



## GENERAL TERMS AND CONDITIONS

### ARTICLE 1. DEFINITIONS

1.1. In these General Terms and Conditions:

A. **"MMB"**: is M.M.B. S.r.l. with registered office in Faenza (RA), Via Pana n. 180, CF - P.IVA n. 02619140391, Tel: 0546 637711, e-mail: [info@mmbsoftware.it](mailto:info@mmbsoftware.it), PEC: [amministrazione@pec.mmbsoftware.it](mailto:amministrazione@pec.mmbsoftware.it);

B. **"Customer"**: is the person who purchases MMB's Products and/or Services.

1.2. MMB is a company engaged in developing, producing and marketing Software Products and Additional Services to automate the activities of workshops, tyre shops and service centres.

1.3. The Customer is a professional operator, owner of a workshop and/or service centre who has placed an order (the "Order") for the supply of MMB's Software Products and/or Additional Services.

1.4. Each Order finalised between the Customer and MMB forms a contract, of which these General Terms and Conditions, the Software Products User Licence and documents relating to the processing of personal data expressly agreed to by the Customer form an integral part.

1.5. In addition to the terms defined in other clauses of these General Terms and Conditions, the terms and expressions listed below (and their grammatical variations) shall have the corresponding meanings:

A. **"General Terms and Conditions"**: means these General Terms and Conditions, which, together with the Order Form and, where relevant, the User Licence and the Licence Renewal Contract, form an integral and substantial part of the Contract.

B. **"Contract"**: the contractual relationship entered into between MMB and the Customer, jointly governed by the General Terms and Conditions, the Order Form and, where relevant, the User Licence and the Licence Renewal Contract.

C. **"Portal"** is MMB's website at "<https://www.mmbsoftware.com/>", where information and guidelines concerning the Software Products and Additional Services developed and marketed by MMB are available.

D. **"Software Products"**: means the set of computer software products developed by MMB (including, but not limited to, WIL, Xamine, YAP Revisioni, YAP Smart).

E. **"User Licence"**: means the contract governing the terms and conditions of the Product User Licence, under current legislation.

F. **"Licence Renewal Contract"**: also referred to as the "Support Contract", means the document that the Customer signs to renew the Software Product User Licence upon expiry of the first year and for access to support, maintenance and update services under certain financial conditions.

G. **"Order Form"**: the document concerning the supply of the Products and/or Additional Services and the specific conditions applied to the Customer, which form a single contract together with the General Terms and Conditions and, where relevant, the User Licence.

H. **"Additional Services"** means applications developed by MMB and/or Third-Party Providers and integrated with the Software Products (including, but not limited to, SMS, PostCard, YAP Targa, e-Bill, e-Sign, e-Ticket Support, PaConnect).

I. **"Support"**: the activity performed by MMB staff (or staff authorised by MMB) to provide the Customer with support, maintenance and updates of the Software Products, including integrated applications, as well as to provide training and information for the Customer's staff.

J. **"Original Application Data"**: means all data that may be included in the Software Products and Additional Services and that characterises them, such as vehicle technical data, part codes and lists, wiring diagrams, procedures, etc. In any case, Original Application Data shall mean all data already present in the



individual Software Product or Additional Services at the time of first access and not entered by the Customer or by Users authorised by the Customer.

- K. **“Support Centre”**: the MMB remote support department (help desk) that provides the Support.
- L. **“Product Technical Data Sheet”** o **“User Manual”**: description of the technical specifications of a Software Product, its constituent elements and its characteristic functionalities.
- M. **“Applicable Privacy Legislation”**: the European Data Protection Regulation 2016/679 (GDPR); Legislative Decree No 196 of 30 June 2003, Personal Data Protection Code, as supplemented with the amendments introduced by Legislative Decree No 101 of 10 August 2018; measures issued by the Data Protection Authority, which the Data Controller is required to apply when processing the data.
- N. **“User”**: a natural person designated independently by the Customer and authorised to use the Software Product.
- O. **“End User Data Subjects”**: the natural persons whose personal data are entered by Users during their use of the Software Product or Additional Services.
- P. **“Force majeure”**: any unforeseen, unforeseeable or unavoidable event that lies beyond the control of MMB, whose occurrence does not result from any act or omission attributable to MMB and, by its nature, prevents the contractual obligations from being fulfilled.

## ARTICLE 2. SUBJECT

- 2.1 These General Terms and Conditions govern the contractual relationship between MMB and the Customer in relation to the Supply of Software Products and Additional Services.
- 2.2 In the event of conflict or inconsistency, later versions of the General Terms and Conditions shall take precedence over earlier versions.

## ARTICLE 3. REGISTERING ON THE PORTAL

- 3.1 MMB assigns Customers specific confidential credentials (user name and password) (“Credentials”) to access the Portal, where they can find all information related to the Software Products and Additional Services provided by MMB.
- 3.2 The Parties acknowledge that entry of the Credentials shall constitute the exclusive and sufficient means of identifying the Customer. All operations performed on the Portal following access by means of the Credentials shall be deemed to have been performed by the Customer. The Customer is solely responsible for storing the Credentials and undertakes to keep them secret and to safeguard them with due diligence. Accessing the Portal and utilising the Software Products and Additional Services by means of the Credentials releases MMB from any liability towards the Customer.

## ARTICLE 4. SOFTWARE PRODUCTS AND ADDITIONAL SERVICES

- 4.1 For the Software Products, please refer to the relevant User Licence for anything not specifically governed by these General Terms and Conditions.
- 4.2 In order to use the Software Products and each individual Additional Service, the Customer must first obtain any hardware and/or software required to meet the system requirements as set out in the relevant Product Data Sheet.
- 4.3 The Customer acknowledges and agrees that certain Additional Service functionalities may be provided by third parties (**“Third-Party Providers”**). Although MMB is committed to reasonably mitigating any inconvenience to the Customer, it shall not be held liable for events attributable to Third-Party Suppliers (including but not limited to malfunctions, operational failures, contractual defaults, unlawful terminations, or insolvency proceedings).
- 4.4 MMB may analyse and process data entered by the Customer in the Portal or Products/Services in order to conduct statistical analyses. Such processing is intended to optimise the Products and thus improve the



Customer's user experience, as well as to seek development opportunities, including through the use of artificial intelligence technologies..

## ARTICLE 5. SUPPORT FEATURES

- 5.1 The Customer and staff of its organisation acting on its behalf can contact the Support Centre to receive telephone support and, where considered necessary, remote support from MMB employees. Our telephone number and the Support Centre opening times can be found on our company website.
- 5.2 Any other dedicated telephone numbers can be found in the User Manual for the specific Product. The Customer may also email [assistenza@mmbsoftware.it](mailto:assistenza@mmbsoftware.it) to receive instructions for using Products and Additional Services, suggest new developments or report any operational problems.
- 5.3 To ensure the proper performance of Support activities, the Customer undertakes to guarantee MMB the following within the timeframe and according to the procedures specified by the Support Centre:
- (i) availability of the necessary staff to carry out support operations, both on-site and remotely;
  - (ii) access to hardware and software environments configured in accordance with the technical specifications provided by the Support Centre;
  - (iii) all technical information relating to third-party environments that may need to be interconnected with those being repaired, so that MMB can design, configure and validate the technical integration with external environments, such as, by way of example, connection parameters (IP addresses, ports, credentials, secure access protocols – VPN, SSH, API keys, etc. – required to connect to external systems); network configurations (firewall rules, VLAN segmentation, or security policies relating to third-party systems that need to communicate with those supported by MMB); software or operating system versions used in third-party environments, which may be relevant for assessing compatibility, minimum requirements or any conflicts;
  - (iv) any additional data, documents or technical information required by the Support Centre to perform the activities.
- 5.4 MMB reserves the right to contact the Customer if a fault is found in order to improve the Support, even if the Customer does not notice any errors or problems when using the Software Product and/or Additional Services.
- 5.5 MMB does not guarantee to provide Support if malfunctions are found in Software Product and/or Additional Services caused by misuse, negligence, carelessness or tampering, even if these are caused by third parties or force majeure affecting the Customer's software/hardware resources. In these cases, it may be necessary to call out a technician appointed by MMB, the fee for which is not covered by the Contract and will be negotiated between the Parties.
- 5.6 MMB shall not be liable for any interruptions, errors or malfunctions in Software Products and/or Additional Services, even if these occur as a result of providing Support, except in cases of wilful misconduct or gross negligence.

## ARTICLE 6. SMS SERVICE

- 6.1 MMB holds a general permit to provide electronic communication services under Article 11 of the Communications Code and is registered in the Register of Communication Operators ("ROC"). It is an authorised Provider of Business Messaging Services using an Alias (referred to by the acronym "FS") under Agcom Resolution 12/23/CIR (the "Alias Resolution").
- 6.2 The Customer acknowledges and agrees that the SMS Service is provided through a Third-Party Message Delivery Service Provider (referred to by the acronym "FC"), which also holds a general permit to provide electronic communication services under Article 11 of the Electronic Communications Code (Legislative Decree 259/2003), registered with ROC and licensed as a provider of business messaging services using an Alias under the Alias Resolution.



- 6.3 The SMS Service can only be purchased in SMS packages (“SMS Packages”), available in pre-set sizes. Buying an SMS Package, entitles the Customer to send a certain number of SMS messages via the Software Product.
- 6.4 The customer may send SMS messages by setting an alphanumeric code consisting of eleven (11) characters (“Alias”) as the sender. The Customer may be allocated Aliases by the Supplier, by communicating the necessary data (such as name, registered office, tax code/ VAT No, certified email address (PEC), contact data and other relevant information) in order to allow their registration in the Register referred to in Article 4 Annex A of the Alias Resolution (“Agcom Register”). If the SMS is not compliant with the Alias Resolution, it may be blocked by the Third-Party Provider. Alternatively, it may be sent but the Alias will be replaced by a sender number assigned by the Third-Party Provider. If the SMS is blocked, the customer will be notified by a popup or error message.
- 6.5 The Customer acknowledges that MMB and the Third-Party Provider hold no liability or obligation (whether arising from the contract or due to tort, negligence or another cause) regarding the content of communications sent by the Customer via the SMS Service.
- 6.6 The Customer undertakes to comply with (and to ensure that all Users comply with – including under Article 1381 of the Italian Civil Code) the applicable laws, rules and regulations relating to the use of the SMS Service, including privacy legislation and the Alias Resolution.
- 6.7 Unless MMB and/or the Third-Party Provider are subject to direct obligations imposed by privacy legislation, the Customer acknowledges that MMB and/or the Third-Party Provider have no control over the personal data of the Customer, Users and/or End Customer Data Subjects in the context of SMS Service provision and do not actively monitor the content of personal data pertaining to the Customers of Users and/or End Customer Data Subjects. The Customer shall ensure and undertake sole responsibility for the accuracy, quality, integrity and lawfulness of personal data belonging to Users and/or End Customer Data Subjects and guarantee that its use (including use in connection with purchased Software Products) complies with all applicable Laws and intellectual property rights.

## **ARTICLE 7. INTELLECTUAL AND INDUSTRIAL PROPERTY**

- 7.1 The Software Products, Additional Services and related intellectual property rights (copyright) are and remain the exclusive property of MMB and/or Third-Party Providers for which MMB is a licensee. In the same way, MMB is the exclusive owner of all rights and industrial property interests relating to its trademark and distinctive marks, which the Customer may reproduce and use only within the limits and conditions expressly authorised by MMB.
- 7.2 The Customer acknowledges and agrees that the software, software components, software semi-finished products, applications, software source codes, databases, working material, collected data, databases and their structure, mathematical criteria and algorithms, models and computational calculations, methodologies and know-how which to any degree implement and/or form an integral part of the Software Products and/or Additional Services are and remain the exclusive property of MMB and may not be used for purposes other than those strictly related to performance of the Contract.

## **ARTICLE 8. STARTING DATE, DURATION, CANCELLATION AND WITHDRAWAL**

- 8.1 The duration of the Contract shall be 12 (twelve) months from the date of its signature, subject to the specific provisions of the relevant User Licence, the Licence Renewal Contract and the respective Order Forms.
- 8.2 The Contract shall be renewed by tacit agreement for a further 12 (twelve) months and so on from year to year, unless cancelled by the Customer by certified email (PEC) or registered letter with return receipt, giving a notice period of at least 90 calendar days from the expiry date.
- 8.3 In the event of cancellation by the Customer, the Contract shall be deemed terminated at the end of its term without the Customer being entitled to make any financial or other claims against MMB.



- 8.4 MMB has the right to withdraw from the Contract at any time by giving at least 60 (sixty) calendar days' prior written notice to be sent by certified email (PEC) or registered letter with return receipt. The Customer shall be entitled to withdraw from the Contract only under the circumstances described in Sections 9.6 and 15.2 below, and the Customer shall only be entitled to reimbursement of any residual fee already paid, to the exclusion of any further indemnity and/or compensation.

#### **ARTICLE 9. FEES, AMENDMENTS AND CHANGES**

- 9.1 The Parties agree that the total fee for the Licence to use the Software Products and for the provision of Additional Services and/or Support is that indicated in the Order Form net of VAT and any other legal charges.
- 9.2 The Support Fee for the first year the Contract is in force is included in the Software Product purchase price. From the second year the Contract is in force, the Customer shall be liable to pay the fee set out in the Licence Renewal Contract or in its amending form, in accordance with the terms and conditions stipulated therein.
- 9.3 MMB shall issue an invoice for annual renewal of the Contract during the month before renewal.
- 9.4 MMB shall issue the invoices referred to in section 9.3 directly to the Customer unless the Customer requests or otherwise authorises the direct issue of an invoice by its sales representative.
- 9.5 At the annual renewal, MMB is entitled to increase the fee referred to under points 9.1 and 9.2 by an amount that does not exceed the increase in the cost of living for families of workers and employees as measured by the Italian Institute of Statistics (ISTAT).
- 9.6 MMB reserves the right to change the price of the Software Products and/or Additional Services, even by an amount higher than that referred to in the previous section, by notifying the Customer by certified email (PEC) or by registered letter with return receipt, giving 60 (sixty) calendar days' notice. Within this term, the Customer shall have the right to withdraw from the Contract, by giving notice by certified email (PEC) or by registered letter with return receipt. After this period has elapsed without the Customer stating its intention to withdraw, the fee change shall be deemed to have been accepted.
- 9.7 The Customer acknowledges and agrees that non-payment and/or delayed payment of the fee for the Software Product Licence, as well as the fee for the Licence Renewal Contract and/or its amendments, shall entitle MMB to suspend use of the Software Product and Additional Services, unless section 13.1 (ii) below applies.

#### **ARTICLE 10. SERVICE UPDATES, SUSPENSION AND INTERRUPTION**

- 10.1 The use of Software Products and/or provision of Additional Services or Support may be suspended due to the need to update the Software Products or update MMB's internal infrastructure or due to Third-Party Suppliers, unforeseeable circumstances or force majeure without any liability on the part of MMB, which undertakes to minimise the technical down time in such cases.
- 10.2 During the term the Contract remains in force, the Customer shall be entitled to receive all updates (*updates, upgrades, patches corrective and new versions*) issued by MMB or imposed by legislative measures for the Software Products and/or Additional Services.
- 10.3 MMB is entitled to stop the Software Products/Additional Services and/or Support without any liability and in any case giving prompt notice to the Customer, if there are reasonable grounds to believe that there may be problems of security and/or protection of privacy rights, in cases of force majeure or by order of an Authority.
- 10.4 Except in cases of wilful misconduct and gross negligence, MMB shall not be liable for any losses suffered by the Customer and/or any third party as a result of suspensions, delays or interruptions of the Software Products and/or Additional Services due to technical reasons or due to causes attributable to a Third-Party Provider.



- 10.5 Any suspension and/or interruption of the operation of the Software Products and/or Additional Services for the reasons set out in the previous sections shall not affect the Customer's obligation to pay the fees due under the Contract.

#### **ARTICLE 11. LIMITATIONS OF LIABILITY**

- 11.1 The use of the Products and Additional Services is subject to compliance with installation requirements indicated in the Product Data Sheet or User Manual, or requirements to be communicated by MMB, and MMB cannot be held liable in the event of failure to comply with system requirements.
- 11.2 MMB does not guarantee the completeness and suitability of the Original Application Data, including data arising from any updates released after the initial installation. That said, it is the sole responsibility of the Customer to undertake due professional diligence in order to verify the accuracy of these data and the operations performed by the Software Product/Additional Services as well as their compliance with the applicable regulations.
- 11.3 MMB shall not be liable for damages resulting from causes not attributable to it, including, but not limited to, accidental events, natural disasters, changes to the hardware configuration using parts or devices not purchased and not installed by the Supplier; system configuration changes not carried out by the Supplier; attacks and intrusions on the Customer's information system; damage to the system resulting from malicious software (including, but not limited to viruses and spyware); loss of data or files during the provision of Support; disclosure of personal data.
- 11.4 MMB does not guarantee the actual delivery of any newsletters that it may send to Customers. The effectiveness of messaging and/or mailing systems is dependent on the Customer having correctly configured the reception system. Failure to receive newsletters or notifications that new Software Product/Additional Service versions are available does not constitute a failure by MMB to provide the Service, as the Customer is responsible for keeping up to date with new Product/Additional Service versions as they become available.
- 11.5 With the exception of cases of wilful misconduct and gross negligence, if the provisions of the Contract are infringed, MMB's liability to the Customer shall be limited exclusively to compensation for consequential damages and in any case shall not exceed an amount equal to the amount due for the Software Product and/or Additional Services in dispute, for as long as the Contract remains in force.

#### **ARTICLE 12. PROHIBITION ON TRANSFER OF THE CONTRACT**

- 12.1 The Customer cannot transfer part or all of the Contract or individual purchased Software Product User Licence to third parties, even free of charge, without MMB's prior written consent.
- 12.2 Software products may only be accessed, exploited and used by the Customer and Users. MMB is not liable in the event of unauthorised access and/or use.
- 12.3 MMB shall be entitled to analyse the IP addresses from which access and use requests originate. If it detects unauthorised access and/or use, MMB may immediately terminate the Contract, revoke the User Licence and discontinue the use of Additional Services, reserving the right to compensation for any damage suffered.

#### **ARTICLE 13. CONTRACT TERMINATION AND SOLVE ET REPETE CLAUSE**

- 13.1 MMB reserves the right to terminate and/or suspend the Contract, in accordance with Article 1456 of the Italian Civil Code, by written notice to be sent by certified email (PEC) or registered letter with return receipt, in the following cases:
- (i) failure, even in part, to comply with the obligations set out in Article 7 - Intellectual and Industrial Property;
  - (ii) late or non-payment of fees due, as provided for in Article 9 above;;



- (iii) infringement, even partial of Software Product User Licence obligations provided for in Articles 2 - Intellectual and Industrial Property Rights; 4 - Transfer of the Licence; 6 - Restrictions on Use and Term of Validity; 7 - Personal Data Processing: subject-specific privacy roles of the Parties;
- (iv) the Customer has outstanding administrative obligations or debts towards MMB or companies controlled by and/or affiliated with MMB under Article 2359 of the Italian Civil Code in relation to the Software Products and/or Additional Services and/or Support;
- (v) the Customer has been declared bankrupt or applied for an arrangement with creditors or for receivership or other insolvency proceedings.

13.2 The Customer may not raise any dispute or objection with MMB in order to avoid or postpone its obligations until it has fulfilled them in full, particularly the payment of fees due to MMB.

#### **ARTICLE 14. PERSONAL DATA PROCESSING AND INDIVIDUAL PRIVACY ROLES**

- 14.1 The Parties mutually acknowledge that, in their capacity as autonomous data controllers, they shall process personal data as necessary for the commercial, administrative, and accounting management of the contractual relationship. This includes the communication of such data to public or private entities, in accordance with legislative obligations and any other requirements arising from national or EU laws and regulations. Furthermore, such processing may be carried out to safeguard their legitimate interests in the context of extrajudicial or judicial proceedings, and shall be conducted in full compliance with applicable data protection legislation. The Customer can consult the full Personal Data Processing Policy (MIP\_1-679-2016) on our company website.
- 14.2 Where applicable, the Parties shall enter into supplementary contractual clauses to this Agreement, defining their respective privacy roles based on the nature and context of personal data processing activities undertaken in connection with the provision of Additional Services linked to the purchase of a user licence for each Software Product. In this regard, the user licence specifies the respective privacy roles of the Parties, as well as the mandatory contents set out in the relevant Articles of the GDPR; it is understood that if the Customer wishes to supplement or amend the contents, or wishes to sign their own document, they shall forward a request to [trattamentodati@mmbsoftware.it](mailto:trattamentodati@mmbsoftware.it), or contact our Data Protection Officer directly at [rpdp@mmbsoftware.it](mailto:rpdp@mmbsoftware.it), to enable us to carry out the necessary evaluations.
- 14.3 MMB reserves the right to anonymise and/or pseudonymise personal data processed, thereby exempting such data from the scope of data protection legislation. This enables further use of the data for additional business purposes.

#### **ARTICLE 15. AMENDMENTS TO THE CONTRACT**

- 15.1 MMB reserves the right to amend/adjust/update these General Terms and Conditions based on legislative/regulatory and/or technological developments and/or business trends, giving appropriate prior notice to the Customer by email and/or certified email (PEC) and/or registered letter with return receipt.
- 15.2 From the date of receipt of the information referred to in the preceding point, the Customer may exercise the right of withdrawal within 30 (thirty) calendar days, by written notice to be sent by certified email (PEC) or registered letter with return receipt. After this period, the change/amendment/update shall be deemed to have been accepted by the Customer.

#### **ARTICLE 16. MISCELLANEOUS**

- 16.1 Any tolerance by MMB of the Customer's failure to comply with one or more of the contractual provisions does not imply acquiescence or waiver of the relevant right.
- 16.2 The nullity, invalidity or unenforceability of any provision of this Contract shall not invalidate the other provisions, which shall remain in force. Where appropriate, the Parties shall negotiate in good faith to replace any provision that is found to be null, invalid, or unenforceable with a valid provision that achieves an equivalent economic effect.



**ARTICLE 17. APPLICABLE LAW, REGULATORY SOURCES GOVERNING NEGOTIATION AND JURISDICTION**

- 17.1 The Contract shall be governed by and interpreted in accordance with Italian law and any remaining matters not governed by these General Terms and Conditions shall be subject to the provisions of the Italian Civil Code.
- 17.2 The Court of Ravenna shall hold exclusive jurisdiction in the event of any dispute between the Parties over the interpretation, application or performance of the Contract, including any enforcement and/or precautionary measures.

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The Customer's online acceptance of the clauses set out in these General Terms and Conditions shall be equivalent to an express statement, under Articles 1341(2) and 1342 of the Italian Civil Code, that they have read, understood and accepted the clauses set out in this Contract: Article 3 (Registering on the Portal); Article 4 (Software Products and Additional Services); Article 5 (Support Features); Article 6 (SMS Service); Article 7 (Intellectual and Industrial Property); Article 8 (Starting Date, Duration, Cancellation and Withdrawal); Article 9 (Fees, Amendments and Changes); Article 10 (Service Updates, Suspension and Interruption); Article 11 (Limitations of Liability); Article 12 (Prohibition on Transfer of the Contract); Article 13 (Contract Termination and Solve et Repete Clause); Article 14 (Personal Data Processing and Individual Privacy Roles); Article 15 (Amendments to the Contract); Article 16 (Miscellaneous); Article 17 (Applicable Law, Regulatory Sources Governing Negotiation and Jurisdiction).