

# Twelve

# Terms and Conditions

# 2026

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These general terms and conditions apply to all Orders (including order forms, quotes, offers, (online) orders, order forms or other agreements) between Twelve and the Customer, together with all other terms, addenda, publicly available technical documentation relating to the Services ("Documentation") and policies added thereto or referenced therein (collectively, the "Agreement").

The Agreement is entered into between the relevant entity of Twelve ("Twelve", "us" and "we") and the customer entity identified in the Order issued by Twelve ("Customer" or "you") and takes effect on the date of the last signature of the Order, unless otherwise agreed in writing. Capitalized terms are defined in Art. 1 (Definitions) or in other documents referenced in the Agreement.

Also visit our website for more information: <https://twelve.eu>.

## Definitions

**"General Terms and Conditions"**: these general terms and conditions of Twelve.

**"Twelve"**: the relevant entity that forms part of the Twelve group, entering into the Agreement with the Customer.

**"Service(s)"**: all services, software, hardware, (peripheral) equipment, work and maintenance that Twelve has agreed upon in an Agreement with the Customer or which the Customer makes use of, including (but not limited to) (i) making available hardware, including Systems, (ii) software installed on hardware; (iii) (cloud) software for management and reporting; (iv) installation and assembly; (v) maintenance, (vi) service and management "RMAs"; (vii) (Operational) lease and rental of (additional) hardware; (viii) personnel and support for specific projects and/or events; (ix) payment cards (closed loop cards) and (x) Connectivity (i.e. SIM cards, routers, etc.);

**"Documentation"**: all other terms, addenda and publicly available technical documentation relating to the Services, as well as all materials and information in any form whatsoever, provided or made available to the Customer by or on behalf of Twelve (such as data, methodologies and specifications), and all related modifications or improvements arising in the context of or in connection with the performance of the Services.

**"Users"**: the Customer and its employees, partners and other third parties engaged by it who use Twelve's Services.

**"Affiliate"**: means in relation to a Party to the Agreement any legal entity that directly or indirectly controls, is controlled by, or is under common control with that Party. "Control" means direct or indirect ownership of more than fifty percent (50%) of the voting rights in the controlled legal entity, or the power to direct the management and policies of that legal entity.

**"Customer"** or **"you"**: the principal and customer of Twelve, meaning any natural person acting in the course of a profession or business, or legal entity, entering into this Agreement with Twelve as described above.

The obligations of the Customer also include the use of the Services by (i) Customer Users, (ii) Users who are employees or third parties/contractors of you or your Affiliates, (iii) your Affiliates and (iv) other third parties associated with you. You remain responsible for the acts and omissions of these persons and/or parties.

**"Quotes"**: offers or quotations made by Twelve to Customers.

**"Order"**: any order placed by the Customer with Twelve for the provision of the Services, under the terms set out in the Terms and/or the Agreement.



**"Agreement"**: the service agreement entered into between Twelve and the Customer upon signature of the Quote or through an online confirmation, consisting of the order accepted by Twelve, the Quote, these General Terms and Conditions and additional terms as described above.

**"Parties"**: Twelve and the Customer collectively, and "Party" refers to Twelve and the Customer individually.

**"RMA"**: Repair and maintenance services performed by Twelve, as further described on Twelve's website in the RMA terms and conditions.

**"Software"**: software made available by Twelve to the Customer as part of the Services.

**"In Writing"**: all forms of written communication, including electronic communication, such as a digital signature or email message.

**"Services" or "Maintenance"**: the (technical) support, maintenance and service Services performed by Twelve for the Customer in accordance with the Service Terms and Conditions.

**"Systems"**: the ordering systems and any additional systems (including systems for Connectivity purposes) that Twelve rents or sells to the Customer under the Agreement, including point-of-sale terminals, top-up terminals and other equipment and/or goods forming part of the (ordering) system.

## 1 Your Account

- 1.1 **Account.** Upon entering into the Agreement and acceptance of the terms, the Customer will be asked to open an account in the management environment with Twelve (the "Account"), through which the Customer can make use of all of Twelve's Services. When creating your Account for the use of the Services, the person opening the Account (the "Administrator") must (a) be a legally authorized representative of the Customer, entering into an Agreement for our Services, and (b) review and accept this Agreement on its behalf. The Administrator and the Users may use the Services as agreed with Twelve.
- 1.2 **Users.** You are responsible for the Administrator and the Users making use of the Services, and each User may only do so after acceptance of the General Terms and Conditions.
- 1.3 **Accounts of Affiliates.** If Affiliates wish to make use of the Services, then (a) such Affiliate must accept the provisions of this Agreement upon creating its own Account, for which a separate Agreement may be required, or (b) you may permit your Affiliates to make use of the Services without entering into a separate Agreement by granting such Affiliate(s) a username and password through which they can access and use the Services.

If clause 1.3 (b) applies, then this Agreement applies to each Affiliate, and you are responsible for all access to and use of the Services by your Affiliates. The Parties agree that the Customer shall send a written confirmation before making the Services available to Affiliates.

## 2 Services; Offers and Quotes

2.1 We provide the Services to you in accordance with the terms and conditions of the Agreement, without guarantee that our Services will be continuously accessible, as we are (in part) dependent on third parties.

2.2 **Amendments to the Services.** We periodically change the features and functionality of the Services and the Documentation. In the event of material changes, we will make reasonable efforts to notify you of such changes, for example by posting a notice on our website or sending notification by email. Your continued use of the Services following the posting of the notice or notification of the changes constitutes your acceptance of those changes.

2.3 A Quote is based on (i) the information provided by the Customer to Twelve and (ii) a specific request from the Customer and applies only to the specific Services requested by the Customer. All Quotes issued by Twelve are non-binding, unless otherwise agreed by the Parties, and no rights may be derived from a Quote with respect to any future Order or Agreement.

2.4 If the Customer does not accept the Quote within 30 days, the Quote will automatically lapse, unless Twelve provides written consent to a longer period. The Customer may not hold Twelve to a Quote if the Quote contains an obvious error or typographical mistake.

2.5 **Suspension of the Account.** We may suspend your Account(s) or Service(s) with immediate effect if we determine: (a) that you have breached one or more provisions of this Agreement and the General Terms and Conditions; (b) that there is unusual use of the Services; (c) that the provision of the Services by us is prohibited under applicable laws or regulations; (d) that your use of the Services constitutes, in our judgment, a threat to the security, integrity or availability of the Services; or (e) that the information in your Account is incorrect or incomplete. If we suspend your Account on the basis of this clause, we shall not be liable for any damages or other consequences you may suffer as a result.

2.6 **Maintenance.** It may occur that our Services are temporarily unavailable: (a) due to the performance of (un)scheduled maintenance, modifications or upgrades; (b) due to hardware defects, power outages, or errors by external providers;



(c) due to mitigating or preventing the effects of threats or attacks on the Services or other networks or systems upon which the Services depend; or (d) as required by applicable laws or regulations. We will make reasonable efforts to inform you in advance when Services are expected to be unavailable as scheduled. Except as agreed in the Agreement or its Annexes, we shall not be liable for any damages or other consequences resulting from the unavailability of the Services or the absence of a notification thereof.

2.7 **Fees.** Twelve provides its Services to the Customer in exchange for the fees set out in the Agreement. The payment term ("Payment Term") is also set out in the Agreement.

### 3 Customer Obligations

3.1 By entering into the Agreement with Twelve, the Customer hereby confirms:

to fulfil all obligations as agreed with Twelve in these General Terms and Conditions and the Agreement or as set out in writing between the Parties; to be responsible for the correct implementation and ongoing compatibility of the Services with your systems, including all updates.

All costs thereof shall be borne by you; to use the Services only in accordance with

(i) the manner in which the Services have been made available to you and

(ii) the provisions of this Agreement and any applicable Documentation; to be responsible for (i) the use of and compliance with the General Terms and Conditions by Users, (ii) use of the Services under your Account or the Account of your Affiliate;

(iii) any acts, omissions and activities of anyone who has gained access to or otherwise makes use of our Services;

(iv) data and other information submitted by or on behalf of you (or a User),

(v) unauthorized access to or use of the Services via your Account(s) and

(vi) all applications, domain names, devices owned by or under your control or owned by third parties and made available by you to Users who access or make use of the Services;

to refrain from transferring, reselling, renting, licensing or otherwise making the Services available to third parties (unless permitted under the Agreement); not to use our Services or permit them to be used to transmit inappropriate content, such as content that (i) violates rules,

violates rules, regulations and/or protocols of the legislature, regulators or government, (ii) is pornographic, offensive, racist, obscene, indecent, threatening, intimidating, defamatory, discriminatory, misleading or incorrect, or (iii) incites violence, discrimination, or unlawful, unethical or immoral conduct ("Inappropriate Content"). We may remove any Inappropriate Content from the Services without prior notice and without being held liable for any damages; and to promptly remove Inappropriate Content from the Services upon request by Twelve (within no more than three (3) business days).

### 3.2 The following (practical) prerequisites for the provision of services by Twelve

- a) sufficiently functioning power outlets at the location;
- b) A stable internet connection in accordance with the requirements set out in our activation email and further explained on the website of Twelve (see <https://twelve.eu>);
- c) The Customer undertakes to provide login credentials only to authorized personnel, so that only these individuals can have access to the database. These credentials must be stored and secured properly. Twelve bears no responsibility for unauthorized use of these login credentials.
- d) Where necessary, the Customer shall ensure the obtaining and maintaining of all required permits, including those from government authorities, necessary for the performance of the Agreement.
- e) In the event that the Customer purchases software on its own hardware, Twelve bears no responsibility for the compatibility and functioning of the Services.

All damages and/or additional costs arising from the failure to have the prerequisites (3.2 a) through e)) in place in a timely manner shall be borne by the Customer. This applies in particular to the costs of any waiting times and additional transportation costs incurred by Twelve.

## 4 Formation and Performance of the Agreement

### 4.1 The Agreement between Twelve and the Customer is formed at the moment that:

- a) Twelve sends the Customer a Quote for the Services and the Customer accepts it in writing; or
- b) Twelve commences the performance of the Services; or
- c) The Customer makes use of the Services of Twelve.

4.2 Twelve reserves the right to refuse Orders without providing reasons therefor.

4.3 Twelve shall perform the Services to the best of its ability and judgment, without direction or supervision from the Customer. In doing so, Twelve shall act with due care towards the Customer and third parties. The Customer may provide directions and instructions regarding the outcome of the Services.

4.4 The Customer shall provide Twelve with all information and materials necessary for the performance of the Agreement. If the Customer fails to deliver such information and materials as agreed, Twelve reserves the right to suspend the Services and to invoice any administrative (and other) costs arising from the delay. Twelve shall notify the Customer of this in a timely manner.

4.5 Twelve reserves the right to perform additional work beyond that specified in the Agreement and to charge for such work, upon written request from the Customer or where this is necessary for the proper performance of the Services. Twelve shall inform the Customer of such additional work in a timely manner.

## **5 Term and Termination**

5.1 Term of the Agreement. Unless otherwise agreed in writing in the Agreement, Twelve and the Customer enter into the Agreement for a term of three years, calculated from (i) the first day on which the Customer makes use of (any part of) the Services or (ii) the day after the products have been sent to the Customer: hereinafter the "Term". The Term of the Agreement shall be automatically renewed for successive periods of one year.

5.2 Either party is entitled to terminate the Agreement at the end of the Term subject to a notice period of two months. Termination must be effected in writing by means of the termination form.

5.3 If the Agreement is expressly limited in scope or duration, the Agreement shall automatically terminate upon completion of such scope or expiry of such duration.

5.4 Either Party may unilaterally terminate the Agreement with immediate effect, without any obligation to pay damages or compensation, in the following circumstances:

- a) the other Party is declared bankrupt or granted a suspension of payments;
- b) the other Party is dissolved or liquidated;
- c) the other Party is placed under guardianship or dies;
- d) the other Party is otherwise unable to freely dispose of its assets.

5.5 If the Customer fails to fulfil its obligations under the Agreement, whether in full or on time, Twelve reserves the right to terminate the Agreement without any notice

of default being required. In the event of non-performance of its obligations under this Agreement, the Customer shall compensate or indemnify Twelve for any damages suffered. The Customer shall furthermore owe a cancellation fee of 50% of the agreed invoice amount, plus any costs already incurred by Twelve.

5.6 Upon cancellation or termination of the Agreement by the Customer prior to the end of the Term, the Customer shall be required to compensate the payment obligations arising from the remaining contract period. Upon cancellation, these obligations shall become immediately due and payable, regardless of the reason for termination.

5.7 Upon termination of the Agreement, the Customer may receive or view its data (database) by obtaining a non-exclusive, non-transferable "view-only license" to the data entered or generated by the Customer during the term of the Agreement. This view-only license grants the Customer read-only access to the data, without the ability to modify, delete or transfer such data to another system, unless otherwise agreed in writing.

## **6 Time for Performance and Delivery**

6.1 Twelve and the Customer may agree upon a period within which Twelve shall perform and deliver the Services as set out in the Agreement (the "Performance Period"). The Performance Period commences at the moment the Agreement is formed. The Performance Period is indicative and does not constitute a strict deadline. If Twelve exceeds the Performance Period, the Customer shall have no right to damages. Furthermore, the Customer may not dissolve the Agreement in the event of Twelve exceeding the Performance Period, unless performance of the Agreement has become permanently impossible or Twelve also fails to perform the Services within a new period communicated by it in writing.

6.2 If the Parties agree that Twelve shall arrange the delivery of the Systems and other items for the performance of the Agreement, the Customer shall at all times provide Twelve with immediate access to the location where the Systems and other items are to be delivered. If the Customer fails to comply with this obligation and waiting time for Twelve arises as a result, Twelve shall be entitled to charge such time as working hours.

6.3 Where necessary, Twelve may deliver Systems in instalments or await delivery until the Customer's entire order is ready. Twelve shall notify the Customer of this in a timely manner.

## 7 Fees

7.1 Services are performed at the rates set out in the Agreement.

7.2 Twelve may increase the rates during the term of the Agreement in the event of unforeseen cost-increasing circumstances arising after the formation of the Agreement.

7.3 Twelve shall annually adjust its rates and/or price lists on 1 January (indexation).

- a) Dutch Twelve entities: indexation is calculated on the basis of the index figure published by Statistics Netherlands (CBS) for October of the preceding indexation year: collective labour agreement wages, contractual labour costs and wages; index figures (2020=100).
- b) Twelve Belgium N.V.: indexation is calculated on the basis of the month of August preceding the adjustment, using the following revision formula:  $P = P_o \times (0.2 + 0.8 \times S/S_o)$ , with the following meaning:

P: new invoice price;

P<sub>o</sub>: current price of the ongoing financial year;

S<sub>o</sub>: reference labour cost (national average) for the month of July of the year preceding the year of calculation of the price adjustment, as recognized by the Federal Public Service Economy, SMEs, Self-employed and Energy and published on the website of Agoria (<https://www.agoria.be/en>);

S: reference labour cost as referred to above, for the month of July preceding the month (August) of calculation of the price adjustment.

7.4 Rates are in euros, exclusive of any expenses incurred by Twelve and exclusive of VAT and other government levies. Twelve shall expressly state in its written confirmation any transportation costs, shipping costs, insurance costs and other costs that are separately borne by the Customer.

7.5 All costs related to the formation of the Agreement shall be borne by the Customer.

## 8 Payment

8.1 **Payment Term.** The Customer shall pay Twelve prior to the due date stated on the invoice, unless otherwise agreed in writing. Upon expiry of the payment term of an invoice, the Customer shall be in default without any further notice of default being required.

8.2 **Suspension.** If amounts due under the Agreement are not paid by the Customer in a timely manner, Twelve reserves the right to suspend the provision of the Services until the relevant payments have been made (the "Suspension Period"). Upon reactivation of the relevant Service(s), Twelve will charge an administrative fee of 100 euros.

8.3 **Direct Debit.** By signing the Agreement, the Customer grants Twelve a continuous direct debit authorization for the automatic collection of amounts due from the bank account number provided by the Customer.

- a) The direct debit authorization is valid for all payment obligations arising from the Agreement, including periodic payments and other amounts owed by the Customer to Twelve under the Agreement.
- b) The automatic direct debit shall take place within 10 days of the invoice date, unless otherwise agreed in the Agreement or confirmed in writing. By providing the direct debit authorization, the Customer guarantees that sufficient funds are available in the designated account for the amounts due.
- c) If an automatic direct debit fails, for example due to insufficient funds or due to blocking of the authorization, Twelve reserves the right to send a written demand and to collect the amounts due, plus any additional costs, by alternative means.

8.4 The Quote or other order confirmation shall state which payment terms apply. Twelve shall commence its work once the Customer has fulfilled its payment obligations in accordance with the Agreement or otherwise as stated in these General Terms and Conditions or in the Agreement.

8.5 If the Customer is in default or in breach of its (timely) obligations, all reasonable extrajudicial costs to obtain payment shall be borne by the Customer. The extrajudicial costs shall be calculated on the basis of the Dutch Act on Standardisation of Extrajudicial Collection Costs and the associated Decree. Any additional costs incurred by Twelve in connection with the collection shall also be borne by the Customer.

8.6 In the event of non-performance or late performance of the (payment) obligations by the Customer, Twelve shall be entitled to dissolve the Agreement with immediate effect or to suspend (further) delivery of Services and/or products until such time as the Customer has fully fulfilled its (payment) obligations, including payment of any interest and costs due.

## **9. Amendment of the Services**

9.1 If during the performance of the Services it becomes apparent that it is necessary for the proper performance thereof to amend or supplement the scope of the Services, Twelve and the Customer shall do so in mutual consultation.

9.2 In the event of an amendment to the Services, Twelve may increase or decrease the agreed price. Where possible, Twelve shall provide a quotation for this. An amendment to the Services may also affect the Performance Period. The Customer accepts the possibility of amendments to the Services, the price and the Performance Period. Twelve shall not charge any costs for an amendment to the Services if such amendment is the result of circumstances attributable to Twelve.

9.3 If during the performance of the Services it becomes apparent that Twelve must perform additional Services or incur extra costs due to causes attributable to the Customer, Twelve may implement such amendments without prior consultation with the Customer. Twelve shall be entitled to charge any additional costs to the Customer.

## **10. Performance by Third Parties**

10.1 Twelve reserves the right to have (part of) the Services performed in whole or in part by a third party, where this is necessary for the proper performance of the Services. Twelve shall be responsible for the acts and omissions of such third parties. Twelve shall also be solely responsible for the payment of fees to such third parties, whereby third parties may not claim payment (either directly or indirectly) from the Customer.

10.2 If a third party engaged by Twelve performs work at the Customer's location or at a location designated by the Customer, the Customer shall provide the facilities that the employees of such third party may reasonably require.

10.3 If a third party engaged by Twelve increases its prices during the term of the Agreement, Twelve shall be entitled to pass such increases on to the Customer.

## 11 Retention of Title

11.1 If Twelve sells any information, products or materials, including Systems, to the Customer in connection with the performance of the Services and the Agreement, such items shall remain the property of Twelve until the Customer has fully fulfilled all of its obligations. Intellectual Property Rights are excluded from this provision, as these shall in all cases remain vested in Twelve (see article 15).

11.2 If the Customer rents the Systems or Hardware from Twelve, Twelve shall in all cases remain the owner thereof.

11.3 If Twelve wishes to exercise its ownership rights, the Customer shall grant Twelve unconditional and irrevocable permission to enter all premises where the property is located, so that Twelve may repossess the property.

11.4 The Customer shall do everything that can reasonably be expected of it to safeguard the property of Twelve.

## 12 Terms for Pre-existing Systems

### 12.1 Grant of License

- a) Twelve grants the Customer a non-exclusive, non-transferable and non-sublicensable license to use the Software for internal business activities at the Location, as described in the Agreement.
- b) The license is granted for the Term of the Agreement, unless otherwise agreed in writing. Upon expiry or termination of the Agreement, the right to use the Software shall lapse.
- c) The license is granted for the number of users, devices or servers as described in the Agreement. An expansion of the number of users or devices requires the written approval of Twelve and may result in additional costs.

### 12.2 Updates and Support

- a) Twelve may at its own discretion make updates, upgrades, patches, bug fixes or new versions of the Software available. The Customer is obliged to implement these updates for the proper functioning of the Software and in order to continue to make use of Twelve's customer support with respect to the use of such Software.
- b) Support for the Software, as described in the Agreement or Service Terms and Conditions, shall be provided by Twelve for as long as the Customer complies with its payment obligations during the Term.
- c) Failure to install updates provided by Twelve may result in Twelve no longer being responsible for the correct functioning of the Software.



## 13 Use of the Systems

13.1 The Customer may make use of the Services and Systems for the duration of the Term or as agreed in the Agreement. The Customer shall use and manage the Systems with due care. The Customer shall take effective measures in a timely manner to prevent damage to the Systems. In the event of damage to the Systems, the Customer shall immediately notify Twelve thereof in writing.

13.2 The Customer may not use the Systems or any part thereof as collateral or security in relation to third parties.

13.3 In the event of an event, the Customer and all vendors at the relevant event (the "Vendors") may make use of the Systems, subject to the terms and conditions set out in these Terms and the Agreement. The Customer shall at all times be responsible for the use of the Systems by the Vendors and all liabilities arising therefrom. The Customer may not sublet the Systems or otherwise make them available for use to anyone other than the Vendors.

13.4 The Customer shall only use or permit the use of the Systems at the location agreed upon by the Parties (the "Location"). Twelve shall install, assemble and prepare the Systems for use at the Location.

### 13.5 Restrictions on Use

a) The Customer is not permitted to (i) copy the Software or any (other) part of the Services, except for the purpose of making one backup copy, (ii) decompile, reverse engineer, modify or adapt the Software or any (other) part of the Services, unless permitted by mandatory legislation; (iii) rent, sell, sublicense, distribute or otherwise make the Software or any (other) part of the Services available to third parties without the written consent of Twelve; and (iv) use the Software or any (other) part of the Services for any purposes other than those described in the Agreement.

b) The Customer shall take reasonable measures to prevent unauthorized third parties from gaining access to or making use of the Software.

13.6 The Customer may not modify the rented Systems in whole or in part or add anything to the Systems ("Modifications") without the prior written consent of Twelve. Twelve may attach conditions to such consent, such as conditions regarding the manner and quality of the Modifications or an increase in the rental or purchase price. The Customer must undo or remove any Modifications prior to the end of the Agreement, unless the Parties have agreed otherwise.

13.7 The Customer shall have no entitlement to any compensation, in any form whatsoever, in connection with Modifications made by the Customer that have not been undone or removed at or after the end of the Agreement, for whatever reason.

## 14 Maintenance of the Systems

14.1 Twelve shall maintain the Systems present at the Customer's premises. The Customer shall not maintain the Systems itself or have them maintained by a third party.

14.2 The Customer shall report any defects in the Systems to Twelve in writing immediately upon becoming aware of them and shall notify Twelve's customer support thereof.

14.3 Twelve shall endeavour to remedy defects in the Systems within a reasonable period of time, by way of corrective maintenance. Twelve is also entitled to perform preventive maintenance on the Systems, but is not obliged to do so. The days and times on which maintenance is carried out shall be determined in mutual consultation between the Parties. Where possible, Twelve shall enable the Customer to carry out corrective or preventive maintenance itself. The following defects are excluded from Twelve's obligation to remedy defects:

- a) Defects accepted by the Customer upon entering into the Agreement;
- b) Defects resulting from external causes;
- c) Defects attributable to the Customer, its employees and/or third parties engaged by the Customer;
- d) Defects resulting from careless, incorrect or improper use of the Systems or use in breach of these Terms, the Agreement or other documentation provided by Twelve;
- e) Defects resulting from use of the Systems contrary to their intended purpose;
- f) Defects resulting from Modifications made to the Systems by the Customer;
- g) Defects resulting from normal wear and tear through use of the Systems.

14.4 If Twelve remedies or has remedied the defects referred to above, Twelve shall be entitled to charge the costs associated therewith at Twelve's standard rates.

14.5 During the period of maintenance of the Systems, the Customer shall have no right to replacement equipment, except where the maintenance has arisen directly as a result of negligent conduct on the part of Twelve.

14.6 Twelve may at any time choose to forgo maintenance of the Systems and replace them with similar equipment.

14.7 Further and more detailed descriptions of the processes relating to the Services, including Documentation on Systems and Hardware, are set out on the website of Twelve.

14.8 If support for the operating software of the Systems is discontinued, thereby increasing data security risks among other things, Twelve reserves the right to replace the Systems with secure alternatives. Any additional costs arising therefrom shall be borne by the Customer.

14.9 If data is lost upon the occurrence of a defect in the Systems or during the maintenance thereof, Twelve shall endeavour in accordance with standards of reasonableness and fairness to restore or reconstruct the lost data. Twelve shall not be obliged to restore or reconstruct the data if this is not reasonably possible or would entail (unreasonable) costs. If the loss of data constitutes a data breach within the meaning of the relevant privacy legislation, Twelve shall fulfil all of its obligations under privacy legislation and assist the Customer with its obligations, in accordance with the Data Processing Agreement.

## 15 Intellectual Property Rights

15.1 Twelve is the exclusive owner of all intellectual property rights vested in and arising from the Services and Systems that are developed and/or used in the performance of the Agreement, including (but not limited to): patents, patent applications, trademarks, trademark applications, service marks, trade names, copyrights, trade secrets, licenses, domain names, know-how, proprietary rights and processes (the "Intellectual Property Rights"). Twelve is also the exclusive owner of all Intellectual Property Rights in and with respect to other services of and information offered by Twelve.

15.2 For as long as the Customer complies with all of its obligations, Twelve grants the Customer a non-transferable, non-exclusive, non-sublicensable, royalty-free license to use the Services, Systems and information arising from the performance of the Agreement, for the purposes as described or known at the time of entering into the Agreement. If the Customer fails to (continue to) comply with its obligations (such as a payment arrears), Twelve may revoke this license without any notice of default being required. The Customer is not permitted to use the Services, Systems and information for any purpose other than as agreed in the Agreement or otherwise agreed in writing.

## 16 Privacy

16.1 Twelve acts in accordance with the General Data Protection Regulation ("GDPR").

16.2 In performing the Services for the Customer, Twelve may process personal data on behalf of the Customer in the context of the Agreement. With respect to such processing, the Customer is the "Controller" and Twelve acts as the "Processor" within the meaning of the GDPR. The obligations of the Parties in this regard are set out in the "Data Processing Agreement", see: [www.twelve.eu/voorwaarden](http://www.twelve.eu/voorwaarden).

16.3 Twelve also processes certain personal data for its own purposes. This includes customer data and other data we collect via our website. For such processing, Twelve is the Controller within the meaning of the GDPR. Our privacy policy sets out which personal data we process for our own purposes and what we do with it:

<https://www.twelve.eu/privacy-policy/>.

## 17 Force Majeure

17.1 Twelve shall not be obliged to fulfil its obligations under the Agreement in the event of force majeure. Force majeure exists where Twelve is unable to fulfil its obligations due to one or more circumstances that cannot be attributed to Twelve.

17.2 In the event of force majeure on the part of the Customer, the Customer may request a deferral of the obligations under the Agreement for the period during which the force majeure continues or has continued. A condition of this is that the Customer notifies Twelve of the force majeure situation at the time it arises and that the Customer makes reasonable and good faith efforts to resolve the force majeure situation. Such deferral means that the contract term shall be extended by a minimum of one month for each period during which force majeure exists.

17.3 If the period referred to in clause 17.2 continues for longer than what is reasonably acceptable given the specific circumstances, Twelve reserves the right to dissolve the Agreement.

17.4 If Twelve has already fulfilled part of its obligations under the Agreement prior to the occurrence of the force majeure event, the Customer shall be obliged to pay for this part of the Services upon receipt of an invoice therefor.

## 18 Liability

18.1 The Parties shall never be liable for indirect or consequential damages of the other Party, such as (but not limited to) loss of profit.

18.2 Twelve shall only be liable for damages suffered by the Customer if such damages are the direct and exclusive result of an attributable failure on the part of Twelve. The burden of proof for the required causal link lies with the Customer.

18.3 Twelve shall not be liable for damages arising (i) from Twelve having relied upon information provided by the Customer that is incorrect or incomplete in the performance of the Agreement and/or (ii) from the (temporary) failure of the Systems due to technical malfunctions such as, but not limited to, system outages, software errors and server failures, (iii) from the Customer's failure to fulfil its obligations under this Agreement, or (iv) from Modifications made by the Customer or third parties.

18.4 The Customer shall be liable for damages caused by the failure to fulfil the obligations under this Agreement, including (but not limited to) defects in the Hardware, Software and Systems related to Modifications made by the Customer or third parties.

18.5 The Customer or the third party/parties engaged by it shall at all times be responsible and fully liable for the provision of power, internet, network connectivity and all (other) resources that Twelve requires to perform the Services. The Customer shall bear all costs and/or damages, including damages arising from the (temporary) failure of the Systems, resulting from the incorrect designation, provision and/or maintenance of the aforementioned during the term of this Agreement.

18.6 If Twelve is liable for any reason whatsoever, such liability shall be limited to an amount of €50,000 or 100% of the invoice price of the Agreement, whichever amount is lower.

18.7 Twelve's liability shall in any event be limited to the amount paid out by Twelve's insurer in that specific case.

18.8 Nothing in these General Terms and Conditions shall exclude or limit Twelve's liability where such liability cannot be excluded or limited under applicable law, such as in the case of wilful misconduct or gross negligence on the part of Twelve.

## **19 Indemnification**

19.1 To the extent permitted by law, the Customer shall indemnify and hold Twelve harmless from and against all liabilities, damages, losses and costs (including settlement costs and reasonable legal fees) arising from claims by third parties suffering damages as a result of the performance of the Agreement, unless the cause thereof is attributable to Twelve.

19.2 In the event that third parties hold Twelve liable in situations as described in clause 19.1, the Customer shall assist Twelve both out of court and in legal proceedings and shall do everything that may reasonably be expected of it.

## **20 Amendment of General Terms and Conditions**

Twelve reserves the right to amend or replace these General Terms and Conditions at any time, where Twelve reasonably deems this necessary and appropriate. If Twelve makes material changes to these General Terms and Conditions, Twelve shall notify the Customer thereof by email. The most up-to-date General Terms and Conditions are available on the Twelve website.

## 21 Warranties, Complaints and Notice of Default

21.1 Twelve shall ensure the soundness of the Systems and delivered materials (unless in the case of RMA or Refurbished items).

21.2 Twelve shall only provide a warranty for products if and to the extent that the original manufacturer provides such warranty to Twelve.

21.3 The Customer is obliged to inspect the delivered Systems immediately upon receipt for any defects and/or missing parts. The Customer must notify Twelve immediately upon discovery, or in any event within 3 days of delivery, that the Systems have not been delivered (entirely) in accordance with the Order. If the Customer fails to make such notification, Twelve may assume that all delivered Systems have been received by the Customer in full and in good condition.

21.4 The Customer must report complaints and shortcomings in the other Services performed to Twelve in writing within two weeks of the invoice date and no later than three weeks after completion of the relevant Services. The notice of default must contain as detailed a description of the shortcoming as possible, so that Twelve is able to respond adequately.

21.5 If a complaint regarding the Services performed is well-founded, Twelve shall perform the work as agreed in the Agreement, unless this has demonstrably become futile. The latter must be communicated by the Customer in writing.

21.6 If it is established that a complaint is unfounded, the reasonable costs incurred by Twelve as a result thereof, including investigation costs, shall be borne by the Customer.

21.7 The warranty shall lapse immediately in the event that the Customer (i) does not use the supplied and mandatory accessories (such as chargers, cables, etc.) but uses other items for this purpose, and (ii) makes modifications to the Systems, Hardware and other Services.

## 22 Governing Law, Disputes and Jurisdiction

22.1 These Terms and all Agreements between Twelve and the Customer shall be governed exclusively by national law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded. For Agreements with the Dutch entities of the Twelve Group, this means Dutch law, and for Agreements with Twelve Belgium N.V., Belgian law.

22.2 The Parties shall first attempt to resolve any dispute arising out of or in connection with these General Terms and Conditions and/or the Agreements (a "Dispute") amicably between themselves. The Parties shall make every reasonable effort to do so.



22.3 If the Parties are unable to resolve a Dispute amicably, they shall attempt to resolve the Dispute through mediation. For this purpose, the Parties shall engage one mediator from the quality register of the Mediators Federation Netherlands (MfN).

22.4 If the Parties are unable to resolve a Dispute amicably or through mediation, the Dispute shall be submitted exclusively to the competent court (i) in Utrecht (for Agreements with the Dutch entities of the Twelve Group) and (ii) in Antwerp (for Agreements with the Belgian entity of the Twelve Group).

## **23 Miscellaneous**

23.1 Notices: The Parties shall send each other notices when an official notification is required, to the email address and postal address as stated on the Order.

23.2 Entire Agreement: These General Terms and Conditions, the Order or Agreement containing Additional Services (as agreed and (where applicable) periodically amended), represent the entirety of the arrangements between the Parties in connection with the subject matter hereof and supersede all prior oral and/or written agreements and commitments relating to the subject matter hereof.

23.3 No Partnership: Nothing in these General Terms and Conditions establishes or shall be deemed to establish a partnership between the Parties, and neither of them shall have the authority to bind the other in any way.

23.4 Waiver: The failure by Twelve to exercise, or the partial or late exercise of, any right, power or remedy shall not constitute a waiver thereof. A waiver shall not be valid or binding on the Party making such waiver unless it has been recorded in writing.

23.5 Amendments: Amendments to these General Terms and Conditions or Orders shall be valid if confirmed in writing by representatives of both Parties.

23.6 If Twelve does not enforce (parts of) these General Terms and Conditions, this shall not be deemed a waiver of the right to enforce them against the Customer at a later point in time.

23.7 The Customer may not transfer its rights and obligations under these Terms and the Agreement between Twelve and the Customer to third parties without the written consent of Twelve.

23.8 Twelve may assign and/or transfer all rights and obligations under these Terms in the event of a merger, acquisition or sale of assets, by operation of law or otherwise.

23.9 If any provision of these Terms and/or the Agreement is deemed unlawful, void, voidable or otherwise unenforceable, this shall not affect the validity and enforceability of the remaining provisions of these Terms and the Agreement. The unlawful, void, voidable or otherwise unenforceable part shall be (deemed to be) replaced by a valid and enforceable provision that most closely approximates the purpose and intent of the replaced provision.

23.10 Order of Precedence: In the event of any conflict between provisions of these General Terms and Conditions and the Agreement, the following order of precedence shall apply:

- (i) Order (where applicable);
- (ii) Agreement deviating from the Order;
- (iii) Documentation;
- (iv) General Terms and Conditions;
- (v) DPA;

## 24 Questions, Comments and Suggestions

Twelve aims to provide its Customers with optimal service. If you have a question, comment or suggestion, you can contact us via the contact details below or via the contact form on the [website](#). We endeavour to respond to your message within 5 business days.

Specific information about the private limited companies, such as telephone numbers, address, chamber of commerce, bank and VAT details, can be found at <https://www.twelve.eu/en/legal/general-information>.