

# GENERAL TERMS AND CONDITIONS

## XPOWER NV

### ARTICLE I. GENERAL

1. For the purposes of these General Terms and Conditions, the following shall be understood as:  
Xpower: Xpower NV, having its registered office at 9090 Merelbeke-Melle, Brusselsesteenweg 172A, registered under company number 0451.526.090, RLE Ghent, division Ghent.  
The Customer: the natural or legal person, not a consumer, who enters into an agreement with Xpower.

The Assignment: the supply of Goods and/or Services to the Customer, of whatever nature and description.

The Goods: the intangible and tangible movable goods which are licensed or sold by Xpower to the Customer, being, respectively, system and/or application software and hardware (such as network cables, servers, PCs, data centres, etc.).

The Services: the analysis of the modular architecture of XDMS in relation to the Customer's business structure, the provision of advice, consultancy, training and support with regard to the use and maintenance of the Goods, as well as the technical assistance to the Customer which is provided at the Customer's premises.  
Support: the services rendered by Xpower on Xpower's premises/remotely which are not additionally chargeable insofar as they relate to a support request from the Customer that is covered by the licence/the agreement or insofar as they are included in that agreement.

The Project: the entirety of interrelated Works which may originate from various quotations or order forms.

All prices are exclusive of VAT and shall automatically be indexed based on the consumer price index, with 2024 as the reference year..

2. These General Terms and Conditions apply to all services ordered by the Customer and confirmed by Xpower, to all quotations and invoices issued by Xpower and to all agreements entered into by the Customer with Xpower, unless otherwise agreed in writing.

These General Terms and Conditions form an

integral part of the agreement. Commencing the Assignment constitutes the Customer's unconditional acceptance..

Any purchase, delivery and invoicing conditions of the Customer shall not be enforceable against Xpower, even if they have not been expressly objected to. Any deviation from these terms and conditions shall only be valid if it has been expressly, previously and in writing accepted by Xpower.

3. The nullity of any provision of these General Terms and Conditions shall not entail the nullity of the General Terms and Conditions as a whole. Nor shall the nullity of a part of a provision of these General Terms and Conditions entail the nullity of the entire provision.

Should any provision of these General Terms and Conditions or part of a provision of these General Terms and Conditions be affected by nullity, such provision or the relevant part thereof shall be replaced by a valid provision which, as regards its legal and economic effect, comes as close as possible to the void clause, so that the parties may be deemed to have contracted under those conditions as well.

### PART A: GENERAL TERMS AND CONDITIONS

#### ARTICLE II. CONCLUSION OF THE AGREEMENT

1. All quotations are without obligation and do not bind Xpower, unless expressly agreed otherwise in writing.

Quotations are based on data supplied by the Customer. The quantities stated in the quotation concern a mere estimate and are not binding. Any deviations may result in additional charges.

2. Quotations are valid for 30 calendar days, unless stated otherwise in writing.
3. Agreements are concluded at the moment Xpower accepts the order confirmation received, or otherwise unambiguously indicates that it accepts the Assignment, including by commencing the Services and/or delivery of the Goods mentioned in the quotation. The absence of such written confirmation shall not entitle the

Customer to the performance of any service and/or to any compensation of whatever nature.

4. Any amendment to the agreement between Xpower and the Customer must be made in writing and prior to the commencement of the performance of the Assignment.

### **ARTICLE III. OBLIGATIONS OF THE CUSTOMER**

1. The Customer warrants the accuracy and completeness of the data supplied by it to Xpower. If the information required is not (timely) supplied by the Customer to Xpower, Xpower shall not be obliged to commence the Assignment.
2. The Customer is obliged to comply with the conditions included in Parts B, C and D of these General Terms and Conditions.

### **ARTICLE IV. OBLIGATIONS OF XPOWER**

1. Xpower shall perform the Assignment in accordance with the provisions of the agreement/the accepted specification or quotation and Xpower will use reasonable skill and care in performing the services. The agreement does not create an obligation to achieve a specific result.
2. Xpower is obliged to comply with the conditions included in Parts B, C and D of these General Terms and Conditions.

### **ARTICLE V. PERFORMANCE AND/OR DELIVERY PERIOD**

1. Performance and/or delivery periods are stated in business days (not Saturday, Sunday and/or public holiday) for information purposes only.
2. The performance and/or delivery period cannot start before the Customer has supplied the information necessary for the performance of the Assignment or before the necessary measures have been taken.
3. Exceeding the indicative performance and/or delivery period shall not entitle the Customer – unless otherwise agreed in writing – to compensation or to non-performance of any obligation arising from the agreement, nor shall it entitle the Customer to dissolution or termination of the agreement.
4. If a binding performance and/or delivery period has been agreed in writing, the Customer shall, in the event of non-compliance, give Xpower formal notice in writing and grant a further reasonable period to complete the Assignment.

### **ARTICLE VI. LIABILITY**

1. Xpower shall carry out its Assignment to the best of its ability and shall exercise the care that may be expected from it. Xpower shall only be liable if the Customer proves that it has suffered damage as a result of gross negligence or wilful misconduct on the part of Xpower. If an error is made as a result of incorrect, incomplete or misleading information provided by the Customer to Xpower, Xpower shall not be liable for the damage arising therefrom.
2. Xpower shall only be liable insofar as it commits gross negligence or wilful misconduct. Insofar as Xpower is dependent, for the performance of the Works, on the cooperation, services and supplies of third parties, it cannot in any way be held liable for any damage whatsoever resulting from their fault, including gross negligence and wilful misconduct.

Xpower is therefore not liable for ordinary or simple negligence.

Xpower is not liable for damage resulting from improper use of the Goods by the Customer or third parties, or for their use in an unsuitable environment.

3. Xpower shall not be liable for non-material, indirect or consequential loss, such as, but not limited to, financial and/or commercial losses, increase in general expenses, loss of profit, personnel costs, loss of opportunity, disruption of planning, delay in the performance of works or delivery of goods, claims by third parties and lawyers' fees. Xpower shall not be liable for damage to third parties and shall not be obliged to indemnify the Customer against possible claims by third parties.

If Xpower is liable to pay compensation to the Customer, such compensation shall never exceed the value of the Assignment to which the claim for damages relates (the so-called contractual interest).

4. The Customer undertakes not to bring any claim for liability arising from or in connection with the agreement, whether on a contractual, non-contractual or other ground, against any of the shareholders, directors, employees or agents of Xpower.

By way of derogation from Article 6.3 §1 of the New Civil Code, the statutory provisions concerning non-contractual liability shall, insofar as legally permitted, not apply between the contracting parties nor between a contracting

party and an auxiliary (in the first and subsequent degree) of a contracting party.

This means that the Customer, its auxiliaries, appointees, co-contractors and/or any other third party involved shall have no right of action in non-contractual liability against the staff, appointees, co-contractors and, more generally, auxiliaries of Xpower. Nor shall the Customer, its auxiliary, co-contractor, more generally auxiliary and/or other third party involved have any right of action against the directors of Xpower.

5. The above exclusions shall not apply to any liability which, under Belgian law, cannot be excluded.

## ARTICLE VII. PAYMENT TERMS

1. Invoices are payable within 30 days from the invoice date, unless stated otherwise on the invoice.

Invoices are payable in euros.

2. Payment of the invoices shall be made in accordance with the Goods delivered and in accordance with what is laid down in Articles 15 and 23 of these General Terms and Conditions.

3. Non-payment and/or partial payment of Xpower's invoices on their due date shall, by operation of law and without prior formal notice, entail:

- that all other outstanding claims against the Customer, including non-due invoices, shall become immediately payable;
- that all discounts and payment facilities granted by Xpower shall lapse;
- that on all payments due, the Customer shall, by operation of law and without formal notice, owe a lump-sum compensation of 10% of the total invoice amount (with a minimum of EUR 250), without prejudice to Xpower's right to claim the actual damage if this should be higher than the lump-sum amount, and, as from the due date, a conventional default interest at the statutory rate in accordance with the Act of 2 August 2002 on combating late payment in commercial transactions;
- that Xpower shall have the right, after prior formal notice and without judicial intervention, to dissolve the existing agreements wholly or partially at the Customer's expense or to suspend their performance wholly or partially, it being

understood that this article shall remain in force between the parties after the agreement has been dissolved;

- in the event of late payment, all (partial) payments shall, in accordance with Article 5.210 of the New Civil Code and Article 1254 of the Old Civil Code, first be allocated to the default interest and only subsequently to the principal sum. Payments shall always be allocated to the oldest outstanding invoice, regardless of the invoice to which the Customer allocates its payment.
4. Set-off between damages payable by Xpower and outstanding invoices is not permitted, unless otherwise agreed in writing.

## ARTICLE VIII. COMPLAINTS REGARDING INVOICING

Any complaint regarding advances and invoicing must be made by registered letter sent to Xpower's registered office within eight calendar days from the date of sending of the invoice. Any complaint submitted after the aforementioned period shall be deemed inadmissible.

The entry of the invoice in Xpower's outgoing invoice book shall constitute irrefutable proof of both sending and receipt of the invoice.

## ARTICLE IX. INTELLECTUAL PROPERTY RIGHTS

1. Xpower reserves all rights with regard to everything Xpower develops, before or during the performance of its services, including designs, drawings, studies, systems, analyses, programmes, working methods, programming techniques, knowhow and all other intellectual creations of Xpower, and the related intellectual property rights, including copyright, derivative rights, property rights, patents, design rights and/or patents.
2. The Customer is expressly prohibited from reproducing, disclosing or exploiting the aforementioned intellectual creations without Xpower's prior written consent.
3. Any breach of this clause shall be considered a serious contractual breach on the part of the Customer, entitling Xpower to terminate the agreement with immediate effect and without owing the Customer any compensation, without prejudice to Xpower's right to compensation. In the event of a breach of this clause, the Customer shall owe Xpower a lump-sum compensation of EUR 100,000 per identified infringement, without

prejudice to Xpower's right to obtain compensation for the actual damage. This provision is essential to Xpower's business and forms a material term of the agreement for Xpower without which it would not have entered into a contract with the Customer and serves to protect its core business, i.e. the development and distribution of specialised software.

#### **ARTICLE X. CANCELLATION BY THE CUSTOMER**

1. The Customer who cancels the Assignment shall, by operation of law, owe a lump-sum termination or cancellation fee equal to 25% of the quotation price. This fee shall not be subject to reduction pursuant to Article 1229 of the Old Civil Code and Article 5.88 of the New Civil Code.
2. The Customer who wrongfully terminates the agreement with Xpower shall owe Xpower damages in the amount of 35% of the quotation price, without prejudice to Xpower's right to prove further actual damage suffered by it.
3. Moreover, the above fees shall be without prejudice to the payment of the due and payable claims which Xpower has against the Customer, and the Customer shall be obliged to pay in full the costs/charges already incurred, the Goods already ordered and the Services already rendered.

#### **ARTICLE XI. FORCE MAJEURE AND HARDSHIP**

1. Neither Party shall be held liable for any failure or delay in the performance of this agreement if such failure or delay is due to force majeure as defined below, without being limited or exhaustive (hereinafter "Force Majeure"). Force Majeure as used in these General Terms and Conditions refers to unforeseeable and insurmountable circumstances beyond the will and control of the parties.
2. Force Majeure shall in any case include, but is not limited to: strikes, lock-out, industrial disputes or business interruption, civil commotion, acts of third parties, war and terrorist attacks, uprisings, blockades, epidemics, power failure, natural disasters, fire, flooding, measures imposed by the government, landslides, lightning, earthquakes, storm and floods.
3. In the event of Force Majeure, the party concerned shall take all necessary measures that are reasonably necessary to cope with this event of Force Majeure as soon as possible, in order to limit

the damage for the other party.

4. If either party invokes Force Majeure, it shall notify the other party thereof as soon as possible orally, in any event within 15 days after the occurrence of the situation of Force Majeure. This oral notification shall be followed within 24 hours by a written notification. This notification must contain all the necessary factual elements to enable the other party to establish the existence of Force Majeure. As from that moment, the obligations of the parties under this agreement shall be suspended, for the duration of the Force Majeure event and in proportion to its consequences.
5. If, in the opinion of Xpower, the situation of Force Majeure is of a temporary nature, the indicative delivery period shall be extended by the period during which Xpower is prevented from fulfilling its obligations.
6. If the situation of Force Majeure lasts longer than three months, both Xpower and the Customer shall have the right to consider the agreement terminated, subject to payment of the services already delivered, but without any compensation being due by either party to the other.
7. The parties expressly exclude, pursuant to Article 5.74, 2, 5° of the New Civil Code, the application of Article 5.74, second to fourth paragraph, of the New Civil Code. In the event of a fundamental change in circumstances and/or conditions not attributable to the affected party and as a result of which the contractual obligations of that party would be unreasonably aggravated (cf. Article 5.74, second paragraph, of the New Civil Code), the other party may not request that the agreement be renegotiated with a view to its adjustment or termination, nor may the other party request that the agreement be renegotiated with a view to its adjustment or dissolution.

#### **ARTICLE XII. CONFIDENTIALITY**

1. The Customer and Xpower undertake to keep confidential all information received from the other party in the context of the Assignment, and which is designated or should be considered as confidential, both during and after the term of the agreement. The software supplied by Xpower shall be considered confidential.
2. This obligation shall not apply if disclosure is required by law, imposed by a court decision or is necessary for the proper performance of the agreement.

### **ARTICLE XIII. NON-SOLICITATION AND NON-COMPETITION**

1. The Customer undertakes, during the term of the agreement and for three (3) years after its termination, to refrain from directly or indirectly approaching, recruiting or employing staff of Xpower or its affiliated companies, regardless of the nature of the cooperation. In the event of a breach, the Customer shall owe Xpower a lump-sum compensation equal to twice the last annual gross salary of the employee concerned, without prejudice to Xpower's right to prove its actual damage.
2. The Customer undertakes, during the term of the agreement and for three (3) years after its termination, to refrain from carrying out any competing activity with Xpower, whether directly or through third parties, including but not limited to offering similar Goods or Services to customers or suppliers of Xpower. In the event of a breach, the Customer shall owe a lump-sum compensation of EUR 100,000 per identified infringement, without prejudice to Xpower's right to prove its actual damage.

## **PART B: GENERAL TERMS AND CONDITIONS SOFTWARE LICENCE**

### **ARTICLE XIV – LICENCE**

1. Upon purchase of system and/or application software, Xpower shall grant the Customer a user licence. The system and/or application software shall be made available as SaaS/on premise.
2. The system and/or application software shall remain the property of Xpower, even after full payment of the price. Only a temporary right of use is granted to the Customer. The Customer shall only acquire a right of use limited to one central processing unit as well as to the system, the number of files and the number of users described in the annexes to the special agreement.
3. The XDMS licences are always "named users". This means that each user of the system must identify themselves with their personal login details linked to their own licence. The actual number of "named users" used in the past month shall be charged in the monthly invoice.
4. The Customer is not permitted to transfer, sell, rent, lease, make available to third parties or in any way sub-license the licence(s) granted, in

whole or in part. Any act in breach of this provision shall constitute a serious attributable breach of contract entitling Xpower to terminate the agreement with immediate effect in accordance with Article 19 of these General Terms and Conditions.

### **ARTICLE XV. LICENCE FEE**

The licence fee shall be determined in the quotation.

### **ARTICLE XVI. OBLIGATIONS OF THE CUSTOMER**

In the case of on premise use of the application, the Customer shall be responsible for the security of the system supplied by Xpower, at least by taking a physical copy of the programmes and the data and keeping it separately.

### **ARTICLE XVII. MAINTENANCE, REPAIR AND INDEMNITY**

1. Xpower shall make efforts to provide the software with updates on a regular basis aimed at improving functionality, performance, security and compatibility. If such updates are made available, the Customer shall be obliged to install them in a timely manner. In the case of automatic deployment of updates, Xpower shall not be liable for any interruptions in the operation of the software.
2. If the Customer finds that the software is wholly or partly not functioning properly – including, but not limited to, the failure of functionalities, system crashes or errors (bugs) – the Customer must report this without delay, and at least within 3 days, to Xpower via the designated support channels, in accordance with the conditions set out in Part D. Upon expiry of that period, Xpower shall not be obliged to indemnify for possible defects. Xpower will analyse and repair the malfunction or defect as soon as possible, in accordance with the conditions set out in Part D. Whenever the programmes do not function, the Customer's sole remedy is to request correction. If, on the basis of these conditions, Xpower is obliged to make improvements and, after several attempts, fails to make the programmes operate in accordance with the agreed specifications, the Customer shall be entitled to compensation for actual and proven damage only, however limited in accordance with what is laid down in Article 6 of these General Terms and Conditions.

## ARTICLE XVIII. TERM

1. Unless otherwise agreed, the agreement shall be concluded for a fixed term of one month. At the end of the term, the agreement shall be renewed for a further term of one month. It cannot be terminated during its term, but the Customer may, after each month, refrain from renewing the agreement free of charge. Each renewal constitutes a new contract under Article 5.78
2. A licence may only exceptionally be granted to the Customer for an indefinite term on the basis of a written special agreement, which shall determine the modalities and to which, unless otherwise agreed, these General Terms and Conditions shall apply. The termination and ending of the agreement shall then take place in accordance with Article XIX of these General Terms and Conditions.

## ARTICLE XIX. TERMINATION AND ENDING

1. Each party shall have the right to terminate the agreement for an indefinite term by written notice, subject to a notice period of three months.
2. If the agreement is concluded for a fixed term, the agreement shall only end at the end of the agreed term if one of the parties terminates the agreement during the last month of the current term.
3. Xpower may terminate the agreement, without formal notice and without judicial intervention, by written notice with immediate effect and in whole or in part at the Customer's expense, if the Customer has been declared bankrupt or has filed for bankruptcy, without prejudice to Xpower's right to recover the damage suffered from the Customer.
4. The Customer and Xpower may only dissolve the agreement if the other party, after proper and detailed formal notice in writing in which an ultimate and reasonable period is laid down for remedying the default, culpably fails to comply with an essential obligation arising from the agreement.
5. Xpower shall have the right, if the Customer fails to comply with its obligations after formal notice in writing, without judicial intervention, to dissolve the existing agreements in whole or in part at the Customer's expense or to suspend their performance in whole or in part. In such case, Xpower shall be entitled to a lump-sum compensation of 35% of the quotation price,

without prejudice to Xpower's right to prove its actual damage. The application or opening of judicial reorganisation proceedings shall not terminate the current agreements nor the modalities of their performance.

6. If, at the time of dissolution, Xpower has already received various fees for the performance of the agreed Assignment, such fees shall remain definitively acquired by Xpower. Amounts which Xpower has invoiced prior to dissolution for services already rendered or delivered shall remain payable by the Customer without reduction.

## ARTICLE XX. PRICE ADJUSTMENT

As soon as a price adjustment is made, Xpower shall notify the Customer thereof without delay in writing. The price adjustment shall apply from the first day of the month following the month in which the price adjustment was notified.

## PART C: GENERAL TERMS AND CONDITIONS HARDWARE

### ARTICLE XXI. SALE OF HARDWARE

Xpower sells to the Customer, on the basis of the information supplied by the Customer, hardware compatible with the requirements of the software application and the Customer's needs.

The Customer is responsible for the accuracy and completeness of the data supplied by it to Xpower.

The Customer shall at all times (before, during and after delivery and/or installation of the Goods) provide a suitable environment in which he/she shall use the Goods. The Customer may request instructions from Xpower, but shall remain responsible for their implementation.

### ARTICLE XXII. OBLIGATIONS OF THE CUSTOMER

1. If Xpower performs services at the Customer's premises, the Customer shall in good time and at its own expense provide the necessary facilities, including a workspace with computer and network facilities. Xpower shall not be liable for any damage or costs due to transmission errors, malfunctions or unavailability of these facilities.
2. The impossibility to commence the Assignment or the need to interrupt the Assignment due to a defect or absence of the facilities to be provided by the Customer shall be at the Customer's expense, without prejudice to Xpower's right to claim compensation.

### ARTICLE XXIII. PAYMENT TERMS

For the delivery of hardware, the Customer shall, upon approval of the quotation, pay an advance of 50% of the total invoice amount. The remaining balance of 50% shall be payable within 14 calendar days from the invoice date.

Xpower reserves the right to postpone delivery of hardware until the payment of the agreed advances has been received.

### ARTICLE XXIV. RETENTION OF TITLE

In the event of non-payment/partial payment of its invoices, in the event of liquidation and/or bankruptcy of the Customer, the goods already delivered shall remain the exclusive property of Xpower until the moment the Customer has fulfilled all its obligations under the agreement, in principal, interest and costs. In the event of non-payment/partial payment of its invoices, in the event of liquidation and/or bankruptcy of the Customer, Xpower reserves the right to collect the delivered hardware from the Customer, after having formally given the Customer notice of default to that effect.

By its inclusion in these General Terms and Conditions, the retention of title shall be enforceable against third parties, provided that the retention of title is registered in the Pledge Register in accordance with Article 26 of the Pledge Act.

If the goods entrusted to Xpower have become immovable by incorporation, the retention of title shall, in accordance with Article 71 of the Pledge Act, remain subject to registration in the Pledge Register.

In accordance with Article XX.194 of the Belgian Code of Economic Law, bankruptcy shall not affect Xpower's right to recover the goods encumbered with retention of title that are in the possession of the Customer or third parties.

The risk of damage, loss, theft or destruction of the goods subject to retention of title shall remain with the Customer.

### ARTICLE XXV. VISIBLE DEFECTS

1. On delivery, the Customer shall inspect the Goods delivered for visible defects. The Customer shall report any defects within 8 calendar days from the moment of delivery, and in any event before putting them into service. Upon expiry of this period, Xpower shall not be obliged to indemnify for possible defects.
2. Xpower's obligation to indemnify shall not extend beyond that of its suppliers. Insofar as Xpower is obliged to remedy any such defects, the Customer shall only have the right to the rectification of errors causing identifiable damage, provided that the Customer or a third party has made no changes to the delivered work. Xpower shall be entitled to require that defective Goods be

returned for replacement and/or repair in kind, as the case may be, and without being liable for any compensation.

### ARTICLE XXVI. TERMINATION AND ENDING

1. The Customer and Xpower shall only be entitled to dissolve the agreement if the other party, after proper and detailed formal notice in writing in which an ultimate and reasonable period is laid down for remedying the default, culpably fails to comply with an essential obligation arising from the agreement.
2. Xpower shall be entitled, if the Customer fails to comply with its obligations after formal notice in writing, without judicial intervention, to dissolve the existing agreements in whole or in part at the Customer's expense or to suspend their performance in whole or in part, without prejudice to Xpower's right to recover the damage suffered from the Customer. In such case, Xpower shall be entitled to a lump-sum compensation of 35% of the quotation price, without prejudice to Xpower's right to prove its actual damage.
3. Xpower may terminate the agreement, without formal notice and without judicial intervention, by written notice with immediate effect and in whole or in part at the Customer's expense, if the Customer has been declared bankrupt or has filed for bankruptcy, without prejudice to Xpower's right to recover the damage suffered from the Customer. In such case, Xpower shall be entitled to a lump-sum compensation of 35% of the quotation price, without prejudice to Xpower's right to prove its actual damage. The application or opening of judicial reorganisation proceedings shall not terminate the current agreements nor the modalities of their performance.
4. If, at the time of dissolution, Xpower has already received various fees for the performance of the agreed Assignment, such fees shall remain definitively acquired by Xpower. Amounts which Xpower has invoiced prior to dissolution for Goods already delivered shall remain payable by the Customer without reduction.

## PART D: SERVICE TERMS AND CONDITIONS

### ARTICLE XXVII. SERVICE LEVEL AGREEMENT

1. The service terms contained in the SLA form an integral part of the agreement between the parties. Xpower undertakes an obligation of means to perform the Support and Services included in the SLA with due care and professional skill. However, the performance of the subject-matter of the agreement between Xpower and the Customer shall never constitute an obligation of result.
2. Xpower shall only be liable in accordance with what is laid down in Article 6 of these General Terms and Conditions.
3. Costs which, after Xpower's intervention, are found to be the result of erroneous actions by the Customer shall be borne by the Customer and shall, like all other costs not covered by the SLA, be charged to the Customer on a time-and-materials basis.

## PART E: PRIVACY, SECURITY AND DATA PROCESSING

### ARTICLE XXVIII. PRIVACY, SECURITY AND DATA PROCESSING

#### 1. General

Your privacy is of essential importance to Xpower. Insofar as Xpower processes your personal data, this shall be done in accordance with the provisions of the General Data Protection Regulation of 27 April 2016 (GDPR) and of the Belgian Act of 8 December 1992 on the protection of privacy with regard to the processing of personal data.

#### 2. Scope of application

This privacy statement applies to all (commercial) relations, including mailings, between Xpower, with registered office at 9090 Merelbeke-Melle, Brusselsesteenweg 172A, registered under company number 0451.526.090 (tel: +32 9 353 90 20 – email: [contact@xpower.eu](mailto:contact@xpower.eu)), and its existing and potential customers. By using the websites and services of Xpower, the user/Customer accepts that certain personal data are automatically collected and processed by Xpower in accordance with the purposes described below. By using our websites, the Customer agrees to the provisions of this privacy policy. Each time you provide information to Xpower, you consent to the

collection and use of that information in accordance with this privacy policy. Xpower reserves the right to adapt and/or amend this privacy statement. Amendments shall be announced on Xpower's websites.

#### 3. Processing and retention of personal data

Xpower collects and processes (among other things) the following personal data of its Customers solely for the purposes of customer management (communication and invoicing) and within the framework of its specific services: 1) invoicing data (name, address, company name, company number, ...); 2) contact data such as the e-mail address and/or telephone data of users of the aforementioned websites and/or Customers; 3) personal data such as gender, last name, first name, title, middle name, initials and date of birth. The personal data of Xpower's Customers are processed on the basis of Article 6.1 of the GDPR.

These data shall be used by Xpower exclusively:

1) in order to deliver the ordered goods to the Customer; 2) to follow up deliveries; and 3) to keep the Customer informed, on a targeted basis, i.e. on the basis of the order history, of new products and promotions, including by way of mailings. However, the Customer may object free of charge to the processing of his/her personal data for any form of direct marketing.

The personal data of Xpower's Customers shall be used exclusively for the above purposes and shall only be communicated to third parties with the express and prior written consent of the user/Customer.

Insofar as any processing of the personal data of persons who have not yet reached the age of 16 takes place, the explicit consent of the parent or guardian shall be requested in accordance with Article 6.1 of the GDPR, in which case the latter shall at all times have the right to withdraw the consent given.

Personal data shall be kept in a form which makes it possible to identify the data subjects and shall not be kept longer than is necessary for the purposes for which they are processed.

We will retain your personal data for as long as

you are a Customer of Xpower. Your data will be retained for as long as is necessary to enable us to make our deliveries and for as long as is required in order to comply with our statutory obligations and for the purpose of producing evidence in the context of the settlement of possible disputes (cf. infra, sub XVII.4., second paragraph).

Xpower undertakes to protect the confidentiality of personal data and has taken security measures to prevent any possible loss or misuse. Should, nevertheless, any action unintentionally occur with personal data not mentioned in this privacy statement, Xpower shall – in accordance with the statutory provisions in this respect – report this action to the competent authority within 72 hours and inform the parties concerned thereof.

#### **4. Right of access, rectification, erasure, restriction, objection and portability of personal data – complaints.**

On the basis of Article 6.1 of the GDPR, the Customer of Xpower shall at all times have the right to access his/her personal data and may have them rectified if they are inaccurate or incomplete, may have the personal data erased, have their processing restricted and object to their processing.

At your request, we will delete or anonymise your personal data free of charge, so that you can no longer be identified on the basis thereof, unless we are legally permitted or obliged to retain certain personal data, for example in one or more of the following cases:

- Your account is the subject of an obligation not yet fully performed, such as, but not limited to, an outstanding claim and/or a pending dispute that has not yet been settled by a final judgment against which no extraordinary remedy can be lodged and the title existing against the Customer has not yet been fully executed;
- for the purpose of protecting Xpower's legitimate business interests, such as fraud prevention and the safety of other customers;
- for the statutory period required to comply with our own fiscal, accounting and other mandatory administrative obligations

imposed by the authorities.

A request for erasure or anonymisation shall be addressed to Xpower in writing at the e-mail address: [contact@xpower.eu](mailto:contact@xpower.eu). There is a maximum processing period of one month.

In addition, the Customer of Xpower has the right to obtain a copy (in a structured, commonly used and machine-readable form) of his/her personal data and to have the personal data forwarded to another company. This request is free of charge, except where a request or a request for additional copies has already been made within six months prior to the request, in which case Xpower shall be entitled to charge a reasonable fee based on the administrative cost involved in the new request. Xpower undertakes to take the necessary steps within a period of one month after such a request.

As stated in Article XVII.3, the Customer has the right to object free of charge to any processing of his/her personal data for direct marketing purposes. The Customer may communicate this (amended) preference at any time, after which Xpower shall, within a period of one month, take the necessary steps to remove the Customer definitively from the mailings.

For more information, questions or comments regarding Xpower's privacy policy or for requests as described above, the user of the aforementioned websites and/or the Customer can contact us via the following e-mail address: [contact@xpower.eu](mailto:contact@xpower.eu). The user of the aforementioned websites and/or the Customer has the right to file a complaint with the Data Protection Authority (Drukpersstraat 35, 1000 Brussels – [contact@apd-gba.be](mailto:contact@apd-gba.be)).

#### **ARTICLE XXIX. CYBERSECURITY**

Xpower acts in the field of cybersecurity in accordance with the requirements of the NIS2 Directive and ISO 27001.

## PART F: APPLICABLE LAW AND JURISDICTION

### XXX. APPLICABLE LAW AND JURISDICTION

1. Only Belgian law shall apply to the legal relationship between Xpower and the Customer and to all disputes involving Xpower, irrespective of the nature or cause of the dispute.

The Vienna Sales Convention of 11 April 1980 shall be excluded from the legal relationship between Xpower and the Customer.

2. If the wording or concepts used in the translation of the Dutch General Terms and Conditions should have a different scope than that intended

in the Dutch terms and conditions, the scope and/or meaning which corresponds to the Dutch version shall be given thereto.

If any wording or concept in this translation differs in scope from the original Dutch version, the Dutch version shall prevail., the meaning consistent with Belgian law shall apply

3. In the event of a dispute, the Court of First Instance East Flanders, Ghent division, the Ghent Enterprise Court, Ghent division, and the Justice of the Peace of the Merelbeke-Melle district shall have exclusive jurisdiction.