feedback, and Mirakl is free to use and incorporate the Feedback, at its sole discretion, without payment or restriction.

8.2) Restrictions. Except to the extent that Customer is expressly permitted to and Mirakl is not allowed to restrict it under applicable law, Customer shall not, nor permit or encourage any third party to, directly or indirectly:

- (i) use Mirakl Resources or the Documentation to design, develop, distribute, or market similar, equivalent, or substitute services;
- (ii) adapt, modify, transform, or change Mirakl Resources or the Documentation in any way and for any reason;
- (iii) transcribe or translate Mirakl Resources or the Documentation into other languages;
- (iv) change or circumvent any security measures such as access codes or usernames; and
- (v) sell, transfer, or rent all or part of Mirakl Resources or the Documentation, or right to use it, whether for payment or free of charge, by any process or derivative work unless otherwise expressly stipulated in this Agreement.

Mirakl Support Materials are for Customer’s internal use only and shall not be distributed outside of Customer’s company. Their content is confidential and remains the property of Mirakl.

9. CONFIDENTIALITY

The Party receiving Confidential Information agrees that, for the duration of the Agreement and five (5) years after its termination or expiration for any reason, the Confidential Information provided by the disclosing Party shall:

- (i) be protected and kept strictly confidential and be handled by the receiving Party with the same level of care and protection as it uses to protect its own Confidential Information provided that it is at least a reasonable degree of care and protection;
- (ii) be disclosed only to the receiving Party’s employees, agents and subcontractors who need to access it and shall only be used by them for performing the Agreement;
- (iii) not be used in whole or in part by the receiving Party for any purpose other than performing its contractual obligations herein without the disclosing Party’s prior, written consent. In particular, the Confidential Information shall not be sold, transferred, rented, or commercially exploited; and
- (iv) not be copied, reproduced, or duplicated, in whole or in part, except (i) for the purpose of performing its contractual obligations herein and/or (ii) if expressly approved in writing by the disclosing Party.

In case of disclosure to a Party’s employee, agent or subcontractor, such Party shall have its employee, agent or subcontractor sign a confidentiality agreement containing obligations at least as stringent as those stipulated in this Agreement.

Each Party shall ensure that its employees, agents, and subcontractors comply with the obligations set out in this section and shall be liable for any disclosure made in breach hereof by them. If Confidential Information is disclosed in breach of this section, the Party who has knowledge of it must immediately notify the other Party in writing.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



The confidentiality obligations stipulated in this section shall not apply to Confidential Information that:

- a) is or becomes publicly disclosed through no fault or breach of confidentiality provisions protecting the Confidential Information by the Party that disclosed it;
- b) was already known by the receiving Party prior to its disclosure, and which can be demonstrated by the existence of documents pre-existing the disclosure;
- c) was lawfully received from a third party without restrictions and not in breach of confidentiality provisions protecting the Confidential Information;
- d) was independently developed by the receiving Party without using and/or relying on any of the disclosing Party's Confidential Information, which can be demonstrated by the existence of written records; and
- e) whose use or disclosure has been authorized in writing by the disclosing Party.

In addition, on a strictly confidential basis, each Party may disclose the Confidential Information of the other Party to:

- A. For Mirakl: Affiliates of Mirakl SAS (parent company of Mirakl).
- B. For each Party: I) to its advisers, investors, insurance broker and insurers, statutory auditors, tax and social security agencies in the event of an audit; or II) when ordered to do so by a court of law; or III) when such disclosure is necessary to enable enforcement or prove the existence of rights under the Agreement. In the case of Section 9 (B)(I) and (II), the disclosing Party will provide reasonable advance notice to the other Party and provide reasonable assistance to limit the scope of the disclosure, unless prohibited by applicable law or regulation.

10. GENERAL PROVISIONS

10.1) Relationship of the Parties. Each Party shall be deemed to be an independent contractor. Nothing in this Agreement shall be deemed to create a partnership, joint venture, or agency relationship between the Parties.

In addition, each Party shall retain its status as an employer with respect to its own personnel. When the Customer Support Services is provided at Customer's premises, Mirakl's personnel shall comply with the health and safety regulations in effect at said premises as communicated to Mirakl in advance and in writing by Customer.

10.2) No Third-party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

10.3) Non-solicitation of Personnel. Unless Mirakl has given its prior, written consent, Customer shall refrain from directly or indirectly inducing, or attempting to induce, Mirakl's employees to terminate their employment with Mirakl by actively soliciting them. In particular, Customer is prohibited from inducing, or attempting to induce, Mirakl's employees to breach their employment contract. This non-solicitation obligation shall remain valid during the term of the Agreement and for a period of twelve (12) months after the expiration or termination of this Agreement for any reason whatsoever. If Customer breaches this obligation, Customer shall compensate Mirakl by paying an amount equal to two times the gross salary received by the employee who was hired during the twelve (12) months prior to such employee's departure.

10.4) Sub-contracting. Mirakl may subcontract all or part of its obligations under this Agreement to any subcontractor, provided that Mirakl will be responsible to Customer for any breach of the Agreement by its subcontractors.

10.5) Assignment. Neither Party may assign the Agreement without the other Party's prior written consent. Notwithstanding the foregoing, Mirakl may assign this Agreement in its entirety without Customer's consent to an Affiliate or in connection with a merger, acquisition, or sale of all or substantially all of its assets. Notwithstanding the foregoing, Customer may not assign the Agreement to a company that competes with Mirakl.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



10.6) Entire Agreement. This Agreement, together with any order form, schedule, and exhibit executed hereto, embodies the entire agreement and understanding of the Parties in respect of any subject matter contained herein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to such subject matter including, but not limited to any terms and conditions contained within an agreement for Mirakl's cloud services.

10.7) Notifications. Any business notifications in connection with this Agreement may be sent by email. Any legal notices sent pursuant to the Agreement must be made in writing and (i) delivered by hand, or (ii) sent by registered letter with acknowledgment of receipt to the address indicated in the Agreement, or to any other address communicated by either Party for this purpose. Notification sent by registered letter with acknowledgment of receipt shall be deemed to be received on the date it was delivered.

10.8) Force Majeure. Neither Party will be liable for any delay in performance or failure to perform its obligations under this Agreement (except for payment obligations) due to any cause or event outside its reasonable control, including acts of God, civil or military authority, acts of war, accidents, third-party communication or computer failures, epidemic or pandemic, natural disasters or catastrophes, strikes or other work stoppages, interruption or failure of utility services or any other cause beyond the reasonable control of the affected Party.

10.9) Miscellaneous.

10.9.1) A delay or failure by either Party to assert any of its rights under the Agreement shall not operate as a waiver of any such right, and shall not release the other Party from its obligations under the Agreement.

10.9.2) Any modifications to the Agreement must be made in writing and signed by an authorized representative of each Party. Any terms or conditions in Customer's purchase order or any other related documentation submitted by or on behalf of Customer to Mirakl do not form part of this Agreement and are void, unless otherwise expressly agreed in writing and signed by both Customer and Mirakl.

10.9.3) If one or more of the provisions of the Agreement is or becomes null, void, illegal, unenforceable or inapplicable in any manner whatsoever, the validity, legality, or enforceability of the remaining provisions of the Agreement shall not be affected or impaired in any way. However, in this case, the Parties agree to consult each other and to make every effort to include a new clause in the Agreement that restores the intent of the Parties as expressed in the initial clause, in compliance with the applicable legal provisions and regulations.

10.10) Electronic Records and signature The Parties agree that the electronic communications between the Parties shall be admissible as evidence between the Parties in accordance with applicable law. For this purpose, it is expressly agreed that all technical information concerning Customer and any electronic communications of any nature whatsoever with Customer (including, but not limited to, email) may be stored and archived by Mirakl for evidentiary purposes. Both parties agree that their signature can be established in electronic form sending by facsimile, scanned copy sent via e-mail, or electronic signature by using means implemented by Mirakl (e.g., Adobe Sign or DocuSign) and that, when in electronic form, this Agreement shall be deemed original.

10.11) Governing Law and Jurisdiction.

Each party agrees to the applicable governing law as defined in the table below without regard to choice or conflicts of law principles, in particular the application of the United Nations Convention on Contracts for the International Sale of Goods, all national laws intended to apply this Convention and any other applicable conflict of law rules, for any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement. If the Parties fail to reach an amicable agreement for any dispute (including non-contractual disputes or claims) arising between them concerning the interpretation or performance of this Agreement, its formation, conclusion or termination, each party agrees to the exclusive jurisdiction of the applicable courts as defined in the table below which shall have exclusive jurisdiction, notwithstanding multiple defendants or introduction of third parties, even for protective, summary or motion proceedings

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



If Customer is contracting with:	Address	Governing law	Courts with exclusive jurisdiction based in
Mirakl Pty Ltd ACN: 657 285 866 ABN: 34 657 285 866 Tax: 609 905 737	C/- Expandys Consulting Pty Ltd, Unit 2, 50 Yeo Street, Neutral Bay NSW 2089, AUSTRALIA	New South Wales (Australia)	New South Wales, Australia
Mirakl do Brasil Desenvolvimento de Software Limitada ID: 35236647210 Tax: 40.051.913/0001-51	Avenida Nove de Julho, n°5966 Conj. 71 Sala A - CEP 01406-902, Jardim Paulista - Cidade de São Paulo - Estado de São Paulo, BRAZIL	Brazil	São Paulo, Brazil
Mirakl SAS Paris Trade Registry: 530 897 990 VAT: FR57 530 897 990	10-12 rue de Lübeck, 75116 Paris, FRANCE	France	Paris, France
Target2Sell SAS Paris Trade Registry: 753 096 031 VAT: FR92753096031	10-12 rue de Lübeck, 75116 Paris, FRANCE	France	Paris, France
Mirakl GmbH Handelsregister B München: HRB 265556 Tax: 143 / 162 / 71589 VAT: DE 34 29 33 252	Dachauer Straße 65, 80335 München, GERMANY	Germany	Munich, Germany
Mirakl S.r.L. REA: MI-2657989 VAT: IT12386490960	Corso Matteotti n 1, 20121 Milano, ITALY	Italy	Milan, Italy
Mirakl KK Registration: 0104-01-164347	〒107-6218, 東京都港区赤坂9-7-1, ミッドタウンタワー18 JAPAN	Japan	Tokyo District Court at the first instance
Mirakl Pte Ltd Tax/Registration: 202143543K	5 Shenton Way #22-04 UIC Building, Singapore 068808	Singapore	Singapore
Mirakl Platform S.L. Tax ID: B67639849 DUNS: 470991740 VAT: ESN2501627J	Calle Serrano 90, 6ª planta, 28006 Madrid, SPAIN	Spain	Madrid, Spain
Mirakl Ltd Registration: 08594160 VAT: 219367981 EU VAT: GB219367981	82 Dean Street, London, W1D 2SP, UNITED KINGDOM	England and Wales	London, England
Mirakl Inc. Business code: 541511	100 Summer Street, 5 th floor, Suite 550, Boston, MA 02144	Delaware (USA)	Delaware, USA

10.12) Local Requirements: Laws of France

With respect to agreements under French Laws, the following provisions shall be applicable:

- 1) a new section 7.6 “Risk Allocation” is added as follows:
These provisions establish a distribution of risk between Customer and Mirakl. The price agreed upon by the Parties reflects this allocation of risk as well as the limitation of liability described above.
- 2) a new section 7.7 “Obligation to Mitigate” is added as follows:
Each Party shall make its best efforts to mitigate any damages that may be incurred hereunder.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



- 3) a new provision is added within section 10.1 with the following:
Pursuant to Articles L. 8221-1 et seq. and R. 8221-1 et seq. of the French Labor Code, Mirakl expressly declares that it shall comply with all obligations under the French Labor Code and warrants that it does not resort to undeclared labor.
- 4) a new section 10.9.4 is added as follows:
Throughout the Term of the Agreement and any successive extensions and/or renewals thereof, each Party irrevocably waives their right to invoke the provisions of Article 1195 of the French Civil Code and shall refrain from requesting the enforcement thereof and/or filing any claim or legal action for revising the Agreement (including its appendices and the Order Form attached thereto) and/or its consequences (in particular each successive renewal or extension of the Agreement) based on said Article 1195.
- 5) Section 10.11 "Governing Law and Jurisdiction" is replaced by the following:
THIS AGREEMENT WILL BE GOVERNED BY THE LAWS OF FRANCE. THE PARTIES EXPRESSLY EXCLUDE THE APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, ALL NATIONAL LAWS INTENDED TO APPLY THIS CONVENTION AND ANY APPLICABLE CONFLICT OF LAW RULES. IF THE PARTIES FAIL TO REACH AN AMICABLE AGREEMENT FOR ANY DISPUTE ARISING BETWEEN THEM CONCERNING THE INTERPRETATION OR PERFORMANCE OF THIS AGREEMENT, THE COURTS OF PARIS SHALL HAVE JURISDICTION, NOTWITHSTANDING MULTIPLE DEFENDANTS OR INTRODUCTION OF THIRD PARTIES, EVEN FOR PROTECTIVE, SUMMARY OR MOTION PROCEEDINGS.

10.13) Local Requirements: Laws of Germany

With respect to agreements under German Laws, the following provisions shall be applicable:

- 1) a new Section 7.4 "Warranty Period" is added as follows:
Customer's remedies for breach of warranty, if any, shall be subject to a limitation period of one (1) year. However, all remedies based on gross negligence, willful misconduct, fraudulent behavior, a guarantee of properties or the death of a natural person or personal injury to the latter, shall be subject to the applicable statutory limitation periods. The limitation periods shall begin on the dates specified by the statute.
- 2) Section 7.1 "Limitation of Liability" is replaced by the following:
Mirakl shall only be liable for damages, whether based on contract or any other legal theory, only to the extent that the damages were caused by gross negligence or willful misconduct imputable to Mirakl. In addition, Mirakl shall also be liable in accordance with statutory law for a slightly negligent violation of a fundamental duty under the Agreement, but such liability shall be limited to damages which Mirakl could have reasonably foreseen at the time of execution of the Agreement. With respect to a slightly negligent violation of a fundamental duty under the Agreement, the total liability of Mirakl shall be limited to the total amount of Subscription Fees paid (excluding tax) by Customer to Mirakl for the applicable Cloud Service associated with the damages during the six (6) months prior to the first event out of which the liability arose. Fundamental duties as used herein comprise all duties which must be fulfilled by Mirakl in order to enable consummation of the Agreement and the achievement of its purposes and fulfillment of which the Customer may reasonably expect in view of the content and purposes of the Agreement. In addition, any liability of Mirakl based on slight negligence shall be subject to a limitation period of one (1) year; the limitation period shall begin on the dates specified by the statute.
- 3) Section 7.2 "Excluded Damages" is replaced by the following:
In no event shall Mirakl be liable for damages caused by the loss of data to the extent such loss could have been avoided by reasonable regular back-up.
- 4) a new section 7.6 "Personal Liability" is added as follows:
Limitations of Mirakl's liability agreed above shall also apply to the personal liability of Mirakl's officers, employees, or agents.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



10.14) Local Requirements: Laws of England and Wales

With respect to agreements under England and Wales laws, the following provisions shall be applicable:

- 1) the following provision is added to section 10.9.4:

Unless otherwise expressly agreed, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

- 2) the following provision is added to section 10.6 "Entire Agreement":

The words "including", "include", "in particular", "for example" or similar expressions shall be construed as illustrative and will not limit the meaning of the preceding words. Headings shall not affect the interpretation of the Agreement and are for convenience only.

- 3) the following provision is added to section 10.11 "Governing Law and Jurisdiction":

Without prejudice to any other rights or remedies that the Parties may have, the Parties acknowledge that actual or threatened breach of certain sections of this Agreement (e.g. sections on intellectual property rights, confidentiality and data protection, etc.) may cause immediate, irreparable harm that is difficult to calculate and cannot be remedied by the payment of damages alone. Accordingly, either Party will be entitled to seek the remedies of injunction, specific performance or other equitable relief for any such actual or threatened breach.

10.115) Local Requirement: Laws of Delaware (USA)

With respect to agreements under the laws of the state of Delaware, USA, the following provision shall be applicable:

- 1) the following provision is added to section 10.11) "Governing Law and Jurisdiction":

Each party hereby waives its respective rights to a jury trial of any claim or cause of action relating to or arising out of this Agreement. This waiver is intended to encompass any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims.

10.16) Local Requirements: Law of Kingdom of Spain

With respect to agreements under the laws of the Kingdom of Spain the following provision shall be applicable:

- 1) a new section 10.9.4 is added as follows:

Throughout the Term of the Agreement and any successive extensions and/or renewals thereof, each Party irrevocably waives their right to invoke the "rebus sic stantibus" doctrine in order to renegotiate the Agreement and shall refrain from requesting the enforcement thereof and/or filing any claim or legal action for revising the Agreement (including its appendices and the Order Form attached thereto) and/or its consequences (in particular each successive renewal or extension of the Agreement) based on said doctrine.

10.17) Local Requirements: Laws of Singapore

With respect to agreements under the laws of Singapore, the following provisions shall be applicable:

- 1) the following provision is added to section 10.9.4:

Unless otherwise expressly agreed, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any term of this Agreement.

MIRAKL GENERAL TERMS AND CONDITIONS FOR CUSTOMER SUPPORT SERVICES



11. DEFINITIONS

The terms defined in this section apply to capitalized words in the Agreement.

<u>Affiliate:</u>	means any legal entity in which Customer or Mirakl SAS (Mirakl's parent company) directly or indirectly, holds more than fifty percent (50%) of such entity's shares or voting rights. Any legal entity will be considered an Affiliate as long as that interest is maintained.
<u>Agreement</u>	means i) each Order Form(s) and the version in effect as of the Effective Date located at legal.mirakl.com of ii) the Supplemental Terms applicable to the Cloud Services subscribed by Customer under an Order Form, iii) and v) these General Terms and Conditions for Customer Support Services.
<u>Confidential Information:</u>	means any information from a disclosing Party communicated to, entrusted to, or obtained in any form whatsoever, verbally or in writing, by the receiving Party, including but not limited to: (i) any technical, operational, or commercial information relating to Mirakl cloud services or the Customer Support Services, including Mirakl Resources and the Documentation; (ii) solutions, products, technologies, software, know-how, tangible or intangible research results, information about customers and/or prospects, business strategies; (iii) any information identified as "confidential"; and (iv) any information that is confidential in nature or the receiving Party knows, or ought reasonably to know, is confidential.
<u>Customer Support Services:</u>	means technical or business customer support ordered by Customer in the Order Form.
<u>Customer:</u>	means the legal entity identified as the customer in the Order Form.
<u>Documentation:</u>	means the latest updated version of Mirakl's online documentation for the cloud services commercialized by Mirakl covering their technical, functional, and operational aspects.
<u>Man Day</u>	means a period of eight (8) hours. Hours are accumulated based on meetings and time spent preparing guidance to Customer, including planned meetings, their preparation and any follow-up to address Customer's additional questions.
<u>Mirakl Resources:</u>	means any item developed and/or provided by Mirakl in connection with the performance of the Agreement, including in connection with providing the Customer Support Services. Mirakl Resources include Mirakl Support Materials.
<u>Mirakl:</u>	means the Mirakl entity identified in the Order Form.
<u>Order Form:</u>	means a contractual document containing all of the specific terms of the Agreement including Customer's identity, the Customer Support Services subscribed by Customer, as well as any specific commercial or legal terms agreed upon between the Parties.
<u>Party/Parties:</u>	means Customer and Mirakl, either collectively or individually