General Terms and Conditions of x-cellent technologies GmbH

1. Preamble

1.1 x-cellent technologies GmbH, Rosenkavalierplatz 10, 81925 Munich (https://metalstack.cloud/) (hereinafter: Provider) provides its customers with hosting resources for cloud-based operation with automatic load balancing (hereinafter: Scaling) in accordance with these General Terms and Conditions (hereinafter: GTC) via the Platform https://console.metalstack.cloud/ (hereinafter: Platform). The Customer wants to use these hosting resources.

1.2 This Agreement regulates the terms and conditions for the use of the Platform and Individual Contracts concluded through the Platform.

1.3 The Provider will only make a binding offer to conclude a contract or accept the binding offer of the Customer if the Customer is a company based in the EU or a person who is engaged in the exercise of its commercial business or profession and has its habitual residence within the EU.

2. Platform User Agreement

2.1 Upon registration, the Provider and the Customer conclude a contract that entitles the Customer to use the Platform (hereinafter: User Agreement). The scope of the Provider's services includes at least the possibility of concluding and managing Individual Contracts for hosting resources. The service descriptions on the Provider's Platform apply in addition.

2.2 A User Agreement is concluded as follows: The Customer submits an offer to conclude a User Agreement by completing the registration form and clicking on the button labelled 'Register' (or a similar label). The User Agreement can be accepted by the Provider by sending a corresponding success message to the Customer or by sending a corresponding declaration by e-mail.

2.3 Upon registration, the Customer receives a free, non-exclusive, non-transferable and non-sublicensable right to use the Platform.

2.4 The Customer will have access to a user account, which is a prerequisite for concluding Individual Contracts for the provision of hosting resources via the Platform.

3. Conclusion of Individual Contracts via the Platform

3.1 The Customer is entitled, but not obliged, to conclude Individual Contracts with the Provider based on the User Agreement in accordance with Section 2.

3.2 The registered Customer can conclude an Individual Contract with the Provider via the Platform for the provision of hosting resources with different levels of performance (hereinafter: Individual Contract). The Individual Contract is concluded as follows: The Customer submits his offer to conclude an Individual Contract by filling out the order form and clicking on the corresponding button or by making the corresponding entry in the associated command line tool. The Individual Contract can be accepted by the Provider by sending a corresponding success message to the Customer or by sending a corresponding declaration by e-mail.

4. Services and Obligations of the Provider

4.1 The Provider shall provide the hosting resources ordered by the Customer with automatic Scaling during the contractually agreed term in accordance with Section 8. The Customer can create various clusters and select the region of the location, the performance of the hardware, the storage space, the minimum and maximum number of instances available for scaling in this cluster and the type of IP address. The type and scope of the service can also be changed after a cluster has been created. Furthermore, the Customer can also book additional storage (volumes) and create a backup (snapshot) of his existing volumes. The customer can also book additional IP addresses.

4.2 The cluster can be administered via the Platform and via an associated command line tool.

4.3 The Provider is not obliged to provide the hosting resources with a specific hardware to the Customer, but is free to choose the hardware, as long as the hosting resources provided meet the requirements chosen by the Customer in terms of region, type and scope of performance.

4.4 Scaling across the various instances and thus the actual use of the instances is done automatically by the Kubernetes Autoscaler software. The Customer can specify the minimum and maximum number of instances within which the Scaling should take place.

4.5 Access to the storage space intended for the Customer is established through the Platform.

4.6 The Provider's services for the transmission of data are limited solely to data communication between the transfer point of the Provider's own data communication network operated by the Provider and the Internet and the hosting resources provided for the Customer. It is not possible for the Provider to influence data traffic outside its own communications network. Successful forwarding of information from or to the computer requesting the content is not owed.

4.7 The data on the provided hosting resources are not backed up by the Provider and the Provider does not create log files for the use of the resources by the Customer.

4.8 The Provider is entitled to involve subcontractors in the provision of services.

4.9 The service descriptions on the Provider's Platform apply in addition to these GTC.

5. Rights and Obligations of the Customer

5.1 The Customer is solely responsible for backing up his data and is also obliged to do so in relation to the Provider.

5.2 The Customer is obliged not to store any unlawful data or content that violates the law, official requirements, third-party rights or this Agreement (here-

inafter: Unlawful Content) on the storage space provided and to comply with the applicable law and this Agreement when using the hosting resources.

5.3   The Customer shall also ensure that its use does not compromise the operation of its own and other hosting resources and the Provider's communications network. In particular, the Customer must take appropriate protective measures (e.g. up-to-date virus scanners) to ensure that no viruses or other malware are transmitted to the Provider's systems.

5.4   The Customer shall indemnify the Provider against any claim by third parties, including the costs incurred by the claim, in particular the costs of legal defense, if the claim by third parties is caused by the Customer's use of the hosting resources.

5.5   The Customer or third parties can report Unlawful Content at any time to the email address of the central contact point in the Provider's imprint. The report should contain the following information: the Unlawful Content, its exact storage location, e.g. URL, an explanation of the unlawfulness, the name and email address of the reporting person and a declaration that the reporting person is convinced in good faith of the completeness and accuracy of the information. If possible, the Provider shall immediately confirm receipt of the report to the reporting person by automatic process.

5.6   The Provider shall manually review Unlawful Content in a timely manner after it is reported or the Provider gains knowledge of it and shall immediately inform the affected Customer and, if possible, the reporting person about the review, the result of the review, the measures taken and possible legal remedies, e.g. a statement, and shall justify and document the decision and measures.

5.7   In the event of an imminent or actual breach of Sections 5.2 and 5. 3 as well as in the event of the assertion of not obviously unfounded claims by third parties against the Provider for the Customer to refrain from using the hosting resources, the Provider is entitled, taking into account the legitimate interests of the Customer, to request the Customer to delete the Unlawful Content, to block or delete the Unlawful Content itself, to permanently or temporarily suspend the provision of the hosting resources in whole or in part with immediate effect and/or to terminate the Agreement with immediate effect. The Provider shall inform the Customer of this measure.

5.8   Otherwise, no algorithmic decision-making or other automated procedures take place for the moderation of content or for the review of reports.

5.9   The Customer may only pass on access to the Platform to persons who have been authorized by the Customer to access the hosting resources in the interests of the Customer. The Customer is not authorized to provide access to hosting resources to third parties for their own use. In particular, the Customer is not authorized to transfer access to hosting resources to third parties for a fee.

6.   Availability

The Provider offers availability of the hosting resources and quality of service in accordance with the Service Level Agreement https://metalstack.cloud/dl/compliance/SLA_metalstack.cloud_EN.pdf in the version applicable at the time of conclusion of the respective contract.

7.   Reference Naming

The Provider is entitled to name the Customer, including the company name and logo, for reference purposes on the Provider's website and in offline marketing materials such as flyers and product presentations.

8.   Term

8.1   The User Agreement pursuant to Section 2 and the respective Individual Contracts pursuant to Section 3 shall run for an unlimited period of time and may be terminated at any time without notice. The termination of Individual Contracts shall not affect the term of the User Agreement and the term of other Individual Contracts. The termination of the User Agreement terminates all Individual Contracts concluded under this User Agreement.

8.2   A termination can be made in writing or by text form, e.g. e-mail.

8.3   The right of both Parties to terminate the contracts for good cause remains unaffected by the above provision.

9.   Support for Changing Providers

9.1   The User Agreement or an Individual Contract shall terminate in accordance with the provisions of this Section, regardless of the requirements of Section 8, if the Customer requests a change of provider in accordance with the requirements of this Section. The change of provider includes both the change to the Customer's own infrastructure and the change to another provider or a request for deletion in connection with an Individual Contract or all contracts with the Provider.

9.2   In order to initiate a Switching Phase (hereinafter: Switching Phase), the Customer must notify the Provider in writing at least two (2) months before the start of the Switching Phase desired by the Customer (hereinafter: Switching Request). The Switching Request must clearly express that a change is intended in accordance with the provisions of this Section and should contain a declaration that the Customer wants to change providers, to which other provider the Customer wants to change, whether he wants to change to his own infrastructure or whether he wants to delete his data and which contracts this affects. This declaration can also be made after the start of the Switching Phase.

9.3   During the Switching Phase, the Provider will provide the following services to the Customer and/or a third party authorized by the Customer:

9.3.1 The Provider will notify Customer of known risks to the uninterrupted provision of the Services and, if applicable, provide information about the software that makes the change very complicated, costly, or impossible without significant interference with the data, digital assets, or service architecture.

9.3.2 The Provider will transfer all Exportable Data to the Customer, provided that such transfer does not compromise or disclose the Provider's intellectual property or trade secrets or compromise the security and integrity of the Exportable Data. Exportable Data in this context means all input and output data, including metadata, generated directly or indirectly by the Customer's use of the Provider's services in connection with the respective Agreement, including all digital assets of the Customer, with the exception of the assets or data of the Provider or third parties that are protected by intellectual property rights or constitute a trade secret.

9.3.3 The Provider transmits the data using the following transmission methods and in the following file formats, but at least in a structured, commonly used and machine-readable format: The data is provided by email in a ZIP folder. The data is provided in a JSON format.

9.3.4 The following data can be transmitted: Metadata on the individual clusters, including term and who has provisioned them. Metadata on projects, who is a member of a project, which clusters belong to a project, IPs that have been allocated in a project and which storage volumes have been provisioned. Metadata on organizations, who is a member of an organization and which projects belong to an organization.

9.3.5 The following data categories of Exportable Data are specific to the internal functioning of the Provider's software and are excluded from the Exportable Data to be transmitted if there is a risk of infringement of the Provider's trade secrets: central monitoring data, overarching system data.

9.3.6 The Provider will provide reasonable assistance during switching and act with due diligence to maintain the continuity of business operations during the change and to continue the provision of the contracted functions or services until the completion of the change.

9.3.7 The Provider will ensure a high level of data security when switching.

9.3.8 If the Customer changes to a service of the same service type, the Provider shall provide capacities, appropriate information, documentation material, technical support if necessary, any necessary tools and other appropriate measures at its disposal to enable the Customer to achieve functional equivalence with the new provider.

9.3.9 Upon request, the Provider will support the Customer in its exit strategy within the scope of what is reasonable, if the Customer informs the Provider at least in text form about this strategy and the services to be provided by the Provider for this purpose.

9.4 The Switching Phase is generally thirty (30) days. The Switching Phase ends with the expiry of this period or with the actual completion of the change, whichever occurs earlier. If the Customer requests the deletion of his data, the Switching Phase ends immediately after it begins.

9.5 Notwithstanding Section 8 (1), the end of the Switching Phase shall be deemed to be the termination of the contracts. The Provider will notify the Customer of the end of the contracts.

9.6 If the Provider determines that the Switching Phase of thirty (30) days is not sufficient because the change is not technically feasible within this period, it may inform the Customer thereof within fourteen (14) working days from the Switching Request, stating the reasons for it, and extend the Switching Phase by a reasonable period of no more than seven (7) months.

9.7 If the Customer determines that the Switching Phase is not sufficient, the Customer can extend the period once by a reasonable period of time.

9.8 The Customer owes the agreed remuneration for the use of the hosting resources in accordance with Clause 10.2 until the successful change to the other provider. If the contracts are terminated before the end of an agreed term, the remuneration claim already accrued for this term remains unaffected.

9.9 The Provider will provide the Exportable Data for a maximum of thirty (30) days after the end of the contracts and delete all Exportable Data of the Customer and data relating to the Customer that it still holds, unless the Provider and the Customer have mutually agreed on a different period of time or a change according to this Section has not yet been successfully completed.

10. Fee; Billing

10.1 Registration in accordance with Section 2 is free of charge.

10.2 For the provision of hosting resources by Individual Contract in accordance with Section 3, the Customer shall pay the agreed fee for the use per instance and per minute. All other services of the Provider are also billed per minute, unless expressly agreed otherwise. The prices can be found on the Provider's website under https://metalstack.cloud/de/prices.

10.3 The Customer can specify a minimum and maximum limit for the fee incurred by selecting the minimum and maximum number of instances available.

Scaling beyond the maximum number of instances specified by the Customer is not provided or is only provided free of charge.

10.4   The fee for the provision of the hosting resources for the respective calendar month is due at the end of each calendar month.

10.5   The data transmission and deletion in accordance with Section 9 shall be carried out without additional charge.

10.6   The Provider will issue an invoice to the Customer for the agreed fee and make it available to the Customer for retrieval in his user account and send it by e-mail.

10.7   The fee due will be collected from the deposited means of payment after invoicing.

10.8   All prices are subject to the applicable statutory value added tax.

11.   Data Protection and Data Security

11.1   If personal data is to be processed on behalf of the Customer as data processing, the Customer and the Provider shall conclude a Data Processing Agreement. For this purpose, the Provider shall provide the Customer with the template for the Data Processing Agreement after conclusion of the Agreement. If the Customer intends to process personal data, it is obliged to complete and sign the Data Processing Agreement and return it to the Provider.

11.2   The Provider shall also take appropriate technical, organizational and contractual measures to secure non-personal data, in particular to prevent international state access/transmission in contravention of EU or national law. These include physical firewalls for each cluster, the option of bring-your-own-key, access restrictions, training, internal guidelines and contractual obligations for service providers.

12.   Limitation of Liability

12.1   Within the scope of this Agreement, the Provider shall only be liable for damages (a) which the Provider or its legal representatives or vicarious agents have caused intentionally or through gross negligence or (b) which have arisen from injury to life, body or health due to a breach of duty by the Provider or one of its legal representatives or vicarious agents. The Provider shall also be liable (c) if the damage was caused by the breach of an obligation of the Provider, the fulfilment of which is essential for the proper performance of this Agreement and on the observance of which the Customer regularly relies and may rely (Cardinal Obligation).

12.2   In the cases of paragraph 1 of this section, letters (a) and (b), the Provider shall be liable to the extent of the statutory scope of liability. Otherwise, the claim for damages shall be limited to the foreseeable damage that is typical for this type of contract. The Parties agree that the maximum foreseeable damage is EUR 100,000 per case of damage typical for this type of contract. If the Customer is at risk of damage that

may exceed this amount, he is obliged to inform the Provider of this immediately.

12.3   In cases other than those mentioned in paragraph 1, the liability of the Provider is excluded regardless of the cause in law.

12.4   The liability provisions in the above paragraphs also apply to the personal liability of the organs, employees and vicarious agents of the Provider.

12.5   Insofar as liability under the German Product Liability Act, from the assumption of a guarantee or due to fraudulent misrepresentation comes into consideration, it remains unaffected by the above liability provisions.

13.   Final Provisions

13.1   The Provider does not accept any deviating, conflicting or supplementary General Terms and Conditions of the Customer. This shall also apply if he does not expressly object to their inclusion.

13.2   All contracts can be concluded in German and English. The contract texts are not stored by the Provider. The contract texts are sent to the Customer once by e-mail when the contract is concluded.

13.3   The assignment of claims is permissible for the Customer with the prior written consent of the Provider. Consent may not be unreasonably withheld. The provision of Section 354a of the German Commercial Code (HGB) remains unaffected by this.

13.4   A right of retention can only be asserted on the basis of counterclaims arising from the respective contractual relationship. The contracting Parties may only offset claims that have been legally established or are undisputed.

13.5   German law applies to the exclusion of the provisions of Private International Law and the UN Convention on Contracts for the International Sale of Goods.

13.6   For all disputes arising out of or in connection with this Agreement (including those concerning its validity), the courts of Munich shall have exclusive jurisdiction in the first instance.

13.7   The Provider is entitled to change the GTC insofar as the changes are reasonable for the Customer. Changes to the GTC will be notified to the Customer in good time at least six weeks before the amended GTC come into force in writing, by e-mail or in any other suitable manner. The changes shall be deemed to have been approved and shall be binding upon entry into force for an existing contractual relationship if the Customer does not object in writing or by e-mail within one month of receipt of the notification of the change. The Customer will be specifically informed of this consequence when notifying the change.

13.8   Changes and additions to this Agreement as well as a waiver of a right under this Agreement must be made in writing or text in order to be effective. This also applies to the waiver of the written or text form requirement.

13.9 If any provision of this Agreement is invalid or unenforceable in whole or in part, or if its validity or enforceability subsequently ceases to exist, or if a loophole becomes apparent, this shall not affect the validity of the remaining provisions. The Parties undertake to agree on an appropriate provision in place of the invalid or unenforceable provision or to fill the loophole, which, as far as legally permissible, comes closest to what the Parties wanted or would have wanted according to the spirit and purpose of the Agreement if they had known the invalidity or the loophole. If the invalidity or unenforceability of a provision is based on a measure of performance or time (deadline or deadline) specified therein, the legally permissible measure that comes closest to the provision must be agreed. It is the express intention of the Parties that this paragraph does not result in a mere reversal of the burden of proof, but that § 139 of the Civil Code is waived in its entirety.

13.10 This Agreement shall be executed in German and English. In the event of any inconsistency between the two language versions, the German version shall take precedence over the English version.

Date: April 2025