

Software as a Service Contract

The parties

- I. Sensus-methode B.V., a private limited company under Dutch law, also trading as Sensus-methode Procesmanagement, Sensus Procesmanagement and Sensus process management, with registered office at Schippersgracht 14, 3603 BC Maarssen, the Netherlands, represented at law in this matter by Mr Gregor Dekkers, managing director

Referred to below as '**Sensus process management**'

and

- II. The Customer
Referred to below as the '**Customer**'

Referred to jointly as the '**Parties**'.

WHEREAS

- A. Sensus process management specialises in the mapping and improvement of business processes and uses various methods to adapt and restructure business processes;
- B. In that context, Sensus process management provides a service over the internet, a form of Software as a Service, in which the customer has shown an interest;
- C. The parties wish to set out the terms of use for this service in the present contract.

THE PARTIES THUS AGREE AS SET OUT BELOW:

1. Definitions

1.1 Except where specifically stated otherwise in this contract, the following terms shall have the following meaning:

Account an account on the Sensus process management platform, with which the customer obtains access to the service and can use the same.

Administrator the person who gives authorisation to members of staff (and agency workers) to use the service and, where appropriate, reorganises the authorisation structure, taking into account the number of licences agreed on by the parties.

Service the service that Sensus process management provides to the customer over the internet, as Software as a Service under the terms of this contract, as described in the quotation that was signed for approval by the customer, which also serves as an order confirmation.

Term the term of this contract in accordance with article 10.

Customer data all data, business processes and other information, as entered by the customer when using the service, or uploaded to or stored on the platform, except for the log-in data and contact information of named users registered in the portal.

The Sensus working method

the method of working developed by Sensus process management for modifying and restructuring models of business processes, which is explained to the customer during a training session.

Named user each person registered in the Sensus process management portal by the administrator who is the holder of a licence to use the service.

- Contract** the present Software as a Service Contract, including:
- Appendix A: the quotation from Sensus process management signed for approval by the customer that is also viewed as an order confirmation
 - Appendix B: Service Level Agreement for Support Services
 - Appendix C: the 2014 Nederland ICT Terms and Conditions (which can be found at <https://www.nederlandict.nl/diensten/nederland-ict-voorwaarden>)
- Platform** the platform, including the portal and software that is used and administered by Sensus process management to deliver the service.
- Support Services** all support given to staff trained by Sensus process management and relating to the 'Sensus working method' (functional support) and technical aspects of the service (technical support), other than through the provision of training courses.
- Update** a hotfix, patch or minor version update of platform software.
- Upgrade** improvement of and/or increase in the already agreed functionality of the platform software (except for new functional applications).
- Working day** days of the working week (i.e. Monday - Friday), except for national and other public holidays in the Netherlands.

2. Service

- 2.1 Sensus process management activates an account for the customer.
- 2.2 Sensus process management provides the number of worldwide (non-exclusive) licences stated in **Appendix A** (the quotation/order confirmation signed for approval by the customer) registered to specific individuals for simultaneous use of the service, as also outlined in **Appendix A**. The service

purchased by the Customer is described in greater detail in **Appendix A** to this contract.

- 2.3 In relation to the right of use under the terms of article 2.2, named users trained by Sensus have exclusive rights to use the service.
- 2.4 Except where otherwise agreed and confirmed in writing, the following prohibitions apply to the non-exclusive right of use referred to in article 2.2:
- (a) the customer may not grant sub-licences in relation to his/her right of use for the service;
 - (b) the customer may not grant access to the service to non-authorized persons;
 - (c) the customer may not put any part of the service in the public domain or reproduce the same, except where Sensus process management has given prior written consent to do so.
- 2.5 Both parties shall make every reasonable effort, including taking reasonable security precautions in relation to the log-in data for the account, to prevent unauthorized persons gaining access to the service.
- 2.6 Sensus process management may stipulate further conditions in relation to use of the service in an Acceptable Use Policy. The customer shall ensure that all persons who use the service with the customer's permission, or by means of an account adhere to this policy.
- 2.7 The customer may not use the service in any way that causes damage to the platform, or has the potential to do so, or that leads to reduced availability of or access to the service.
- 2.8 Furthermore, the customer may not use the service:
- (a) in the context of unlawful, illegal or fraudulent purposes or practices, or purposes or practices that could cause damage; and/or
 - (b) for any other purpose other than the intended purpose. The intended purpose is to map business processes and not to process personal data.

2.9 The customer may not access the software code (including the object code, intermediate code and source code) of the platform, either during the term of this contract or thereafter.

3. **Fee**

3.1 The customer shall pay Sensus process management a fee for the service referred to in Appendix A (the quotation/order confirmation from Sensus process management signed by the customer).

3.2 The fee owed under the terms of this contract must be paid within a term of 30 days from the invoice date.

4. **Help desk**

4.1 Sensus process management shall provide the customer with a help desk for Support Services.

4.2 The customer can contact the help desk using Skype, by filling in the web-based form, or by calling +31 (0)88 888 7777. For more information, please see the website¹.

5. **Support Services**

5.1 Only customer staff and agency workers trained by Sensus process management are permitted to use the help desk for support in relation to the 'Sensus working method' (functional support) without incurring extra costs. In addition, the customer is entitled to technical support in compliance with the agreements reached in this article and the Service Level Agreement in **Appendix B** to this contract.

¹ <https://help.sensus-processmanagement.com>

6. Maintenance

- 6.1 Where Sensus process management issues updates or upgrades, it will notify the customer of this in advance if there is a chance that this could have an impact on the availability of the service. Sensus process management is in no way required to issue upgrades in relation to new functionalities, i.e. functionalities not covered by the agreements negotiated in the contract.

7. Customer data

- 7.1 The customer retains 'title' to the data and consequently has complete control of customer data. The customer consents to Sensus process management copying, reproducing, storing, distributing, publishing and exporting customer data as required for compliance with its obligations towards the customer under this contract.
- 7.2 The customer assures Sensus process management that the customer data:
- (a) does not breach any statutory provisions, rules or regulations;
 - (b) does not breach the intellectual property rights or other statutory rights held by any individual.

The customer will indemnify Sensus process management against any third-party claims in this respect, provided that Sensus process management notifies the Customer immediately in writing of such claims and leaves the handling thereof to the customer.

8. Back-ups

- 8.1 Sensus process management will make a back-up of the customer data at least once per day, and save each back-up securely for a maximum of 14 days, in compliance with the agreements set out in the Service Level Agreement (**Appendix B** to this contract).

8.2 Sensus process management is not liable to the customer for loss of or damage to data/information sent by the customer or stored on its local server, or uploaded by the customer to its local server.

9. Security

9.1 Sensus process management shall make every reasonable effort to protect the platform against viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software.

10 Term

10.1 This contract shall take effect on the date of signing, and shall have a term as specified in Appendix A (the quotation/order confirmation from Sensus process management signed by the customer).

10.2 The contract shall be automatically renewed for one year on each occasion, except where one of the parties gives notice of intention to cancel, in writing, observing a notice period of two months.

11. Implications of termination

11.1 Once the present contract has ended, the terms covered by it will no longer be effective, with the exception of the following terms of this contract which, by virtue of their nature, remain effective longer than the contract itself. These terms include, but are not limited to, the term relating to liability.

12. Outsourcing to third parties

12.1 Sensus process management reserves the right to outsource the storage of customer data and the provision of services relating to the support and maintenance of elements of the platform to third parties.

13. Warranties and liability

- 13.1 The customer accepts that complex software can never be completely free of vulnerabilities, faults, bugs and security problems; similarly Sensus process management cannot ensure that the service will be free of such issues at all times.
- 13.2 The customer accepts that the platform is intended to be compatible solely with the software and systems described on the website of Sensus process management²; and Sensus process management cannot ensure or guarantee that the platform will be compatible with other software or systems.
- 13.3 Overall liability on the part of Sensus process management as a consequence of breach of contract or any other legal reason is limited to compensation of direct damage or loss, up to the amount contractually agreed for the service (excluding VAT and any other charges) for one year with a maximum of €10,000 (ten thousand euros).
- 13.4 Sensus process management is not liable for indirect damage or loss, consequential damage or loss, loss of profit, loss of savings, reduced goodwill, damage or loss due to interruption of operations, damage or loss as a result of claims pursued by clients of the customer, damage or loss as a result of the use of third-party components, materials or software by Sensus process management at the request of the customer, or damage or loss as a result of the formation of contracts with suppliers by Sensus process management at the customer's request. Neither is Sensus process management liable for damage, destruction or loss of data or documents.
- 13.5 The exceptions and restrictions relating to Sensus process management's liability as described in articles 13.3 and 13.4 apply without prejudice to the other exceptions and restrictions relating to Sensus process management's liability that are covered in this contract.

² <https://www.sensus-processmanagement.com/functionality>

13.6 The exceptions and restrictions that are listed in articles 13.3 – 13.5 inclusive do not apply where the damage or loss can be attributed to an intentional act or gross negligence on the part of Sensus process management.

14. General

14.1 This contract is also governed by the 2014 Nederland ICT Terms and Conditions <https://www.nederlandict.nl/diensten/nederland-ict-voorwaarden.nl>.

14.2 Where there is considered to be a conflict between this contract and one of the appendices, the following order of precedence shall apply:

1. Software as a Service contract
2. Appendix A
3. Appendix B
4. Appendix C

14.3 This contract is subject to Dutch law. Any disputes between the parties shall be submitted to the jurisdiction of the Midden-Nederland district court.

Appendix A to the Software as a Service Contract

Sensus process management quotation/order confirmation

Appendix B to the Software as a Service Contract

Service Level Agreement for Support Services

1. Scope

- 1.1 This Service Level Agreement describes the service levels that apply to Support Services.

2. Definitions

- 2.1 *Working days:* days of the working week (i.e. Monday - Friday), except for national and other public holidays in the Netherlands.
- Opening hours:* 9.00am - 5.00pm (Central European Time) on working days.
- Contractual plans:* the Support Services purchased by the Customer, in which the Customer is entitled to at least bronze level, but may also opt for silver, gold or platinum.
- Response time:* the time between the point at which the customer submits a request for Support Services and/or for recovery of customer data by means of back-ups through the help desk and the response sent by Sensus process management.

3. Support relating to the Sensus process management working method (functional support)

- 3.1 In relation to the Sensus process management working method, Sensus process management offers the following contractual plans:

Table 1: Functional support

Option	Staff trained by Sensus process management	Access to help desk	Access to help file	Max. number of hours per year
A	Yes	Yes	Yes	unlimited
B	No	No	Yes	N/A

3.2 The customer is entitled to option A. Option B applies to customer staff who have not been trained by Sensus process management.

4. Support for the Service's technical operation

4.1 In relation to technical support, Sensus process management offers the Contractual Plans listed below:

Table 2: Technical support

	Bronze	Silver	Gold	Platinum
Provision of technical support	email	email, telephone, online remote support, chat	email, telephone, online remote support, chat	email, telephone, online remote support, chat
Response time	3 working days	2 working days	1 working day	1 working day
Maximum number of hours' technical support per month*	N/A	0.5 hours per month*	1 hour per month*	The number of hours agreed with the customer in the quotation

* In table 2, 'month' means a calendar month.

- 4.2 Appendix A to the Software as a Service Contract (the quotation/order confirmation from Sensus process management signed by the Customer) states which of the contractual plans (bronze, silver, gold or platinum) the customer has opted for.
- 4.3 The rates for technical support (bronze, silver, gold or platinum) are listed in Appendix A to the Software as a Service Contract, and may be changed each year by Sensus process management.
- 4.4 The customer shall ensure that all requests for support services are submitted through the help desk referred to in article 4 of the Software as a Service Contract.
- 4.5 Sensus process management is unable to guarantee a time limit for resolving an issue. The reason for this is that the nature and causes of issues can vary greatly. However, Sensus process management will do its very best to resolve issues as quickly as possible.

5. Limits of technical support

- 5.1 Where the total number of hours that Sensus process management staff spend in a calendar month on technical support exceeds the total listed in table 2 in article 4 of this Service Level Agreement, Sensus process management shall continue to provide technical support for the remainder of the month in question. The technical support provided will be subject to extra costs, charged according to the terms of article 4.3 of this Service Level Agreement.

6. Recovery of customer data by means of back-ups

- 6.1 Where the customer submits a request in writing for the recovery of customer data on the platform by means of back-ups made by Sensus process management in line with the terms of article 8.1 of the Software as a Service Contract, Sensus process management shall make every reasonable effort to comply with the request within the time limit stated in table 3

Table 3: Recovery of customer data

	bronze	silver	gold	platinum
Response time	5 working days	3 working days	1 working day	1 working day

6.2 Appendix A to the Software as a Service Contract sets out the option chosen by the customer.

6.3 Sensus process management calculates the appropriate hourly rate for the contractual plans, i.e. bronze, silver, gold or platinum, as stated in Appendix A, for the work referred to in this article.

6.4 The customer accepts that the recovery of customer data implies that any customer data that had been saved to the platform prior to recovery will be overwritten.

7. Exclusions

7.1 This SLA does not apply in those cases in which it is reasonable to assume that Sensus process management could not exercise any influence or control including, but not limited to, situations in which:

- the problem is caused by the use of the service by the customer in a way that is not recommended including, but not limited to, the use of incorrect settings (firewall etc.) and locked gateways, the use of the service in combination with third-party software or packages that are not supported by Sensus process management and/or the use of an unstable internet connection (i.e. a connection of less than 100 bits/second);
- the customer has changed the configuration or settings of the software or services in question without permission;
- the problem is caused by devices/hardware, software or services that are not supported.

7.2 Similarly, this SLA does not apply where the customer breaches its contract with Sensus process management, regardless of the reason (which could include, but is not limited to, failing to pay the agreed fee).

Appendix C to the Software as a Service Contract

2014 Nederland ICT Terms and Conditions

<https://www.nederlandict.nl/diensten/nederland-ict-voorwaarden>