

# Terms and Conditions v1.2

## Instant Management Systems

### Article 1. Definitions

In these Terms and Conditions, words are used which start with a capital letter. Those words have the meaning as set out below, regardless of whether the words are used in singular or plural form.

- 1.1. **Instant 27001:** ready-to-run ISMS for Confluence and/or add-ons.
- 1.2. **IMS:** the sole proprietary company Instant Management Systems, or any legal successor thereof.
- 1.3. **License Agreement:** the approved Order Form and these Terms and Conditions together.
- 1.4. **Terms and Conditions:** the license terms and conditions in this document.
- 1.5. **Order Form:** the order form for Instant 27001, which is presented by Partner or IMS, to which these Terms and Conditions are applicable.
- 1.6. **Partner:** the authorized partner of IMS through which Customer acquires Instant 27001.
- 1.7. **Right to Use:** the right to see, modify and translate Instant 27001.
- 1.8. **Third Party Licenses:** licenses regarding content of third parties, which licenses may be necessary in order to use Instant 27001.
- 1.9. **Third Party Services:** online services of third parties, which services are necessary in order to use Instant 27001.
- 1.10. **Customer:** the legal entity which is granted a license for Instant 27001, also the other party in the License Agreement.

### Article 2. Subject of the License Agreement

- 2.1. The subject of the License Agreement is granting a license regarding Instant 27001 by IMS to User.
- 2.2. For the license a one time fee is due by Customer. This fee is charged by IMS in case Customer acquires Instant 27001 directly, or is charged by Partner in case Customer acquires Instant 27001 through a Partner.

### **Article 3. Intellectual Property Rights and Grant of License**

3.1. IMS grants a license regarding the use of Instant 27001 to Customer, which license is accepted by Customer.

- The granted license is non-exclusive, non-transferrable, not sub-licensable.
- The granted license is perpetual, provided that Customer agrees with these Terms and Conditions.

3.2. The granted license gives Customer the Right to Use Instant 27001.

- The Right to Use is restricted to one (1) ISMS instance, site or certification.
- The Right to Use is restricted to the use of Customer itself and its employees or persons who can be attributed to Customer, such as contractors.

3.3. Customer is allowed to make backups, provided that the backup files are stored in a secure way, so that unauthorized access by third parties is not possible and the stipulations in 3.1 and 3.2 are met.

3.4. Instant 27001 contains technical measures, such as (digital) watermarks, to prevent unauthorized use or copying, Customer is not allowed to remove or circumvent those technical measures in any way.

3.5. IMS has the right to immediately revoke the granted license in case of a breach of the License Agreement or in case the License is not paid for by Customer.

3.6. The intellectual property rights regarding Instant 27001 are vested in IMS and will always be vested in IMS.

3.7. The intellectual property rights regarding cited standards are vested in the respective owners, such as, but not limited to International Organization for Standardization (ISO.org), Stichting Koninklijk Nederlands Normalisatie Instituut (NEN.nl) and Stichting MedMij (MedMij.nl). Additional licensing conditions may apply.

### **Article 4. Warranties and Limitation of Liability**

4.1. IMS composed Instant 27001 with great due care, however, IMS does not warrant in any way that Instant 27001 is fit for use or fit for purpose and that it is without defects. Therefore, Instant 27001 is provided "as is" and accepted by Customer "as is". IMS is not liable for any shortcomings. This also applies if the claim regarding a shortcoming is based on tort.

4.2. IMS is not liable for any implementations of Instant 27001 done by a Partner.

4.3. IMS is not liable for non-performance or breaches of vendors regarding Third Party Licenses or Third Party Services or (partially) non-availability thereof.

4.4. The limitations of the liability as mentioned in previous paragraphs of this article become void if the shortcoming is due to intent or conscious recklessness ("opzet of bewuste roekeloosheid") of the top level management of IMS.

4.5. The above mentioned limitations of liability also apply for every subcontractor used by IMS, including, but not limited to, its Partners.

## **Article 5. Other stipulations**

5.1. IMS or its Partner(s) have the right to audit the compliance of Customer regarding the obligations as set out in the License Agreement. Upon first request of IMS or its Partner, Customer is obliged to cooperate with such audit without any reservation. In case unauthorized copies are found, Customer is charged for those copies three (3) times the list prices as set out on the Order Form, increased with a price increase of five (5) percent per every calendar year. Aforementioned pricing mechanism does not construe any sole remedy, therefore, the aforementioned pricing mechanism is without prejudice to the right of IMS to claim actual damages.

5.2. If any of the provisions of these Terms and Conditions shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid, or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that the License Agreement or the Terms and Conditions shall otherwise remain in full force and effect.

5.3. No waiver of any breach of the License Agreement will be effective unless made in writing and signed by an authorized representative of the waiving party.

5.4. Obligations as set forth in the License Agreement, which by their nature are intended to survive termination, will remain in force after termination.

5.5. No general (purchasing) terms and conditions of Customer are applicable.

5.6. Parties explicitly agree that the United Nations Convention on Contracts for the International Sale of Goods (CISG) is not applicable.

5.7. IMS is allowed to transfer its rights and obligations under the License Agreement to a third party without (prior) consent of Customer.

## **Article 6. Non disclosure**

6.1. Parties will use confidential information made available by the other party only in accordance with the terms of the agreement and will not provide or authorize it directly or indirectly to third parties without the prior written consent of the other party. Parties will take all necessary precautions to protect such information against unauthorized use and disclosure.

## **Article 7. Disputes and Governing Law**

7.1. These Terms and Conditions are governed by the Laws of the Netherlands.

7.2. Disputes arising out of these Terms and Conditions will be solely submitted to the court in Rotterdam.