



Custom Software

Development agreement

Atmire NV

Gaston Geenslaan 14
3001 Leuven
Belgium

THIS AGREEMENT (“Agreement”) is entered into between:

Charles University Prague ("THE CLIENT"),
with headquarters at Ovocný trh 560/5, 116 36, Prague 1, Czech Republic
contract number: UKRUK/125273/2022

And Atmire NV ("THE DEVELOPER"),
with headquarters at Gaston Geenslaan 14, 3001 Leuven Belgium
hereinafter together referred as “**PARTIES**” or separately as “**PARTY**”.

RECITALS

WHEREAS, Developer is engaged in the business of institutional repository application development, including technical consulting services, software development and maintenance,

WHEREAS, Client wishes to utilize the services of Developer in connection with the development and implementation of certain software identified as Customization of a DSpace repository for the Client in response to your Programming Specifications. (the "Software").

NOW, THEREFORE, Developer and Client agree as follows:

1. **Scope of Services**

The Developer will perform the services described in Annex A (Proposal), in order to develop and implement the Software according to the specifications and completion times set forth therein. The Client will cooperate with the Developer's reasonable requests for information and data necessary for the completion of the Work.

2. **Price and Payment Terms**

The Client will pay the Developer for the Work at the price and on the terms set forth in Annex A. The price set forth in this Agreement does not include taxes.

3. **Term and Termination**

Unless terminated as provided herein, this Agreement will extend to and terminate upon completion of Developer's Work as provided herein. The Client may terminate this Agreement without cause upon thirty (30) days written notice. In the event of termination without cause, the Client agrees to pay the Developer for all of the Developer's Work performed up to the date of termination, defined as all initiated project phases (Annex A), including any phases still in progress. Either party may terminate this Agreement for material breach, provided, however, that the terminating party has given the other party at least twenty-one (21) days written notice of and the

opportunity to cure the breach. Termination for breach will not alter or affect the terminating party's right to exercise any other remedy for breach.

4. Penalties

If the Client is in default with the payment of any part of the price, the Client is obligated to pay to the Developer late payment interest in the rate stipulated by law.

If the Developer fails to meet the deadlines for individual phases under the “Project planning” (Annex A), the Developer will pay the Client a contractual penalty of EUR 7 (seven euros) for every day of such failure to meet each individual deadline as stated in the “Project planning” (Annex A); the maximum amount of the contractual penalty is limited to the amount of funds allocated to this Contract.

If the Developer fails to resolve all identified issues in the deliverable of the service within 30 calendar days of the date when the Developer was notified of the issue by the Client, the Developer will pay the Client a contractual penalty of EUR 7 (seven euros) for every day of such failure to resolve every issue of which the Developer was notified by the Client; the maximum amount of the contractual penalty is limited to the amount of funds allocated to this Contract.

The contractual penalty set under this article is payable within 30 days of the date of delivery of the request to pay the contractual penalty to the Contracting Party.

5. Intellectual property, third-party rights

The Developer assigns to the Client the rights and interests in all solutions, bugfixes and custom development implemented pursuant to this Agreement (hereinafter referred to as “Results”). Such assignment of rights and interests in Results shall include, but shall not be limited to, all worldwide intellectual property rights in and to the Results, the right to reproduce the Results in any form and in any way and to communicate the Results to the public in any form and in any way. The assignment shall occur at the time the corresponding Results are obtained, on a worldwide basis and for the duration of the intellectual property right, free of any extra charge on top of what is agreed upon in the statement of work and without any further written notification.

The Client hereby grants to the Developer a non-exclusive, non-revocable license to use all solutions, bugfixes and any custom development implemented pursuant to this Agreement in other business relationships.

The Developer warrants that the use of their software, including all solutions, bug fixes and custom development implemented pursuant to this agreement, do not infringe upon or violate any patent or copyright of any third party.

6. Entire Agreement; Order of Precedence

This Agreement together with any Exhibits referred to herein constitute the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, negotiations, representations or communications relating to the subject matter. Both parties acknowledge that they have not been induced to enter into this Agreement by any representations or promises not specifically stated herein.

The following Annexes form an integral part of the contract:

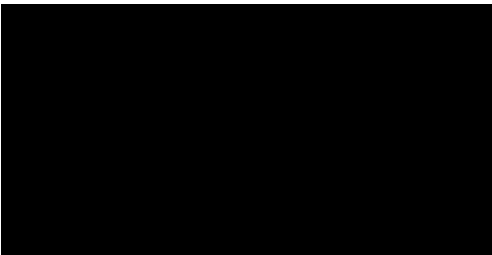
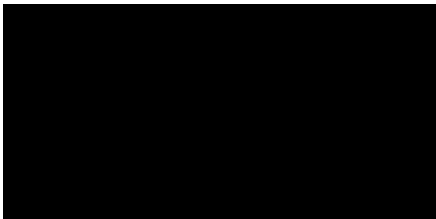
- Annex A – Proposal - Parametrized automated item mapping
- Annex B – General terms & conditions

In the event of an inconsistency between the provisions of this Agreement, the Annexes, and the general terms and conditions:

1. the terms in the Annexes shall control over the terms in this Agreement.
2. the terms in this Agreement shall control over the Developer's General Terms & Conditions.
3. the Developer's General Terms & Conditions shall control over any provisions in the purchase order

The Contracting Parties note that this Contract must be published in the register of contracts (<http://smlouvy.gov.cz>) under Act No. 340/2015 Coll. which is required by the law applicable in the client's country, as amended and agree to it. The entire text of the contract will be published including all its annexes excluding confidential parts. The contract will be sent to the register by the contracting entity immediately after it enters into force. The contracting entity at the same time agrees to inform the supplier of the contract registration by sending the supplier a copy of the confirmation of the contract publication from the contract register administrator immediately after receiving it, or to complete in the cover form the relevant field with the supplier's data box ID (in such a case both contracting parties will receive the confirmation of registration of the contract from the administrator of the register of contracts simultaneously).

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

For CLIENT: 	For Atmire: 
Date:	Date:



Charles University Prague

José Martího 407/2

162 00 Praha 6

Czech Republic

Parametrized automated item mapping

Charles University Prague

Atmire

Gaston Geenslaan 14

3001 Leuven

Belgium

Friday, 18 March 2022

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Introduction

In this proposal, Atmire presents the activities required to develop parametrized item mapping functionality. As part of the scope, Atmire will deliver the source code to a Github repository, along with documentation and assistance to enable CU staff members to deploy and use the code locally. The amounts in this document represent our best estimate according to the current definitions of the scope.

VAT

Assuming that CU has VAT registration that can be validated through, https://ec.europa.eu/taxation_customs/vies/, Atmire invoices will not include VAT according to EU intracom delivery rules and Belgian law: Intellectual services delivered abroad free from Belgian VAT (Art 21, §2, WBTW)

Proposed Contract

Atmire is subject to the agreement with its public and professional liability insurance broker, Chubb. As part of these terms, Atmire is obligated to use its own standard contracts, to ensure that Atmire is ensured for the activities carried out under these contracts.

We were not able to identify any major conflicts between the language of Atmire's proposed contract for this assignment, and the requirements from the RFP.

Document history

January 19th Version submitted as part of the tender response.

March 18th Version with the edited Project Planning section.

Annexes to this document

This document, Annex A (Proposal), is accompanied with

- | | |
|---------|---------------------------------------|
| Annex B | Code of Ethics Affirmation |
| Annex C | Custom software development agreement |
| Annex D | Atmire General Terms and Conditions |

Work packages

1. Customizations

Atmire has captured the requirements in the work package introduction. For each of the proposed deliverables, addressing the requirements, a price estimate is provided in the cost table. Deliverables marked as optional are not included in the sum of the cost table.

Atmire provided fixed-price estimates for deliverables. This applies to work packages that are sufficiently specified, resulting in a high degree of certainty about the required effort and cost associated with the deliverable. Right now, the amounts in this document represent our best estimate according to the current definitions of the scope. Any additional Services discussed or implied that are not defined explicitly in this Proposal will be considered out of the scope.

1.1. Parametrized item mapping

Introduction

The standard DSpace item mapper is limited in the sense that its functionality is restricted to map a single item to a single target collection.

The institution has a variety of different use cases and needs, for which it is important that submitted and archived items are mapped to different collections in the repository. These use cases and needs are so extensive, that automation of item mapping is necessary to meet these needs.

Atmire is requested to develop functionality that needs to be invocable by the system administrator from the command line and automatically by CRON.

The requirements do not explicitly include web-user interface components to invoke or manage these tasks.

Mapping file

Decision which item from which source collection(s) should be mapped into which target collection(s) will be made according to the information that will be provided to the program by the so-called "mapping file".

The format of the mapping file will be JSON. This mapping file will contain the following information:

file identifier	human-readable name / title for the mapping file
primary metadata field	items will be mapped to a corresponding DSpace collection based on the values of this metadata field
secondary metadata field	this metadata field will serve as a fallback field in cases, when an item scheduled for mapping does not have (or could not have) a value for the primary metadata field at all or if the value of primary metadata field is empty (null)
source collection	HANDLE ID of the source collections, from which the items will be mapped Optional information: human-readable name of the collection in Czech language, human-readable name of the collection in English language. This optional information is only for human management purposes of the file and is not interpreted by the program.
primary metadata field value	value to match with the contents of the primary metadata field. When this value is EXACTLY matched in the primary metadata field, the mapping happens.

secondary metadata field value	value to match with the contents of the secondary metadata field. When this value is EXACTLY matched in the secondary metadata field, the mapping happens. This value is ONLY evaluated for an item in case the item did not have a value for the primary metadata field
destination (target) collection	HANDLE ID of the target collection(s), to which an item must be mapped when either the primary metadata field matches the stated value, or in absence of a value for the primary metadata field, matches the value of the secondary metadata field. optional information: human-readable name of the collection in Czech language, human-readable name of the collection in English language, additional collection identifiers or description of a given collection. This optional information is only for human management purposes of the file and is not interpreted by the program.

When the automated code execution is set up for successfully deposited & archived items, server-side storage of the mapping file will be considered as a default.

However, when needed, this default setting of the mapping file's location can be overridden / configured in a separate configuration file where the following standard mapping file configuration can be stored and altered.

mapping.file.name	human-readable name for the mapping file provided in the path
mapping.file.location	"local" or "url"
mapping.file.path	path to a JSON file

For each type of mapping file location (local, url), the execution of the script will log errors for problems related to the local or url paths to mapping files.

General configuration - CLI support

When executing the code from terminal / command line, DSpace Administrator has to set the operation mode using the --operation (-o) parameter. The valid value of this parameter is one of the following terms:

"unmapped" - operation mode without a mapping file,

"mapped" - operation mode with a mapping file,

"reversed" - reversed operation mode without a mapping file,

"reversed-mapped" - reversed operation mode with a mapping file.

a) operation mode without a mapping file ("unmapped")

In this operation mode, the script executes mapping of **all** DSpace items in a source collection(s) to a destination collection(s).

When --source (-s) parameter is omitted, the script will perform mapping of all items from the **whole repository** to a set destination collection(s) --destination (-d). The supported values for the source and destination parameters are handles in the form of 12345689/12 where 123456789 represents the handle prefix of the repository, and 12 is the item-handle.

b) operation mode with a mapping file ("mapped")

This operation mode will be used primarily for automated mapping of items after their successful deposition & archival in the DSpace repository.

However, this operation mode will also be used on ad hoc mapping of items initiated by DSpace Administrator and therefore the program has to support it when executed from terminal / command line as well.

Decision which item from which source collection --source (-s) should be mapped into which target collection(s) --destination (-d) will be made according to the information that will be provided to the program by the so-called "mapping file" in a network location --link (-l) (URL address leading to the mapping file) or in local (system) storage --localpath (-p).

In "mapped" mode, the values for source collections, stated in the mapping file, can be overridden from the command line with the -s (source) parameter. When used, only the source collections from the command line command will be used, and the source contents from the mapping file will be ignored.

c) reversed operation mode without a mapping file ("reversed")

This operation mode will allow cancellation of mapping ("unmapping") of the DSpace "item" type objects.

When executed without parameters, all items across the repository will be unmapped from all collections. The result is that every item will only be associated with a single, its owning collection.

When a handle of a specific collection is provided as an argument to -d, only mappings to that particular collection are removed, from all items in the repository.

d) reversed operation mode with a mapping file ("reversed-mapped")

This operation mode will allow item mapping cancellation ("unmapping") from collections associated with a value of primary or secondary metadata field defined in the mapping file.

Main goal of this operation mode is to return item mapping to its previous state --source (-s); before the items were mapped using the script's operation mode with a mapping file in a network location --link (-l) (URL address leading to the mapping file) or in local (system) storage --localpath (-p).

Following parameters will be supported:

--operation (-o)	"unmapped", "mapped", "reversed" or "reversed-mapped"
--link (-l)	URL address leading to the mapping file
--localpath (-p)	address leading to the mapping file in local (system) storage
--source (-s)	handle of source collections for unmapping

When the source parameter is omitted, all items in the repository will be unmapped from the destination collections stated in the mapping file, according to the metadata matching rules per collection.

This deliverable includes the CLI documentation that will be displayed when running the command with the -h option.

Consumer - automated execution for new items

After the development of configuration is in place, a consumer will be developed for automating the mapping of items at the end of the ingestion.

After a successful deposition & archival of the item in the repository, the consumer will be executed automatically. This consumer will invoke the program in "mapped" operation mode and require an independent configuration / mapping file. The consumer will check if both the source collection(s) and target collection(s) exist in DSpace (if specified as an input parameter or defined in the mapping file).

Curation task

In all other parts of this deliverable, Atmire will develop the code as a standalone script, outside of the DSpace curation framework. This is optimal for invoking the code as part of the consumer.

However, the client's requirements and example calls included explicit mentions of the DSpace curation framework. Therefore, this deliverable is proposed to wrap the program into a DSpace Curation task.

As a result, in addition to the already provisioned CLI scripts and the automated Consumer, you can also run this through the built-in DSpace Curation Task UI. This will use the same set of Mapping files as the Consumer does.

2. Project Management and Documentation

2.1. Project Management

Repository projects require Project Manager involvement in meetings and coordination with both Atmire and client staff. Given this need, an additional 12% of total cost of installation & customizations (excl. add-on modules) is charged.

2.2. Testing

Before delivery, the scope of the project is subject of testing by developers, tech leads and project manager staff. An additional 5% of total cost of installation & customizations (excl. add-on modules) is charged for these testing efforts.

2.3. Documentation

An additional cost of 8% of the total cost of installation & customizations (excl. add-on modules, admin manuals for the modules are included in the module price) is charged for documentation, provided in addition to the standard DSpace documentation.

Pricing overview

WORK PACKAGES		COST	
1.	CUSTOMIZATIONS		
1.1	Parametrized item mapping	€	█
	Subtotal:	€	█
2.	PROJECT MANAGEMENT AND DOCUMENTATION		
2.1	Project Management (12% of installation & customization)	€	█
2.2	Testing (5% of installation & customization)	€	█
2.3	Documentation (8% of installation & customization)	€	█
	Subtotal:	€	█
	TOTAL	€	13.800

Project Planning

Preparatory phase

Atmire may require up to 4 weeks of lead time after receiving formal approval of the quotation before initiating the project. We have currently included a tentative, non-binding start date in the table below to make it clear what the planning of the project could look like. The official start date for the project is finalized at signature of the contract or acceptance of the purchase order, in absence of a more formal contract.

Implementation phase

During the implementation phase, Atmire implements the required functionality according to the described tasks. In the event that changes to the requirements would occur, agreement between both parties is required and this agreement will count as a formal modification of the existing contract, or alternatively, as a separate agreement.

Test phase

All defects (caused by Atmire), identified during this phase, to the implementation of the described tasks, will be resolved, free of any additional cost. All fundamental defects will have to be reported during this phase.

Feedback resolution phase and go-live

Atmire resolves in-scope feedback that resulted from the test phase. The production go-live marks the end of this phase.

	WEEKS	START	END
Implementation Phase	12	Mar 28, 2022	Jun 20, 2022
Test Phase	4	Jun 21, 2022	Jul 19, 2022
Feedback resolution phase and go-live	4	Jul 20, 2022	Aug 17, 2022
TOTAL:	20		

Billing Schedule

Atmire generally applies the following billing schedule for project-based activities, according to the calendar of the project:

30% End of preparatory phase

30% End of implementation phase & start of client testing phase

40% End of test phase

	%	PRICE
End Preparatory phase	30%	€ ██████████
End Implementation phase	30%	€ ██████████
End Test Phase	40%	€ ██████████
TOTAL:	100%	€ 13.800,00



General Terms & Conditions

Atmire NV
Gaston Geenslaan 14
3001 Leuven
Belgium

1. Definitions

"CLIENT": the natural person or legal entity, unincorporated partnerships as well as their representative and authorised person, who have concluded or want to conclude an agreement with Atmire.

"Consumer": the natural person acting for purposes that are outside his trade, business, craft or profession.

"Agreement(s)": all agreements used by Atmire, in relation to the CLIENT, on which these General Terms and Conditions are applicable.

"Use": the use of Atmire services agreed with the Customer (in the quotation or agreement).

2. General

These General Terms and Conditions (hereinafter "General Conditions") apply to both the provision of services and the sale of goods by Atmire NV and its subsidiaries, ("Atmire").

By sending the order, the General Conditions are deemed to form integral part of this agreement and will be accepted without reservation by the Client. The General Conditions and any specific Agreement constitute the entire and only Agreement between parties and will replace all previous oral agreements, proposals, promises, agreements or notices concerning the subject of the specific Agreement. General Terms and Conditions of the Client are not applicable.

Atmire's obligation to deliver the good ordered by the Client or service at the predetermined price and paid by the Client, constitutes the principal obligation of the Agreement. If Atmire is dependent on the involvement of an external party for the delivery of a good or provision of a service ordered by the Client, Atmire's obligation to deliver will come into effect under the suspensory condition of availability of the good or service, at the time that Atmire consults the external party, and subject to the predetermined price set by Atmire and paid by the Client. The price paid by the Client is deemed a surety prior to fulfilment of the suspensory condition. Atmire undertakes to consult the external party to check the availability at this price within five (5) working days after receiving payment of the surety. If the ordered good or service is unavailable upon consulting the external party, the agreement will expire and Atmire shall refund the paid surety, without any further obligations between parties.

3. Term and Termination

Unless agreed otherwise between the parties, the Agreement is concluded for one (1) year and will always be tacitly extended for the same period. Each party may unilaterally terminate this Agreement without stating reasons by means of a written notice by email, no later than one (1) month prior to the end of one year from the commencing date of the Agreement. A notice period of one (1) month will be taken into account from the moment of termination.

The unilateral termination by the Client does not entitle them to a refund or compensation in any way whatsoever, this also applies to previous payments made. If the Agreement is terminated, the claims of Atmire on the Client for services rendered are

immediately due and the already invoiced amounts for services provided will still be owed, without any obligation to cancel these. In case of dissolution by the Client, the Client may only dissolve that part of the Agreement that has not been performed yet by Atmire. If the dissolution is attributable to the Client, Atmire is entitled to compensation of the damage that is caused by this.

4. Code of conduct and notice/take down

The CLIENT will always cooperate with Atmire in good faith in order to promote the provision of services. The CLIENT will always use the services in accordance with Atmire's Acceptable Use Policy, whose most recent version can be found on <https://www.atmire.com/acceptable-use-policy>. If the CLIENT does not comply with his obligations arising from this Acceptable Use Policy, he agrees to bear all costs and charges that are related to the additional services performed by Atmire to solve any problems that are the result of non-compliance with his obligations by the CLIENTS.

The Client is solely liable for the proper use of the good, service or software thereby taking into account Atmire's specifications, documentation and instructions.

5. Ownership of intellectual property

CLIENT data

THE CLIENT will retain ownership of all content uploaded in the DSpace database, assetstore and SOLR indexes, including created metadata, uploaded bitstreams and collected usage data.

Custom software (DSpace customizations)

Atmire will retain ownership of all rights to all solutions, bugfixes and any custom development implemented pursuant to this Agreement, including certain rights, if any, that Atmire has pursuant to a license from another party.

Atmire hereby grants to THE CLIENT a non-exclusive, perpetual license to use all solutions, bugfixes and any custom development implemented pursuant to this Agreement on the THE CLIENT's DSpace installation.

Atmire warrants that the use of their software, including all solutions, bug fixes and custom development implemented pursuant to this agreement, do not infringe upon or violate any patent or copyright of any third party.

Background technology

Atmire is the owner, licensee or sublicensee of various pre-existing development tools, routines, subroutines and/or other programs, data, and materials that Atmire may use or implement in the development of the Software ("Background Technology"). Atmire retains all right, title and interest in and to the Background Technology, and hereby grants CLIENT a non-exclusive license to use the Background Technology only to the extent necessary to use the Software. CLIENT is not authorized to sell or license any Background Technology or rights thereto to any other person or firm.

Atmire's Products

Atmire will retain ownership of all proprietary rights to the Software not developed pursuant to this Agreement, including certain rights, if any, that Atmire has pursuant to a license from another party. Upon full payment of the fees set forth in a license Agreement, Atmire will grant to Client a license to install and use the Software in its own business in accordance with the respective Software License Agreement.

6. Confidential information

1. All information relating to THE CLIENT that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by Atmire and will not be disclosed or used by Atmire except to the extent that such disclosure or use is reasonably necessary to the performance of Atmire's Work.
2. All information relating to Atmire that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by THE CLIENT and will not be disclosed or used by THE CLIENT except to the extent that such disclosure or use is reasonably necessary to the performance of THE CLIENT's duties and obligations under this Agreement.
3. These obligations of confidentiality will extend for a period of two (2) years after the termination of this agreement, but will not apply with respect to information that is independently developed by the parties, lawfully becomes a part of the public domain, or of which the parties gained knowledge or possession free of any confidentiality obligation.

7. Warranty and disclaimer

Atmire warrants the Work will be performed in a workmanlike manner, and in conformity with generally prevailing industry standards. Client must report any material deficiencies in Atmire's Work to Developer in writing (or through e-mail) within the test phase. Client's exclusive remedy for the breach of the above warranty will be the re-performance of Atmire's Work within a commercially reasonable time.

In absence of a formal acceptance statement after the conclusion of the test and feedback resolution phase, the go-live of the application is regarded as the formal acceptance of the state of the system.

THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. ATMIRE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES.

8. Liability

In the context of the conclusion or performance of the Agreement, Atmire is not liable except in cases mentioned below, and for no more than the limits stated there.

The total liability of Atmire for damage suffered by the CLIENT as a result of an attributable failure by Atmire in the compliance with his obligations under this Agreement, explicitly including any failure in the compliance with a warranty obligation agreed with the CLIENT, or due to unlawful actions by Atmire, their employees or third

parties engaged by them, is limited per event or a series of related events to an amount that is equal to the total fees (exclusive VAT) that the CLIENT owes under the Agreement, or, if the Agreement has a duration of more than three (3) months, an amount that is equal to the fees that the CLIENT owed in the last three (3) months.

Atmire is explicitly not liable for indirect damage, consequential damage, loss of profit, missed saving and damage due to business stagnation. The liability of Atmire due to attributable failure in the compliance with the Agreement only occurs if the CLIENT immediately submits a correct written notice of default to Atmire in which a period of at least 14 days is stipulated to solve the failure, and Atmire remains to attributable fail in the compliance with his obligations after this period. The notice of default must contain the most detailed description of the failure, so Atmire is able to respond in an adequate way. The notice of default must be received by Atmire within 30 calendar days after the detection of the damage.

The exclusions and limitations referred to in this articles will be void if and insofar as the damage is the result of intent or gross negligence of the management of Atmire, as well as for death or physical injury of the CLIENT as a result of an action or negligence by Atmire.

The CLIENT is liable towards Atmire for damage that is caused by an error or failure that can be attributed to him. The CLIENT indemnifies Atmire against claims regarding non-compliance with the code of conduct in these General Terms and Conditions by or with the permission of the CLIENT with the use of the services or goods. This indemnification also applies regarding people who are not employees of the CLIENT but nevertheless use the services or goods under the responsibility or with the permission of the CLIENT.

Atmire cannot be held liable in any way for any loss of Internet connections due to technical or other malfunctions, both within and outside Atmire's network, or for errors by suppliers that give cause to this.

The obligations set out in this article shall survive the expiration or termination of Agreements between Atmire and the CLIENT.

9. Processing personal data

If the CLIENT as 'controller' within the meaning of the General Data Protection Regulation (GDPR) processes personal data with the use of the services, products or goods from Atmire, the CLIENT must conclude a 'data processing agreement' with Atmire based on the GDPR. Insofar as the CLIENT does not use the option offered by Atmire to conclude a data processing agreement, the CLIENT guarantees that he will not use the services or goods delivered to process personal data and the CLIENT indemnifies Atmire against all damage or claims based on the statement that any processing of personal data with the use of the services or goods would be unlawful.

If the CLIENT as natural person ('data subject' within the meaning of the GDPR) uses the services, products or goods of Atmire, Atmire will comply with all obligations that the GDPR imposes on Atmire as 'controller' in accordance with the privacy policy and registration policy of Atmire (<https://www.atmire.com/privacy-disclaimer>).

10. Relation of Parties

The performance by Atmire of its duties and obligations under this Agreement will be that of an independent contractor, and nothing in this Agreement will create or imply an agency relationship between Atmire and THE CLIENT, nor will this Agreement be deemed to constitute a joint venture or partnership between the parties.

11. Employee solicitation/hiring

During the period of this Agreement and for twelve (12) months thereafter, neither party will directly or indirectly solicit or offer employment to or hire any employee, former employee, subcontractor, or former subcontractor of the other. The terms "former employee" and "former subcontractor" will include only those employees or subcontractors of either party who were respectively employed or utilized by that party within twelve (12) months immediately prior to the alleged violation.

12. Assignment

Neither party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party save that ATMIRE shall be entitled to assign its rights and obligations hereunder to its ultimate holding company or a subsidiary of its ultimate holding company or an acquirer (part of) its business.

13. Applicable law

Atmire NV contracts

The parties agree that this Agreement will be governed by and construed and interpreted in accordance with the laws of Belgium.

Atmire inc contracts

The parties agree that this Agreement will be governed by and construed and interpreted in accordance with the laws of the state of New York.

14. Arbitration

In the event of any dispute, claim, question, or disagreement arising from or relating to this agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

Atmire NV contracts

If they do not reach such solution within a period of 60 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by by three (3) Arbitrators under the Rules of Arbitration of the International Chamber of Commerce. The arbitration will be held in Leuven, Belgium; all documentary submissions, presentations, and proceedings shall be in the English language.

The Arbitrator will have the authority to grant injunctive relief and specific performance to enforce the terms of this Agreement. Judgment on any award rendered by the Arbitrator may be entered in any Court of competent jurisdiction. The arbitral tribunal shall assign the costs of arbitration.

Atmire inc contracts

If they do not reach such solution within a period of 60 days, then, upon notice by either party to the other, all disputes, claims, questions, or differences shall be finally settled by arbitration administered by the American Arbitration Association in accordance with the provisions of its Commercial Arbitration Rules.

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial or other Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

15. Severability

If any term of this Agreement is found to be unenforceable or contrary to law, it will be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect.

16. Force majeure

Neither party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by events or circumstances beyond the delayed party's reasonable control.

17. No waiver

The waiver by any party of any breach of covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights. This Agreement may be modified only by a written instrument executed by authorized representatives of the parties hereto.