

General Purchase Conditions of de Volksbank N.V.

(version of March 2020)

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CHAPTER 1. DEFINITIONS

1 Definitions

These General Purchase Conditions apply to all Agreements between the Customer and the Supplier with regard to the purchase and/or delivery and/or transfer (of ownership) of Products and the provision of Services by the Supplier, and to Items made available by the Customer that are stored on the Supplier's premises.

In these General Purchase Conditions, the following terms will have the meanings stated. These terms will be capitalised.

1.1 Customer:

De Volksbank N.V., having its registered office at Croeselaan 1, 3521 BJ Utrecht, the Netherlands.

1.2 General Purchase Conditions:

The Customer's general purchase conditions.

1.4 Security Incident:

An actual or potential adverse event which affects or may affect the security or continuity of information (systems), as a result of which confidential information and/or personal data came into the possession or may (have) come into the possession of unauthorised persons.

1.5 Services:

The services as described in the Agreement.

1.6 Affiliated Enterprises:

All group companies as referred to in Section 2:24b of the Dutch Civil Code (*Burgerlijk Wetboek*) which are part of the group to which the Customer pertains.

1.7 Supplier:

Any natural person or legal entity with whom or which the Customer concludes the Agreement, negotiates about the formation of the Agreement, or towards whom or which the Customer performs any legal act in respect of Items, the supply of Products, proprietary rights and/or the provision of Services.

1.8 Agreement:

An agreement between the Customer and the Supplier for the supply of Products and/or Services, whether or not accompanied by documentation and/or appendices,

1.9 Staff of the Supplier:

Any natural person employed or hired by Supplier and engaged by Supplier in the performance of the Agreement.

1.10 Staff of the Customer:

Employees of the Customer, third parties engaged by the Customer and/or third parties designated by the Customer.

1.11 Products:

The goods, Activities and/or (user) rights to be provided by the Supplier, including Software, Hardware and/or (Cloud) Services as defined in **Article 30.1** below, including associated materials, data carriers on which the products are stored and documentation.

1.13 Items:

All items made available by the Customer to the Supplier and stored by the latter for the purpose of the fulfilment by the Supplier of the obligations under the Agreement.

Where these General Purchase Conditions use the terms 'written' or 'in writing', these will also mean 'by email'.

CHAPTER 2. GENERAL

2 General

- 2.1 Any general terms and conditions of the Supplier, other terms and conditions customary in the Supplier's industry and other non-statutory general terms and conditions will not apply and will not be binding, unless the Customer has expressly accepted all or part of these terms in conditions in writing. Such acceptance cannot be inferred from the Customer not contesting a statement by the Supplier to the effect that the latter does not accept the Customer's General Purchase Conditions and declares its own terms and conditions applicable. A reference by the Supplier at any time to its own general terms and conditions will not have any legal consequences, unless the Customer has expressly accepted these terms and conditions.
- 2.2 The Customer will conclude the Agreement also on behalf of Affiliated Enterprises. The Supplier undertakes to supply Products and/or Services to the Customer and Affiliated Enterprises. The Customer is entitled to demand performance of the Agreement, compensation and/or penalties for itself and on behalf of the Affiliated Enterprises. To this end, the Customer is entitled to bring legal action against the Supplier also on behalf of the Affiliated Enterprises. The Customer guarantees to the Supplier that the Affiliated Enterprises will commit to the relevant provisions of the Agreement. The Supplier may not demand performance directly from the Affiliated Enterprises themselves, but must address the Customer. The parties hereby expressly agree that the payment obligations relating to all that the Supplier supplies to the Customer and the Affiliated Enterprises under the Agreement will rest exclusively with the Supplier. In disputes concerning the Agreement, the Supplier will bring legal action only against the Customer and never against any of the Affiliated Enterprises.

3 Formation of the Agreement

- 3.1 Every offer made by the Supplier will be irrevocable. A request for quotation will not be binding on the Customer and will only constitute an invitation to make an offer.
- 3.2 An Agreement will only be formed if the Customer accepts the offer referred to in this **Article 3** in writing.

4 Prices

- 4.1 All prices and rates will be specified in the Agreement and will always be denominated in euros, including and excluding VAT. The Supplier will state the VAT separately in the Agreement.
- 4.2 If the parties agree on a fixed price/rate, the fixed price/rate will relate to the supply of the agreed Products and/or Services and all other work undertaken in that context. Unless the Agreement provides otherwise, these will at least include the provision of materials, the costs of packaging, transport, insurance and import, travel, subsistence and consultation costs and costs relating to (pre-)sales activities of Staff of the Supplier, costs associated with any import, export and excise duties imposed by the government and all costs of third parties engaged by the Supplier. Fixed prices will not be altered pursuant to a change in circumstances which affects the price.
- 4.3 If the parties agree that the fee owed will be calculated on the basis of subsequent costing, the Customer will owe the Supplier an amount which is determined by multiplying the number of hours necessarily spent by the Supplier, which can be demonstrated in writing, by the fixed rates agreed in writing between the parties. These fixed rates will at least include, but are not limited to, the provision of materials, the costs of packaging, transport, insurance and import, travel, subsistence and consultation costs and costs relating to (pre-)sales activities of Staff of the Supplier, and the costs of third parties engaged by the Supplier. If subsequent costing applies and materials are being

used, the Supplier will calculate the costs owed in that respect by multiplying the quantity of materials actually and demonstrably used by the agreed unit price for that material, on condition that the Customer approved the costs owed in that respect in writing prior to the use.

- 4.4 The price of the Products and/or Services will include (the costs of) the resources required by the Supplier that have been developed, manufactured or purchased for the purpose of the performance of the Agreement, such as documents, moulds, matrices, auxiliary materials, digital materials or cinematographic materials.
- 4.5 If the Agreement provides for repeated supplies of Products and/or Services at agreed fixed prices/rates, the following will apply. If there is reason to adjust the prices/rates specified in such an Agreement, the Supplier must submit a proposal for the envisaged price/rate change to the Customer by registered letter no later than three months before the end of the calendar year. This proposal must explain the necessity for each change and, upon request, demonstrate this necessity with supporting documentation. After the parties have reached written agreement about the price/rate levels to be applied, the agreed prices/rates will again be fixed. Any price/rate reductions will take effect immediately and will also apply to any Products and/or Services subsequently supplied under the Agreement. If the parties are unable to reach agreement about the price/rate setting after reasonable negotiations, the Consumer will be entitled to terminate all or part of the Agreement, without being obliged to pay compensation for costs or losses on the Supplier's part. The Agreements already in force by the time of the price/rate change will be performed entirely in accordance with the original prices/rates, unless the parties agree otherwise.

5 Payment

- 5.1 Invoicing will take place in accordance with the provisions of the Agreement. An invoice will refer to the cost centre and state the number of the Agreement, and will have been drawn up in accordance with the instructions in the brochure entitled 'Invoice Terms and Conditions for Suppliers' (*Factuurvoorwaarden Leveranciers*).
- 5.2 If the parties have agreed a fixed price, the Supplier will invoice the fee owed either as a lump sum or in parts, in accordance with what has been agreed in writing.
- 5.3 If the parties have agreed subsequent costing, the Supplier will charge the fees concerned to the Customer, properly itemised, in accordance with the provisions of the Agreement. The Supplier's invoices will be accompanied by itemisations of the number of hours demonstrably and necessarily spent and (where applicable) the costs incurred, and by documents substantiating the invoices.
- 5.4 The Customer will pay the amounts it owes pursuant to the Agreement to the Supplier within thirty days of receiving the invoice concerned, if these comply with the conditions set out in this **Article 5**. If the Customer does not effect payment (in full) within the thirty-day term, the Supplier will notify the Customer in writing within seven days of that term being exceeded. If the Customer fails imputably to fulfil its payment obligation and owes the Supplier compensation, such compensation will never exceed the statutory interest referred to in Section 6:119a of the Dutch Civil Code, while the collection costs as referred to in Section 6:96(2)(c) of the Dutch Civil Code will never exceed the amount owed pursuant to the Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtigde incassokosten*).
- 5.5 The Customer will be entitled to suspend payment of an invoice from the Supplier if there are reasonable grounds to suspect that this invoice is inaccurate or that the Products and/or Services invoiced are faulty. A payment term being exceeded, regardless of whether or not this is the result of a suspension, will not give the Supplier the right to suspend or terminate its Activities.
- 5.6 The Customer will always be entitled to verify the accuracy of invoices issued by the Supplier, or to arrange verification by a registered accountant of the Customer's choice. The Supplier will grant this registered accountant access to accounts and records and provide all the data and information which he requests. This audit will be confidential and will not extend beyond the procedures required to verify the invoices. The registered accountant will submit his report to both parties as soon as

possible. The costs of the audit will be payable by the Customer, unless the audit reveals that the Supplier's invoice was inaccurate. In the latter case, the costs will be payable by the Supplier.

- 5.7 The Customer has the right to suspend payment for the duration of the audit. The Customer will only exert this right if it has reasonable doubts about the accuracy of the invoices concerned, and only with regard to the contested part of the invoice.
- 5.8 If the audit report reveals that the Supplier issued inaccurate invoices, the Supplier will send the Customer a credit invoice and a correct new invoice within thirty days of the inaccuracy being established in the aforesaid report. Any amounts paid in excess by the Customer will either be offset against other invoices or refunded by the Supplier within fourteen days, this being at the Customer's discretion.

6 Contract extras and reductions

- 6.1 If additional wishes of Customer demonstrably increase the Services which the Supplier is to provide, they may result in contract extras which are eligible for compensation. If the Supplier believes that contract extras are involved, it will notify the Customer of this in writing without delay.
- 6.2 Contract extras do not include:
- a) Additional services whose performance the Supplier could or should have known to be necessary in order to supply the Products and/or Services in accordance with the Agreement;
 - b) services resulting from incorrect and/or incomplete (functional or technical) specifications, if these specifications were drawn up by or on the instructions of the Supplier or were accepted by the Supplier; and
 - c) services aimed at rectifying faults/errors in the Products and/or Services, and/or aimed at rectifying a breach of the Agreement.
- 6.3 If an adjustment to the Customer's wishes demonstrably simplifies and/or reduces the Services, it will result in contract reductions which justify a discount on the price originally offered. If the Customer believes that contract reductions are involved, it will notify the Supplier of this in writing as soon as possible.
- 6.4 Before starting any contract extras, or applying contract reductions, the Supplier will issue a (new) written quotation for the revised nature and scope of the services considered necessary by the Supplier for the purpose of supplying the Products and/or Services and the associated costs. The Supplier will not be entitled to impose further or more onerous conditions when issuing the quotation. The Supplier will not start the contract extras before it has received the Contractor's express written instructions to do so.
- 6.5 The Supplier will issue a separate invoice for contract extras after these contract extras have been completed and accepted by the Customer. The Supplier will send the Customer a credit note for contract reductions after these have been accepted by the Customer. The nature and scope of the Supplier's amended Services will be expressly stated in the invoices and itemised with reference to documentation.

7 Information provision and reporting

- 7.1 Both parties will designate a contact person and a substitute contact person, who will maintain contact about the performance of the Agreement and the manner in which this is done. Unless expressly indicated otherwise in writing, these contact persons will be authorised to represent the party which designated them in the context of the performance of the Agreement and to bind this party at law in respect of all that the parties agree.
- 7.2 The Supplier will report to Customer regularly on the progress of the Services. In these reports, the Supplier will give insight into the Services it carried out during the period concerned and the number

of hours spent, as well as into the costs incurred until then. If the Agreement provides for a budget and Supplier intends to deviate from the budget, Supplier will inform Customer without delay and will substantiate this deviation properly and in writing and Supplier will specify the measures that will be taken in order to correct this.

- 7.3 In the event of an impending delay in the performance of the contractual obligations of Supplier, Supplier will notify the Customer of this in writing without delay. This notification will not affect any of the Customer's other rights and claims pursuant to the Agreement and the law. In this notification, the Supplier will state the cause of the delay and Supplier will propose measures which the Supplier will take to prevent or undo the (imminent) delay. In addition, the Supplier will indicate the consequences of this delay in the report. The Customer's acceptance of the report will not mean that the Customer acknowledges the cause of the delay or acknowledges an obligation to pay compensation for the resulting consequences.
- 7.4 The Supplier must inform the contact person referred to in **Article 7.1** immediately when it detects a Security Incident.
- 7.5 The Supplier must notify Customer in writing as soon as possible, and will provide Customer with regular updates, at the occurrence of developments in its organisation and business which are relevant to the performance of the Services and its other obligations under the Agreement, including in any case the inability to pay to the body charged with the implementation of social security laws and/or the tax authorities.

8 Audits

- 8.1 The Customer and/or a supervisory authority has the right to conduct an audit at the Supplier. The Customer and/or a supervisory authority may engage a third party to carry audits on their behalf.
- 8.2 Customer and/or a supervisory authority is/are entitled to take measures to ensure a reliable measurement and assessment of the Supplier's performance of the Services.
- 8.3 The topics covered by an audit may include, but are not limited to, 1) compliance with the Agreement, 2) compliance with laws and regulations, 3) important changes in facts or circumstances that may have an impact on the Services and their continuation, or 4) the identification of operational, organisational and administrative risks.
- 8.4 The Supplier will fully cooperate in these audits. This includes but is not limited to granting timely inspection of accounts, records and other data carriers and providing all data and information for the purpose of the audit, as well as allowing the Customer and/or a supervisory authority, or a third party engaged by the Customer and/or a supervisory authority, to access the locations where the Services are carried out. If the audit is conducted by the Customer or by a third party engaged by the Customer, the Customer will not be given access to price arrangements between the Supplier and its suppliers, unless a regulator supervising the Customer has issued specific instructions to this end.
- 8.5 If the audit is conducted by the Customer and/or by a third party engaged by the Customer, the audit will be announced well in advance and in writing unless this is not possible due to an emergency or crisis situation or would lead to a situation where the audit would no longer be effective. The audit will be carried out in a manner which causes the least possible obstruction to the Supplier's business operations. During the audit, the Customer and/or a third party engaged by the Customer will comply with the Supplier's internal (house) rules, more in particular with rules relating to security and safety, subject to the provisions of **Article 24 (Access to each other's buildings)**.
- 8.6 The reasonable costs of deploying the auditors and the Customer's own staff, and/or the staff of a regulator as referred to in this **Article 8**, will be payable by the Customer. The Supplier will bear its own costs in this respect.
- 8.7 If substantial irregularities are found during an initial audit, the Customer and/or a supervisory authority, or a third party engaged by the Customer and/or a supervisory authority, may conduct a

second audit. If this second audit reveals that the irregularities established earlier still occur, all costs of the second audit and of any further audits will be payable by the Supplier, in derogation from this **Article 8.6**, and the Customer will have the rights referred to in **Article 22 (Default, termination, interim termination)**.

- 8.8 The Supplier will impose an identical obligation towards the Customer and its supervisory authorities on its subcontractors, and on any third party or third parties it engages, as that applicable to the Supplier under this **Article 8**, including the duty to pass on this right to further subcontractors.

9 Inspection

- 9.1 The Customer is entitled at all times, after notifying the Supplier, to assess the design and to inspect or arrange the inspection of the Products during manufacture, processing and storage, with due observance of the Supplier's patents, licences, secret processes and know-how, and the performance of the Services by Supplier.
- 9.2 The Customer is entitled at all times to check the materials and equipment to be used by the Supplier as to their suitability for the Services to be carried out, without having to notify the Supplier in advance. During the working hours applicable at the Supplier's business, the Supplier will grant the Customer and/or its authorised representatives access to the locations where the Supplier carries out Services for the purpose of inspecting and checking the Services to be carried out. During the inspection, the Customer and/or a third party engaged by the Customer will comply with the Supplier's internal (house) rules, more in particular with rules relating to security and safety, subject to the provisions of **Article 24 (Access to each other's buildings)**.
- 9.3 In this connection, the Supplier will provide the Customer and/or its authorised representative with all assistance and information which may reasonably be expected from the Supplier.
- 9.4 The Supplier will impose an identical obligation towards the Customer on its subcontractors, and on any third party or third parties it engages, as that applicable to the Supplier under this **Article 9**, including the duty to pass on this right to further subcontractors.

10 Staff

- 10.1 The Supplier will see to the deployment of Staff who are sufficiently qualified and (where applicable) sufficiently certified to perform the Agreement.
- 10.2 If the Supplier is to carry out Services on the Customer's premises, the Supplier will inform the Customer before the start of the Services about the identity of the Staff who will perform the Services. When the Customer so requests, the Staff of the Supplier will have to prove their identity by means of a valid identity document.
- 10.3 Before Staff of the Supplier start to carry out Services 1) on the Customer's premises, or 2) remotely, in or via the Customer's systems, the Supplier will have to screen its Staff in accordance with the screening procedure then in force at the Customer's business. The latest version of the screening procedure, applicable at the time of the signing of the Agreement, will be attached to the Agreement as an appendix.
- 10.4 The Supplier guarantees for the duration of the Agreement that its Staff will comply and will continue to comply with the internal rules and policies in force at the Customer's business, as laid down in an appendix attached to the Agreement. The Staff will personally sign this appendix prior to the performance of the Agreement in acknowledgement that they received and read it.
- 10.5 The Supplier indemnifies the Customer against all claims from the Tax and Customs Administration in respect of taxes, social security contributions (both the employer's and the employee's share), fines imposed and interest owed in relation to the Services carried out by Staff of the Supplier in the context of the Agreement. If the Customer is nevertheless confronted with one or more claims from the Tax and Customs Administration, the Customer will recover such claims from the Supplier or will demand compensation from the Supplier.

- 10.6 If the Supplier deploys Staff to the Customer who are not Dutch nationals, the Supplier guarantees that these persons are entitled to perform work in the Netherlands and hold work permits for that purpose insofar as this is required under the Foreign Nationals (Employment) Act (*Wet arbeid vreemdelingen*). If the Supplier breaches this provision, it will have to pay the Customer a penalty immediately due and payable and not open to mitigation of EUR 20,000 (twenty thousand euros) per breach and of EUR 5,000 (five thousand euros) per day that the breach continues. In derogation from the provisions of Section 6:92 of the Dutch Civil Code, the Customer will be able to exert its other rights in addition to the penalty, among which the right to demand additional and alternative compensation and/or performance in addition to the penalty. In that case, the penalty will not be offset against the Supplier's liability for compensation.
- 10.7 The Supplier indemnifies the Customer against all claims from the Labour Inspectorate (*Arbeidsinspectie*) and/or the regulator due to non-compliance with the Foreign Nationals (Employment) Act and/or the Aliens Act (*Vreemdelingenwet*) as referred to in this **Article 10.6**. These explicitly include but are not limited to (administrative) fines imposed and any costs of legal assistance. The Supplier will compensate all losses sustained by the Customer as a result of such claims.

11 Subcontracting or deployment of third parties

- 11.1 If the Supplier intends to use the services of third parties in the performance of the Agreement, either through subcontracting or by hiring temporary workers, it must notify the Customer of this well in advance and in writing. If reasonably possible, the Supplier must do so in the quotation, stating the details of the subcontractor(s) or staff supplier(s) concerned. If the Supplier should want to make use of third parties and/or replace a third party it has engaged by another third party, it will always require the Customer's prior written consent. The third parties engaged by the Supplier will be subject to the same obligations as those that apply to the Supplier in relation to the Customer. The Supplier will remain fully liable for the fulfilment of the obligations by the third parties it has engaged.
- 11.2 If the Supplier deploys third parties for the performance of the Agreement and/or compliance with its obligations under the Agreement, the Supplier will be responsible and liable for the fulfilment of the obligations it has under the Agreement. In particular, this applies to the fulfilment of the obligations which it has as an employer under tax and social security legislation in respect of payroll taxes and VAT, and the obligation to comply with the Foreign Nationals (Employment) Act and/or the Aliens Act, both as referred to in **Article 10 (Staff)**. To prevent misunderstandings, reference is also made to the provisions of **Article 8.8 (Audit, imposition on subcontractors)** and **Article 9.4 (Inspection, imposition on subcontractors)**.
- 11.3 The Supplier will also agree the aforesaid obligations with the subcontractor(s) and/or staff supplier(s) who may be regarded as:
- The party or parties obliged to pay the VAT owed; and/or
 - The employer and withholding agent for payroll tax purposes of the persons assigned to the Customer; and/or
 - The employer for purposes of the Foreign Nationals (Employment) Act and/or the Aliens Act.
- 11.4 In addition, the Supplier will ensure that agreements with third parties include an identical or similar provision on vicarious tax liability and/or hirer's liability as has been formulated in these General Purchase Conditions.
- 11.5 The Supplier indemnifies the Customer against all claims from the Tax and Customs Administration in respect of taxes, social security contributions (both the employer's and the employee's share), fines imposed and interest owed in relation to the Services carried out by one or more third parties it engaged in the context of the Agreement. If the Customer is nevertheless confronted with one or more claims from the Tax and Customs Administration, the Customer will recover such claims from the Supplier or will demand compensation from the Supplier.

11.6 With regard to the Services performed by one or more third parties engaged by the Supplier in the context of the Agreement, the Supplier indemnifies the Customer against all claims from the Labour Inspectorate or the regulator due to non-compliance with the Foreign Nationals (Employment) Act and/or the Aliens Act, as referred to in this **Article 11.2**. These explicitly include but are not limited to (administrative) fines imposed and any costs of legal assistance. The Supplier will compensate all losses sustained by the Customer as a result of such claims.

12 Guarantee

12.1 The Supplier warrants (garandeert) that it has sufficiently acquainted itself with the Customer's objectives concerning the Products and/or Services, the Customer's organisation and the processes in which and in conjunction with which the Products and/or Services will be used in so far as relevant to the Agreement. To this end, the Customer has provided the Supplier with sufficient information, and will provide Supplier with further information on request insofar as such information is in the Customer's possession. The Supplier warrants that it has provided the Customer with all relevant information about its Products and/or Services considering Customer's objectives concerning the Products and/or the Services with which it is familiar.

12.2 The Products and/or Services will be described in greater detail in the Agreement. Subject to the provisions of the Agreement and one or more associated documents, such as technical and/or functional specifications, leaflets, quotations, letters, manuals and written opinions issued by the Supplier, the Supplier warrants that, where applicable:

- a) The Products and/or Services to be supplied correspond to what was agreed in terms of quantity, dimensions, quality, functions and properties;
- b) The Products and/or Services to be supplied comply in all respects with all relevant (sectoral) requirements that are in force at the time when the Agreement is concluded and/or the time of supply;
- c) The Products and/or Services to be supplied are made of high-quality materials and are of sound design;
- d) The Products and/or Services to be supplied are free from defects and are identical in all aspects to the samples or models made available or provided by the Customer and/or the Supplier;
- e) The Products and/or Services to be supplied are entirely suitable for normal use, for the purpose for which they are purchased and for the special use communicated to the Supplier;
- f) The Products and/or Services to be supplied are entirely complete and ready for use; all components and tools that are necessary for the purpose indicated by the Customer in writing must be included in the delivery, even if they were not mentioned specifically; and
- g) Any certifications held by the Supplier at the time of the formation of the Agreement will be retained during the term of the Agreement, or at least will not lapse due to an act or an omission on the Supplier's part.

12.3 Furthermore, the Supplier warrants that it will fully and unconditionally cooperate with the Customer in enabling the Customer comply with all applicable laws and regulatory requirements, in accordance with the provisions of **Article 17 (Supervision)** of these General Purchase Conditions, regardless of the nature and substance of the regulator's instructions.

12.4 The Supplier warrants that it complies with applicable laws and regulations and sector-wide self-regulation insofar as these apply to the Supplier and/or to its Products and/or Services. The Supplier will abide by all other guarantees customary in the Supplier's industry which a professional and careful supplier may be expected to observe under the given circumstances while exercising normal caution, applying normal professional knowledge and conducting normal business operations. In this context, the Supplier is regarded as a specialist in its field.

12.5 The Agreement involves a warranty period of three years from the acceptance after delivery, unless the parties subsequently agree a different warranty period in writing.

- 12.6 The warranties provided by the Supplier and warranty periods agreed will not detract from the Supplier's obligations pursuant to the law or the Agreement.
- 12.7 During the warranty period, the Supplier will remedy the defects in the Products free of charge, which includes replacing components where necessary. Components that must be replaced will be replaced only by components that are at least equivalent in functional, qualitative and technical terms. This paragraph will not apply to consumer items (e.g. toner cartridges) which need to be replaced on a regular basis.
- 12.8 Unless agreed upon otherwise, the Supplier will repair the defects in the Products as soon as possible after being notified of them by the Customer. If it is foreseen that the repair work cannot be carried out within the period specified by the Customer, the Supplier will, on the Customer's request, make similar Products available to the Customer free of charge until the defects have been repaired.
- 12.9 If supplied Products are repaired, modified or replaced pursuant to a warranty provided, a new, full warranty period will start after the repair, modification or replacement in respect of the component of the Products that was repaired, modified or replaced.
- 12.10 In urgent situations, or in the event that the Supplier fails to fulfil its warranty obligations despite a written demand, the Customer will be entitled to perform or arrange the performance of (provisional) repairs at the Supplier's expense, without this detracting from the Supplier's warranty obligations.

13 Items made available by the Customer and/or stored on the Supplier's premises

- 13.1 The Customer will remain the owner in respect of all Items which the Customer made available to the Supplier and/or stored on the Supplier's premises.
- 13.2 The Supplier warrants (garandeert) that it will store the Items in such a way that it will always be beyond dispute which Items are owned by the Customer. In case the Supplier should be declared insolvent, it will ensure that a bank acceptable to the Customer acts as guarantor for the total value of the Customer's Items stored on the Supplier's premises, by means of a bank guarantee approved by the Customer.
- 13.3 With regard to items as referred to in Article 13.1, the risk of loss and/or damage will pass from the Customer to the Supplier at the moment when the Items are made available to the Supplier. The Supplier will insure these Items at its own expense (primary cover) by taking out and maintaining adequate (liability) insurance.
- 13.4 In the event that the Items are lost, the Supplier must arrange their immediate replacement at its own expense. If replacement is impossible, the Supplier will refund the price of the Items paid by the Customer, and pay any additional costs incurred by the Customer. If Items are damaged or no longer operating properly after their return to the Customer, the Customer will be entitled to repair or arrange the repair of the Items, or replace them if they are beyond repair, at the Supplier's expense.
- 13.5 The Supplier will inspect the Items as soon as the Items are made available to the Supplier. The Supplier will be entitled to refuse the Items if and insofar as the Items differ from what the parties previously agreed on this point in writing. The Supplier will immediately notify the Customer of this refusal and follow any instructions issued by the Customer.

14 Liability

- 14.1 If the Supplier, after receiving a notice of default (in gebreke is gesteld) by Customer, fails imputably to fulfil its obligations under the Agreement, the Supplier will owe the Customer a penalty, due and payable forthwith, of 0.5% of the total amounts to be charged by the Supplier for the Products and/or Services per working day, increased by any statutory VAT owed. The maximum penalty will be 20% of the total amounts to be charged by the Supplier for the Products and/or Services, increased by any statutory VAT owed. In derogation from the provisions of Section 6:92 of the Dutch Civil Code, the Customer will also be able to exert its other rights in addition to the penalty, among which the

right to demand additional and alternative compensation and/or performance in addition to the penalty. In that case, the penalty will not be offset against the Supplier's liability for compensation.

- 14.2 Except in the event of losses caused by wilful misconduct or gross negligence on the Customer's part, the Customer will not be liable for any losses sustained by the Supplier, Staff of the Supplier, its subcontractor(s) or other third parties engaged by the Supplier in the context of the Agreement. The Supplier will indemnify the Customer against all third-party claims directly or indirectly relating to (the use of) the Products and/or Services or to the performance of the Agreement. The Supplier will compensate the Customer for all losses sustained by the Customer as the result of such claims, unless the loss was caused by wilful misconduct or gross negligence on the Customer's part.
- 14.3 If the Supplier's Services under the Agreement include the provision of transport within the meaning of Section 8:1090 of the Dutch Civil Code, the following will apply. The Supplier is aware that the Customer has a special interest in the Items transported being delivered in time and in undamaged condition as referred to in Section 8:1107(1) of the Dutch Civil Code. The parties therefore agree that, in derogation from the provisions of Section 8:1103 *et seq.* of the Dutch Civil Code, the Supplier will be liable towards the Customer for all losses sustained by the Customer as a result of the overdue delivery or the delivery in damaged condition of the Items presented for transport under the Agreement, due to an imputable failure in the performance of the Agreement to provide transport. This liability of the Supplier will be limited to an amount of EUR 350,000 (three hundred and fifty thousand euros) per event or per series of events with a common cause. The payment to be agreed in this context, as referred to in Section 8:1107(1) of the Dutch Civil Code, will be factored into the fee(s) to be received by the Supplier for executing the orders issued to it under the Agreement. Insofar as the Services which the Supplier is to carry out under the Agreement qualify as transport within the meaning of Section 8:1090 of the Dutch Civil Code, these Services will be subject to the General Conditions of Transport 2002 published by Stichting Vervoeradres, insofar as the Agreement does not provide otherwise.

15 Insurance

The Supplier has taken out and will maintain adequate insurance against the risk of liability by means of at least a business liability insurance (aansprakelijkheidsverzekering voor bedrijven) and, if applicable supplemented by a professional liability insurance (beroepsaansprakelijkheidsverzekering). When the Customer so requests, the Supplier will show the Customer certificates of the insurance policy or policies as proof of this insurance and the amount insured. Upon request, the Supplier will immediately show the Customer the proof of premium payment for this insurance and inform the Customer of any earlier claims submitted under the policy or policies during the current policy year.

16 Force majeure

- 16.1 If a Customer or Supplier cannot or does not fulfil its obligations under the Agreement during a period of thirty days due to force majeure (non-imputable failure), the other party will be entitled to terminate all or part of the Agreement out of court by registered letter with immediate effect, without this giving rise to any right to compensation.
- 16.2 Force majeure will in any case not include: staff shortages, strikes, staff illness, late delivery or unsuitability of items required for the performance of the contractual obligations in relation to the Products and/or Services and liquidity or solvency problems. on the Supplier's part.

17 Supervision

- 17.1 The Supplier is aware that the Customer is supervised by one or more supervisory authorities pursuant to the supervision legislation in force. The supervision legislation provides that the Customer is obliged, within a period specified by the supervisory authority, to provide information which the supervisory authority requires in the performance of its duties. If the Customer needs information held by the Supplier in order to fulfil this obligation, the Supplier will, on the Customer's request, provide this information in writing as soon as possible but in any case within the period

specified by the Customer. If a supervisory authority or a person designated by a supervisory authority wants to inspect data in the Supplier's possession, the Supplier will immediately submit this data to that supervisory authority when the latter so requests.

- 17.2 Pursuant to supervision legislation, the Customer must follow a recommendation and/or instruction issued by a supervisory authority within the period specified by the supervisory authority. If the recommendation and/or instruction is directly or indirectly related to the Agreement or its performance, the Customer will notify the Supplier as soon as possible of the recommendation and/or instruction issued.
- 17.3 If the recommendation and/or instruction states that the Agreement does not comply with the supervision legislation in force, the parties will make every effort to amend the Agreement in such a way, that the Agreement can be continued after that amendment without there being a breach of the obligations applicable to the Customer under the supervision legislation in force.
- 17.4 If the recommendation and/or instruction states that the Agreement must be terminated, the parties agree at the present stage that in that case they will terminate all or part of the Agreement on the date specified by the supervisory authority. However, they will only do so after they have made every effort at management level to continue the Agreement in amended form, in such a way that there is no breach of the recommendation and/or instruction(s) issued to the Customer. If these efforts are unsuccessful, the Customer will confirm the termination of the Agreement to the Supplier in writing and, insofar as this is permitted, furnish the recommendation and/or instruction from the supervisory authority concerned as evidence.
- 17.5 Compliance with a recommendation and/or instruction, which includes (early) termination of all or part of the Agreement, will not result in an obligation to pay compensation or any other legal obligation for the Customer or the supervisory authority.
- 17.6 Under the supervision legislation in force, a supervisory authority always has the right to obtain information from the Supplier or from the latter's external registered accountant about the Products and/or Services supplied in the context of the Agreement. If desired, the supervisory authority is also entitled to conduct or arrange the conduct of an audit at the Supplier. The Supplier is obliged to fully cooperate with a supervisory authority and to grant this supervisory authority and/or a third party engaged by the latter access to its premises. Cooperation includes but is not limited to granting inspection of and/or providing business data and documents which are held by the Supplier or its suppliers. The reasonable costs associated with this will be payable by the Customer. However, if it turns out that the Supplier failed to fulfil its obligations under the Agreement, or to do so in full, the Supplier will have to pay the full cost of the audit by the supervisory authority.
- 17.7 If and insofar as the Customer (structurally) outsources Services to the Supplier, the parties will comply with the associated obligations under the relevant Dutch and/or European (EU) (supervision) regulations and directives.
- 17.8 If a supervisory authority contacts the Supplier directly in connection with a supervisory duty, the Supplier will immediately notify the Customer of this in writing.

18 Secrecy, security, security assessment and privacy

- 18.1 Except where these General Purchase Conditions or the Agreement stipulate otherwise, or where the Customer has granted its prior written consent, the Supplier is obliged to observe secrecy in respect of all information regarding the Customer's business. Information is understood to mean: all information in whatever form (including written, verbal, visual and electronic information or copies thereof) which was directly or indirectly disclosed by the Customer to the Supplier or directly or indirectly came to the Supplier's attention in connection with (the negotiations about) the formation and/or performance of the Agreement and which is qualified as confidential by the Customer. This duty of secrecy will not apply to information which was already common knowledge, and demonstrably so, prior to (the negotiations about) the formation of the Agreement.

- 18.2 This duty of secrecy will continue to apply to the Supplier after termination of the Agreement, except where it concerns information which already became publicly known in a lawful manner and was therefore not disclosed due to a breach of the duty of secrecy as referred to in this **Article 18.1**.
- 18.3 With regard to all information originating from the Customer, the Supplier undertakes:
- a) To take, maintain and, where necessary, adjust appropriate technical and organisational measures to protect all information against damage, accidental or unlawful deletion, (accidental) loss, falsification, unauthorised dissemination or access, unauthorised alteration and/or examination or any other form of unlawful processing;
 - b) Not to use the information for a purpose other than in the context of the performance of the Agreement;
 - c) Only to disclose the information to its directors and/or Staff members of the Customer who carry out Services insofar as this is strictly necessary in connection with the performance of the Agreement by these Staff members;
 - d) Not to keep the information for any longer than is reasonably necessary for the performance of the Services and to make all information, including any copies made, available to the Customer within thirty days of the termination of the Agreement, or to destroy the information after having received the Customer's written consent;
 - e) To have the obligations applicable under the Agreement fulfilled only by reliable persons;
 - f) To cooperate in inspections performed by or on behalf of the Customer as regards the storage and use by the Supplier of all information originating from the Customer.
- 18.4 The Supplier will impose the same duty of secrecy on the Staff of the Supplier as referred to in this **Article 18.1, 18.2 and 18.3**, and guarantees that they will comply with this duty of secrecy.
- 18.5 The Supplier may only disclose the confidential information referred to in this **Article 18.1** insofar as it is obliged to do so by law (including but not limited to the regulations of any stock exchange). Before making such a disclosure, the Supplier will notify the Customer of this in writing.
- 18.6 In the event of a breach of the provisions of this **Article 18**, the Supplier will have to pay the Customer a penalty of EUR 50,000 (fifty-thousand euros) per event, immediately due and payable forthwith. In derogation from the provisions of Section 6:92 of the Dutch Civil Code, the Customer will be able to exert its other rights in addition to the penalty, among which the right to demand additional and alternative compensation and/or performance in addition to the penalty. In that case, the penalty will not be offset against the Supplier's liability for compensation.
- 18.7 The parties guarantee that all statutory provisions concerning the data to be processed, including in particular the provisions laid down in or pursuant to the General Data Protection Regulation, have been and will be strictly observed.
- 18.8 If the Supplier acts in the context of the Agreement as the processor of personal data of which the Customer is the controller within the meaning of the General Data Protection Regulation, the parties will conclude a data processing agreement.
- 18.9 The Supplier consents to the performance of a Penetration Test and/or a Security Assessment by the Customer or by third parties engaged by the Customer. The purpose of such a test is to detect any vulnerabilities in the Product/Services and/or in the Supplier's (ICT) systems.
- 18.10 If the Penetration Test and/or the Security Assessment reveals vulnerabilities in the Product/Services and/or in the Supplier's (ICT) systems, the Supplier will, at its own expense, take adequate measures as soon as possible in order to remedy these vulnerabilities.
- 18.11 The parties will maintain confidentiality in respect of information which the other party provides before, during or after the performance of the Penetration Test and/or the Security Assessment if this information has been marked as confidential, or if the recipient knows or should reasonably understand that the information was meant to be confidential.

18.12 The Supplier will indemnify the Customer (or third parties engaged by the Customer) against all claims from and legal steps taken by third parties against the Customer (or third parties engaged by the Customer) in connection with the Penetration Test and/or the Security Assessment.

19 Intellectual property rights

19.1 All intellectual property rights – including but not limited to all copyrights, know-how, patent rights and all comparable rights – which arise or have arisen in connection with and as a result of the Services will be vested in the Customer. Insofar as these rights are not yet vested in the Customer, they are transferred by the Supplier to the Customer under the Agreement, such transfer being hereby accepted in advance by the Customer.

19.2 The Supplier hereby warrants that it is authorised to transfer the intellectual property rights as referred to in this **Article 19** and that (where applicable) all intellectual property rights held by the Staff of the Supplier and by (the staff of) third parties engaged by the Supplier have been transferred to the Supplier, in such a way that the Supplier can transfer these rights in the manner and to the extent provided in this **Article 19**.

19.3 Insofar as the transfer of the intellectual property rights requires a deed, the Supplier irrevocably authorises the Customer at the present stage to draw up such a deed and sign it on the Supplier's behalf. This will not affect the Supplier's obligation to cooperate in the transfer of the intellectual property rights as soon as the Customer so requests, without attaching any conditions to its cooperation. Any costs associated with the creation of particular intellectual (property) rights (such as patents) will be payable by the Customer. The Supplier hereby irrevocably authorises the Customer to have the transfer of these intellectual property rights entered in the relevant registers. Where applicable, the wages paid to Staff of the Supplier includes reasonable compensation for the renunciation of intellectual property rights.

19.4 The Supplier hereby renounces, in so far as necessary, both in its own capacity and on behalf of its staff, all personality rights as referred to in section 25, subsection 1 (a) to (c) of the Copyright Act 1912, in so far as the relevant legislation allows Supplier to do so.. The Supplier guarantees to Customer that:

- Staff of the Supplier, in their employment contract, renounce to the Supplier any and all personality rights to which they may be entitled, insofar as the applicable regulations allow Supplier to do so; and
- The third parties it engages will, in their agreement, renounce to the Supplier any and all personality rights to which they may be entitled, insofar as the applicable regulations allow such a renunciation and insofar as applicable.

19.5 The Supplier guarantees that the results of the Services will not infringe any intellectual property right of third parties, either wholly or in part.

19.6 The Supplier indemnifies the Customer against all (imminent) claims from third parties in respect of any infringement of those third parties' intellectual property rights, including personality rights and claims regarding know-how, unlawful competition, etc. In the event of infringement, the Supplier undertakes to take all measures, at its own expense, that may help prevent stagnation at the Customer's business and limit the additional costs to be incurred and/or damage to be sustained by the Customer, and will compensate all losses sustained by the Customer due to any infringement of third parties' intellectual property rights.

19.7 Without prejudice to the provisions of the General Purchase Conditions, the Customer will, if third parties hold the Customer liable because of the infringement of intellectual property rights, be entitled to terminate all or part of the Agreement in writing out of court, whether with retroactive effect or otherwise, without prejudice to its other rights. The Customer will only exert its right to terminate the Agreement after prior consultation with the Supplier, unless it cannot reasonably be expected to continue the Agreement.

- 19.8 In the event of a disagreement between the parties about intellectual property rights in relation to the Services (or parts of it), it will be assumed, in the absence of proof to the contrary, that the rights are vested in the Customer until Supplier proves otherwise. .
- 19.9 When the Agreement ends, none of the intellectual property rights transferred under that Agreement will be undone. The Customer will also be entitled, if it so desires, to demand submission of the results that have been and/or are being developed by the Supplier in connection with the Services for the Customer. Insofar as the Customer, in derogation from the General Purchase Conditions and in accordance with the Agreement, does not own the intellectual property rights to the results of the Services, the Customer will be entitled on termination of the Agreement to continue using the aforesaid results under a licence, hereby (tacitly) obtained to that end, unless it has been established at law that the Customer imputably failed to fulfil its obligations under the Agreement.

20 Commercial communications

- 20.1 The Supplier is not permitted to use one or more of the Customer's trade names and/or trademarks for commercial purposes without the Customer's prior written consent. The Customer may attach further conditions to its consent. If the Customer has granted its consent in writing, this consent will expire by operation of law and with immediate effect as soon as the Agreement has ended for whatever reason. If the Customer has made information and/or materials available to the Supplier in this context, the Supplier will return this information and/or these materials to the Customer within thirty days of the Agreement being terminated or the consent being withdrawn.
- 20.2 The parties will not make any kind of disclosures to third parties with regard to the Agreement or with regard to its performance by either of them, unless the other party has granted its prior written consent. This consent will not be withheld on unreasonable grounds. The provisions of **Article 18.2 (Secrecy, security and privacy)** will apply in that regard.

21 Termination

- 21.1 If the Agreement was concluded for a fixed term, the Agreement will end by operation of law upon the expiry of the fixed term, without the parties being required to give notice of termination of this Agreement, unless the parties have extended this Agreement in writing.
- 21.2 If the Agreement was entered into for an indefinite period of time, it can be terminated by either party by means of a written notice, following proper consultations and with reasons being stated. If the parties have not agreed on a specific notice period, they must observe a three-month notice period when giving notice of termination.
- 21.3 If business-critical or important Services have been outsourced, the Supplier will fully cooperate after the termination of the Agreement in the transfer of the Services to the Customer or a third party to be designated by the Customer, so that the Customer or the third party designated by the Customer can itself take on the Services and the continuity and quality of the Services will be ensured.
- 21.4 If necessary, the parties will, at the time of the conclusion of the Agreement and in any case when the Customer so requests, draw up a (process) description (= exit plan) documenting how the parties will implement this **Article 21.3**.

22 Default, termination, early termination

- 22.1 Without prejudice to the provisions laid down elsewhere in the General Purchase Conditions and in the law, a party will give the other party a notice of default if that other party fails to fulfil one or more of its obligations under the Agreement. A notice of default must be given in writing, with the party failing to meet its obligations being granted a reasonable period in which to fulfil its obligations after all. This period granted will be regarded as a final deadline (fatale termijn), after which the non-compliant party will be in default. The Customer's obligation to complain as referred to in Sections 6:89 and 7:23 of the Dutch Civil Code is ruled out by the parties. This means that even if a longer period of time has elapsed before the Supplier is notified by the Customer of a defect in its

performance, the Supplier must still properly deliver, replace or repair that performance, or refund all or part of the payment received for that performance, this being at the Customer's discretion,. If Supplier continues to fail in performance of the Agreement, the Supplier will be liable in accordance with the provisions of **Article 14 (Liability)**.

- 22.2 If a notice of default is not required by law in order for the non-compliant party to be in default, the other party, in derogation from this **Article 22.1**, will not be required to declare the non-compliant party in default and the latter will be in default immediately.
- 22.3 The Customer will be entitled to rescind (ontbinden) all or part of the Agreement out of court by registered letter, either with immediate effect or in respect of the future, if the other party is in default.
- 22.4 Without prejudice to the provisions laid down elsewhere in these General Purchase Conditions or the Agreement, the Customer will be entitled to terminate all or part of the Agreement prematurely by registered letter with immediate effect, without a demand or notice of default being required, and without the Customer having to pay compensation for costs or losses, if:
- a) The Supplier fails imputably to fulfil its obligations under **Article 8 (Audits), Article 9 (Inspection), Article 10 (Staff), Article 11 (Subcontracting or deployment of third parties) or Article 17 (Supervision)** of these General Purchase Conditions;
 - b) The Supplier (i) applies for or is granted a (provisional) moratorium, (ii) loses the power to dispose of a substantial part of its assets because these assets have been attached, (iii) petitions for insolvency or is declared insolvent, (iv) is wound up, or (v) arranges a private composition in this context;
 - c) The Supplier ceases its current business, whether through dissolution or otherwise;
 - d) The Supplier, either on its own initiative or otherwise, changes or arranges a change of control over its business, which change will in any case be deemed to exist if a third party acquires, directly or indirectly, at least 50% of the ultimate (beneficial) ownership of and/or the voting right in the Supplier, or if the person or legal entity that held, directly or indirectly, at least 50% of the ultimate (beneficial) ownership of and/or the voting right in the Supplier at the time of the conclusion of the Agreement no longer holds, directly or indirectly, at least 50% of that ultimate (beneficial) ownership of and/or that voting right in the Supplier; or
 - e) The outcome of a periodic audit (transaction and/or client filtering) by the Customer in compliance with sanctions regulations (such as the Regulation on Supervision pursuant to the Sanctions Act 1977 (*Regeling Toezicht Sanctiewet 1977*)) gives cause for this, this being at the Customer's discretion;
 - f) The Customer or an Affiliated Enterprise is wound up or dissolved;
 - g) The Customer ceases its current business or an Affiliated Enterprise ceases its operations;
 - h) The Customer or an Affiliated Enterprise is declared insolvent, or the Customer or an Affiliated Enterprise is granted a moratorium;
 - i) The Customer or an Affiliated Enterprise, either on its own initiative or otherwise, changes or arranges a change of control over its business, which change will in any case be deemed to exist if a third party acquires, directly or indirectly, at least 50% of the ultimate (beneficial) ownership of and/or the voting right in the Customer or an Affiliated Enterprise, or if the person or legal entity that held, directly or indirectly, at least 50% of the ultimate (beneficial) ownership of and/or the voting right in the Customer or an Affiliated Enterprise at the time of the conclusion of the Agreement no longer holds, directly or indirectly, at least 50% of that ultimate (beneficial) ownership of and/or that voting right in the Customer or an Affiliated Enterprise.
- 22.5 The Customer will also be entitled to rescind (ontbinden) all or part of the Agreement out of court by means of a written notice to the Supplier, with immediate effect, if one of the following events occurs:
- a) The Supplier makes promises or gifts to staff members of the Customer – whether in a private capacity or otherwise – with the obvious intention to persuade them to do or omit something in contravention of their duties;

- b) The Supplier damages the Customer's reputation and thereby (potentially) brings the Customer into disrepute.

22.6 In each of the situations referred to in this **Article 22**, all the Customer's claims against the Supplier will be immediately due and payable in full. The provisions of this **Article 22** will not affect the Customer's (other) rights under these General Purchase Conditions, the Agreement and the law.

22.7 The Supplier will not be entitled to prematurely terminate, suspend or adjust the Agreement, to have an attachment made against the Customer or to exercise similar rights if the Customer is involved in a resolution action or resolution as defined in the Financial Supervision Act (*Wet op het financieel toezicht*) and Regulation (EU) No 806/2014, unless a competent authority explicitly permits this. The provisions of Sections 3a:52 to 3a:55 inclusive of the Financial Supervision Act apply by analogy to all Agreements between the Customer and the Supplier.

23 Transfer of rights and/or obligations

23.1 The Supplier may not transfer its rights and obligations under the Agreement to a third party without the Customer's written consent. Such consent will not be withheld or delayed without good reason. However, the Customer may attach conditions to this consent. The Customer hereby grants its advance consent for a transfer to a group company of the Supplier (as referred to in Section 2:24b of the Dutch Civil Code), provided that the Supplier guarantees to the Customer that the conditions under the Agreement will be fulfilled. The Supplier will notify the Customer in writing of a transfer as referred to in this paragraph.

23.2 The Customer may transfer all or part of its rights and/or obligations under the Agreement to a third party, whether exclusively or otherwise. The Supplier hereby undertakes to cooperate in a transfer as referred to in the first sentence of this paragraph. The Customer will notify the Supplier in writing of a transfer as referred to in this paragraph.

24 Access to buildings and protection of implementation resources

24.1 The Supplier will carry out the Services and Services performed on the Customer's premises on calendar days between 07:00 and 18:00 hours, save for weekend days and public holidays, unless the Agreement or the nature of the Services dictates otherwise.

24.2 The Customer undertakes to grant access to its premises to Staff of the Supplier, and the Supplier undertakes to grant access to its premises to Staff of the Customer and/or staff of a regulator or a third party to be designated by a regulator, for the purpose of carrying out the Services under the Agreement or performing supervision, inspections or audits in relation to those Services.

24.3 The Supplier will take the necessary measures to prevent the loss, theft or damage of the resources required as defined in more detail in **Article 4.4 (Prices)** and will not permit the use of these resources for a purpose other than the performance of the Agreement. **Article 19 (Intellectual property rights)** applies in full to the aforesaid resources.

24.4 The performance of the Services by staff of one party must take place under the working conditions customary at the other party's business, whereby **Article 18 (Secrecy, security and privacy)** will continue to apply. The Services will be performed with due observance of the security procedures and house rules in force at the latter party.

25 Applicable law and dispute resolution

25.1 All Agreements between the Customer and the Supplier and their formation will be governed by Dutch law.

25.2 Any disputes arising between the Customer and the Supplier in respect of an Agreement concluded or to be concluded by the Customer with the Supplier, or in respect of further agreements based on it, will be submitted exclusively to the competent court of Utrecht.

26 Miscellaneous

- 26.1 If either party does not demand compliance with any provision within a period specified in the Agreement, this will not affect the right to demand compliance after all, unless that party expressly agreed to the non-compliance in writing.
- 26.2 Obligations under these General Purchase Conditions and/or the Agreement which, in view of their nature, are intended to last beyond the end of the Agreement will continue to exist after the termination of the Agreement. These obligations include provisions on guarantees, liability, intellectual property rights, secrecy, dispute resolution and applicable law.
- 26.3 Any amendments to the Agreement and derogations from these General Purchase Conditions will only be valid if they have been explicitly and expressly agreed in writing.
- 26.4 All notifications made between the parties under the Agreement must be made in writing. Any verbal communications, promises or arrangements will have no legal force between the parties.
- 26.5 In the event of inconsistency, the provisions of the General Purchase Conditions will take precedence over provisions of the Agreement, except if and insofar as the parties explicitly derogated from these provisions in writing in the Agreement, with reference to these General Purchase Conditions.
- 26.6 If one or more provisions of these General Purchase Conditions and/or the Agreement are void or voidable, this will not affect the validity of the remaining provisions. If a provision of these General Purchase Conditions and/or the Agreement turns out to be void or voidable, the parties will negotiate in good faith and try to reach agreement about an enforceable alternative provision to replace the provision regarded as void or voidable.

CHAPTER 3. PRODUCTS

This chapter applies to all (legal) acts and Agreements which the Customer performs towards and/or concludes with the Supplier in respect of Products and the associated Services.

27 Delivery and transfer of title

- 27.1 The Supplier will deliver the Products at its own expense and risk at the location(s), at the time and in the manner specified in the Agreement or subsequently agreed in writing. Each delivery of Products must be accompanied by an itemisation showing that the delivery corresponds to what was agreed in this respect. The signing of this written itemisation will not affect the Supplier's obligations under the Agreement.
- 27.2 Delivery periods will be deemed to start at the moment when the Agreement is formed. If the Supplier and the Customer agree final deadlines in the Agreement, the Supplier will immediately be in default merely by exceeding those final deadlines.
- 27.3 The Supplier will be responsible for a proper manner (where applicable, in accordance with statutory regulations and/or regulations in force in the Supplier's industry) of packing, transport, unpacking and security, in such a way that the Products will reach their destination in good condition when transported normally.
- 27.4 The title to the Products and thereby the risk of loss of or damage to the Products will pass to the Customer at the moment when the Supplier has transferred the actual possession of the Products to the Customer at the agreed location, and the Customer has accepted the Products and signed the delivery note. If the Supplier purchases Products by order and for the benefit of the Customer and stores these Products for the Customer, so that these Products can be called off at a time to be determined by the Customer, or can be used by the Supplier in the performance to be delivered to the Customer, the title to these Products will pass to the Customer at the moment when the Customer has paid the Supplier for the Products. The Supplier must clearly mark the Products as being the property of the Customer. The risk of loss or damage will pass from the Supplier to the Customer at

the moment when the Supplier has transferred the actual possession of the Products to the Customer at the agreed location, and the Customer has accepted the Products and signed the delivery note.

27.5 The Supplier is obliged to take back packing material at its own expense immediately after delivery of the Products or to collect this material when the Customer so requests, unless the Customer prefers to keep the packing material.

28 Documentation

28.1 The Supplier will furnish the Customer with a sufficient number of (digital) copies of documentation written in Dutch on the properties and possible uses of the Products. The documentation will be supplied at the time of the delivery of the Products. The documentation must have been written in such a way that:

- a) It provides an accurate, complete and detailed description of the Products to be supplied by the Supplier and the functions of those Products;
- b) Users can use the capabilities of the Products in a straightforward manner; and
- c) The maintenance of the Products can also be carried out by third parties.

28.2 The Supplier will ensure that the documentation it has provided will be replaced, amended or adjusted as soon as possible at its own expense, if it appears at any time during the use of the Products by the Customer that the documentation contained inaccurate information or was otherwise incomplete, inadequate, unclear or outdated at the time when the Products were accepted.

28.3 The Customer may reproduce and amend the documentation free of charge for use in its own organisation, while retaining the copyright notices stated in the originals or making the additions to those notices required by the Supplier.

29 Training

29.1 The Supplier will familiarise the Customer with the use of the Products. This training will be provided by experts who are qualified and suitable for that purpose and, where applicable, will be provided as much as possible by the experts who carried out the Services.

29.2 The nature, scope, duration and costs of the training and the capacity of the experts (and, where possible, their names) will be stated in the Agreement.

29.3 During the term of the Agreement, the Supplier will be willing and able to provide one or more training courses on the use of the Products to persons designated by the Customer, on reasonable conditions and at reasonable rates to be further agreed.

CHAPTER 4. HARDWARE AND/OR SOFTWARE

This chapter applies to all (legal) acts and Agreements performed and/or concluded between the Customer and the Supplier in respect of Products or Services which also fall within the definition of Hardware and/or Software as given below. This chapter supplements chapter 3.

30 Definitions

30.1 The terms below will have the following meanings, both in these General Purchase Conditions and in the Agreements:

- a) Acceptance: with regard to Software, Hardware and/or (Cloud) Services, the written approval of all the elements thereof;
- b) Acceptance Test: the test resulting or not resulting in Acceptance;

- c) Degree of Availability: the amount of time in a Measuring Period during which the Cloud Services are available to the Customer on calendar days, expressed as a percentage;
- d) Security Incident: an event which affects or may affect the security of an information system, as a result of which confidential information and personal data came into the possession or may come into the possession of unauthorised persons, and/or which gives rise or may give rise to losses, including reputational damage;
- e) Cloud Services: services provided with the aid of cloud computing, that is, a model for easily granting access on request at any place via the network to a shared pool of configurable IT resources (e.g. Networks, servers, storage media, applications and services) that can be quickly scaled up or down with minimum management effort or intervention of service providers, including but not limited to SaaS, PaaS and IaaS;
- f) Conversion: the entirety of measures and activities aimed at transitioning from the current data processing procedure to the procedure using the Software, Hardware and/or (Cloud) Services;
- g) Documentation: the documentation pertaining to the Software, Hardware and/or (Cloud) Services;
- h) Infrastructure and Architecture Requirements: the report containing all current and possibly future requirements in respect of the infrastructure and architecture necessary to install and implement the Standard Software and/or to install the Hardware;
- i) Functional Specifications: the report containing a complete, detailed, user-focused design of the Hardware, Software and/or (Cloud) Services and describing the functions, data, performance and working of the Software and/or (Cloud) Services, taking into account the properties of the environment used by the Customer, as laid down in the Agreement;
- j) Defect: failure or partial failure to comply with the agreed Functional Specifications for Software, Hardware and/or (Cloud) Services, or any other malfunctioning of the Software and/or Hardware;
- k) Hardware: physical components for computer technology, including System Software, associated Materials and Documentation, Services and associated Services and results of those Services;
- l) IaaS: Infrastructure as a Service; the provision by the Supplier of infrastructure on the Internet for the benefit of the Customer;
- m) Implementation: the introduction of the Software into the Hardware and, where necessary, the adjustment of the Software in such a way that the Software functions in accordance with the agreed specifications, including (where applicable) the Conversion of existing data files and/or the configuration of (Cloud) Services;
- n) Incident: a Security Incident and/or (imminent) disruption(s) of the agreed service provision or an event resulting in the Hardware, Software and/or (Cloud) Services not functioning in accordance with the agreed Functional Specifications and/or being unavailable;
- o) Installation: the positioning, installation and connection of the Hardware, and the adjustment of the Hardware or of other equipment or of the System Software, in such a way that the Hardware complies with the provisions of the Agreement, even if the System Software was not purchased from the Supplier;
- p) Location: a physical place from where (Cloud) Services are provided;
- q) Customised Software: the software to be developed and/or modified by the Supplier for the benefit of the Customer on the basis of the Functional Specifications and the Technical Design, including the modifications of and additions to the Standard Software, with associated Documentation and Materials;
- r) Malware: forms of hostile, harmful or irritating software, including but not limited to viruses, trojan horses, rootkits, adware, worms, keyloggers, spyware and all other methods and

- means that were deliberately applied to frustrate the proper working of the (Cloud) Services and/or accomplish unauthorised access to the (Cloud) Services;
- s) Materials: the resources required for the use, Acceptance, Implementation and/or Installation, modification and Maintenance of the Software, Hardware and/or (Cloud) Services, including but not limited to replacement parts, such as information carriers and consumables, as specified in the Agreement;
 - t) Maximum Allowable Outage Time (MAO): the maximum uninterrupted period of unavailability of the (Cloud) Services;
 - u) Measuring Period(s): a period comprising a calendar week (from Monday 0:00 hours to Sunday 24:00 hours), unless the Parties have agreed a different Measuring Period in writing;
 - v) Network: the infrastructure, telecommunication connections and associated operating systems through which the Supplier provides the (Cloud) Services via the Internet;
 - w) Network Configuration: the manner in which the various components of the Network have been connected, organised and set, in order to ensure the proper functioning of the (Cloud) Services;
 - x) New Version: a modified version of the Software and/or (Cloud) Services, increasing their functionality;
 - y) Maintenance: the relevant Services agreed between the Customer and the Supplier, which may consist of preventative maintenance, corrective/perfective maintenance, adaptive maintenance, Support, training and/or modification of the System Software, Software and/or Cloud Services, as specified in more detail in the Agreement;
 - z) Maintenance Fee: the fee payable by the Customer for the Maintenance, as specified in more detail in the Agreement;
 - aa) Support: the provision of assistance by helpdesk employees in the event of Incidents, as well as the provision of advice on the use of the Hardware, Software and/or (Cloud) Services;
 - bb) PaaS: Platform as a Service; the provision by the Supplier of a platform (including hardware) on the Internet for the benefit of the Customer;
 - cc) Delivery Location: the area designated by the Customer where the Delivery and Installation of the Hardware is to take place, as specified in the Agreement;
 - dd) Set-Up Location: the location where the Hardware has been set up;
 - ee) Schedule of Requirements: the schedule containing the Customer's requirements in respect of the processes and data flows to be automated, in both quantitative and qualitative terms, which requirements the Customised Software must fulfil, as laid down in the Agreement;
 - ff) SaaS: Software as a Service; the provision by the Supplier of a software application on the Internet for the benefit of the Customer;
 - gg) Software: System Software, Standard Software and (where applicable) Customised Software, including Improved Version(s), Documentation, Materials, Revises, related services and the results of those Services, as described in more detail in the Agreement;
 - hh) Standard Software: software consisting of proven technology, with associated Documentation and Materials, as described in more detail in the Agreement;
 - ii) System Software: the operating software independent of the information system which will be used on the Hardware, with associated Documentation, as described in more detail in the Agreement;
 - jj) Technical Design: a detailed elaboration of the technical specifications of the Customised Software, to be developed on the basis of the Functional Specifications, as laid down in the Agreement;
 - kk) Improved Version: a modified version of the Software, repairing Defects in the Software or supplementing the Software.

31 General

- 31.1 Software, Hardware and (Cloud) Services are Products or Services for the purposes of these General Purchase Conditions. Therefore, all the conditions relating to Products and/or Services also apply to Software and Hardware.
- 31.2 In order to prevent misunderstandings, the parties agree that, among other things, Conversion, Installation, Maintenance and similar operations are Services for the purposes of these General Purchase Conditions.
- 31.3 Software, Hardware and (Cloud) Services also include all rights of use needed in order to use the Software and Hardware in the manner intended by the Customer. The provisions of Articles 19.5, 19.6 and 19.7 (regarding infringement of third parties' intellectual property rights) apply by analogy.
- 31.1 The Supplier will be responsible for the Maintenance of the Software, Hardware and/or (Cloud) Services. The Maintenance performed by the Supplier will not result in changes considered undesirable by the Customer in the Functional Specifications or communication protocols and/or in a price increase.
- 31.2 The Supplier will ensure, at its own expense, that the Software, Hardware and/or (Cloud) Services comply with the laws and regulations applicable in the Netherlands and Europe to which the Customer is subject and/or which the Customer must observe. The Supplier will identify changes in laws and regulations relating to the supply of the Products and Services and notify the Customer of these changes.
- 31.3 The Supplier guarantees to the Customer that no personal data will be processed outside the EU in the performance of the Agreement, unless the Customer has granted its express prior written consent for this.

32 Guarantee

- 32.1 Without prejudice to the guarantees formulated in **Article 12 (Guarantee)** of the General Purchase Conditions, the Supplier guarantees that:
- a) The Software, Hardware and/or (Cloud) Services are efficient and reliable;
 - b) The Software and/or Hardware are suitable for use in combination with the Software and/or Hardware to be used by the Customer and the other Software and/or Hardware present at the Customer's business, insofar as the Customer has informed the Supplier about that Software and/or Hardware;
 - c) The Software, Hardware and/or (Cloud) Services are suitable for the purpose or purposes communicated by the Customer to the Supplier for which the Customer acquired the Software, Hardware and/or (Cloud) Services;
 - d) The Software, Hardware and/or (Cloud) Services meet the applicable technical standards; and
 - e) At the time of delivery, the Software, Hardware and/or (Cloud) Services contain no security features, functions or elements foreign to the Software, Hardware and/or (Cloud) Services (such as logic bombs, viruses or worms) other than those stated in the Documentation.

CHAPTER 5. DATA PURCHASING

This chapter applies only to all legal acts and Agreements performed and/or concluded between the Customer and the Supplier in respect of Products and/or Services for which data of natural persons is used.

33 Data vision and privacy

- 33.1 The Supplier is aware that the basic assumption underlying the Customer's data vision is that the data is the client's property.

- 33.2 The Supplier guarantees that it will comply with the relevant privacy legislation, both when collecting the data and when transferring the data to the Customer. The Supplier also guarantees that data subjects have been sufficiently informed and, where necessary, have consented to the transfer to the Customer.
- 33.3 The Supplier indemnifies the Customer against claims resulting from the transfer of data to the Customer, which will in any case include fines imposed by the regulator and claims brought by data subjects.