

GENERAL ICT PURCHASING CONDITIONS TBI HOLDINGS B.V. ¹

A. GENERAL PROVISIONS

Article 1 General

1 In these general purchasing terms and conditions the following definitions apply:

- **Acceptance:** approval by the Client of (parts of) the Deliverable;
- **Agreed Use:** the use of the Deliverable intended by the Client, as shown by the Order and/or as is known or reasonably ought to be known based on the exchanged information, if and insofar as such use is not explicitly excluded or limited in the Order;
- **Application Landscape:** the entirety of internal and external systems, software, databases, interfaces, equipment, ICT, devices, and tools forming the automated information supply to the Client, within which scope the Deliverable must be achieved and/or incorporated;
- **Custom-Made Software:** software which is developed, designed or built especially for the Client by virtue of the Order and/or accomplished today or in the future under the Client's management and supervision based on the Client's instructions or designs, including the corresponding Documentation;
- **Client:** a TBI firm that is a group company of TBI Holdings B.V.;
- **Contractor:** the natural person or legal entity with whom the Client has concluded into a sales agreement, professional services agreement, or any other agreement, based on which the characteristic performance shall be achieved by the Contractor;
- **Conversion:** the conversion and migration of data files of the Client in connection with the achievable Deliverable without affecting the completeness, integrity, and/or metadata of data;
- **Defect(s):** any malfunction and/or other defect as a result of which the Deliverable is not fit for the Agreed Use or cannot be used for the Agreed Use;
- **Deliverable:** the Goods to be delivered by the Contractor, including but not limited to Hardware, Software and Documentation, or Services to be performed by the Contractor, or a combination thereof;
- **Documentation:** any description of the Deliverable and its characteristics, whether or not specifically intended for its installation, implementation, use, management, and/or maintenance;
- **Escrow:** the deposit of (a copy of) the Source Code with an independent third party so as to enable the Client to use it (or have it used) on its own authority in order to fix errors and otherwise maintain and manage the Custom-Made Software after fulfilment of one or more conditions laid down in the escrow agreement;
- **General ICT Purchasing Conditions:** the general ICT purchasing conditions under consideration;
- **General Provisions:** the provisions in chapter A of the General ICT Purchasing Conditions;
- **Goods:** all goods that must be delivered by virtue of the Order (tangible objects subject to human control (such as Hardware)) and (immaterial) property rights, such as (rights to) Software);
- **Group Company:** the group company/companies of the Client within the meaning of Section 2:24b Dutch Civil Code;
- **Hardware:** the physical or material components that can be used for an information system, such as PCs, servers, and mainframes;
- **Installation and Implementation(Services):** the entirety of acts and activities needed in order to be able to bring all parts of the Deliverable, individually and in combination with each other, into use by the organization of the Client, in such a way that all users of the Client are able to work with it in accordance with the Agreed Use. The installation and implementation also include the Conversion and realization of the Interfaces needed for the Agreed Use;
- **Intellectual Property Rights:** all present and future intellectual property rights in the most comprehensive sense, including but not limited to: patents, trademark rights, copyrights, typographical rights, database rights (including but not limited to extraction rights), domain names, all registered and unregistered industrial design rights, trade secrets, and know-how, and all rights and forms of protection of a similar nature or with the same or similar effect on the above rights, anywhere in the world, whether registered or unregistered, and including but not limited to applications for the registration thereof;
- **Interface:** an interface between the Deliverable and (components of) the Application Landscape;
- **Interoperability Requirements:** the requirements set in the Order for the Deliverable and/or Services in order to be able to exchange data with or otherwise collaborate with other components of the Application Landscape;
- **Main Assignment:** the agreement between the Client and the Principal;
- **Maintenance:** work to be carried out by the Contractor aimed at restoring and/or improving the Deliverable, including but not limited to preventive and corrective maintenance;
- **New Release:** a subsequent version of the Software, including but not limited to an Update as well as an Upgrade, with predominantly new or modified functionality, whether released under a new name or otherwise;
- **Order:** a contract of purchase of order, as well as a professional services agreement or any other agreement concluded between the Client and the Contractor;
- **Principal:** the natural person or legal entity with whom the Client has concluded into a sales agreement, professional services agreement, agreement for the contracting of work, or any other agreement, based on which the characteristic performance shall be achieved by the Client;
- **Product:** Hardware and/or Software delivered by the Contractor to the Client by virtue of the Order;
- **Project:** the assignment described in the Main Assignment;
- **Services:** Installation and Implementation Services, Maintenance and Support, and any other work to be performed by virtue of the Order;

¹ These general conditions are used from September 2020 by all group companies of TBI Holdings B.V.

- **Software:** the set of programming rules to be provided by the Contractor as may be used by a computer, directly or indirectly, in order to achieve a specific prescribed result. Software may be subdivided into Standard Software or Custom-Made Software;
- **Source Code:** the set of program instructions in their original programming language, including the corresponding Documentation, intended for execution by a computer, in a format enabling a programmer with expertise and experience of the programming method and technology used, to modify the software with it;
- **Standard Software:** software developed for general use that is made available to the Client on a non-exclusive basis, including the corresponding Documentation;
- **Support:** assistance and advice on the use and functioning of the Deliverable;
- **Update(s):** a subsequent version of the Deliverable in which Defects have been fixed and/or the functioning of the Deliverable has been improved otherwise.
- **Upgrade(s):** a subsequent version of the Deliverable predominantly containing new or modified functionality;
- **Use:** in connection with an Intellectual Property Right or otherwise: the right (i) to use all available functionalities of the Software without limitation in time and/or place; (ii) to use the Software for testing purposes; (iii) to make and store (as back-up) copies of the Software; (iv) to fix errors in the Software or have errors in the Software fixed; (v) to maintain the Software or have it maintained; (vi) to use the Software in connection with all and any activities of the Client; (vii) to use and store data and to retrieve and reuse data and to modify or merge data in the database; and (viii) to use the Software in connection with any associated or interconnected networks, including but not limited to the Internet or Client's Intranet;
- **Worker(s):** worker(s) and third persons the Contractor engages for the execution of the Order.

2 The quotations Contractor submits are binding for the term mentioned in the quotation, being at least six (6) months. The Order issued by the Client has to be signed by the Contractor and returned to the Client by return of mail. The Contract shall be deemed accepted by the Contractor if the Contractor has not informed the Client in writing of the contrary within eight (8) days after the date of the Order.

3 Every Order will be granted by the Client subject to the suspensive condition of the conclusion of the Main Assignment. This shall only be different if the Contract is not granted by the Client for a specific Project.

4 The application of general conditions of sale or terms of delivery or any other conditions that the Contractor uses or that tend to apply, are rejected by the Client, unless and to the extent that the Client has expressly accepted their applicability in writing.

5 At the request of the Client, after the Contract has been granted, the Contractor shall immediately provide the Client with a copy no older than three (3) months of the registration of the Contractor with the Chamber of Commerce.

Article 2 Safety

1 The Client and the Contractor both regard taking due care of a healthy and safe working environment for their employees and Workers as a priority. The Contractor is held to actively support the Client in achieving its objective(s) in terms of safety standards.

2 The client endorses the Safety in Construction Safety Governance Code (GCVidB). If, for reasons of Safety in Tendering (ViA), the Safety Ladder of the GCVibB is applied for the project in question, on request of the Client the Contractor will provide the Client with data that enable the Client to demonstrate that the required step of the Safety Ladder has been obtained.

3 Workers who carry out the work on the Client's construction site or project location must be in possession of proof of successful completion of the gate instruction before the Worker starts with the implementation of the work, such as the GPI Certificate of the GCBV. The Worker must present such proof and/or certificate upon the Client's first request. Workers who are unable to produce such proof or certificate may be denied access to the construction site or project location.

Article 3 Security

1 The Contractor shall inform the Client regarding the security measures applicable to the Deliverable.

2 The Contractor shall take and maintain appropriate technical and organizational measures in terms of information security during the period when the Contractor is processing (personal) data of the Client.

3 The Contractor strives for state-of-the-art certification(s) in terms of information security, such as ISO27001 and ISAE34. The Contractor may substantiate its choice for (not having the) certification(s).

4 The Contractor shall render all reasonable cooperation to making additional arrangements regarding the level of information security of the Deliverable to be achieved by the Contractor.

Article 4 Integrity

When executing the Order the Contractor and its Workers will comply with the standards of the most recent version of the Company Code of the Foundation for the Assessment of Integrity in the Construction Industry (Stichting Beoordeling Integriteit Bouwnijverheid) or comparable. Contractor will refrain from any

anti-competitive action or behaviour and vouches for the quotations and offers made to the Client being made without any private contact or agreements with suppliers, contractors, subcontractors and/or other parties that limit, obstruct, or tamper with competition or that may do so.

Article 5 Corporate social responsibility

1 On first request of the Client the Contractor will provide - at its own expense - a CO₂ emission inventory for the year in which the work covered by the Order took place as well as the preceding year. This statement must be in compliance with the ISO 14064-1 and/or the Greenhouse Gas Protocol (GHG protocol). The CO₂ emission inventory must be accompanied by a verification statement from a certification institute, which statement shall comply with the requirements laid down in ISO14064-3 under "Validation and verification statement".

2 Client respects the Guiding Principles on Business and Human Rights of the United Nations ("Guiding Principles"). Contractor is requested to take note of the contents of the Guiding Principles. Contractor respects the Guiding Principles and ensures that these are complied within its company.

3 Contractor vouches for the compliance in the chain of its own suppliers and subcontractors with both the code of conduct regarding integrity as well as the Guiding Principles.

4 Client is authorized to audit both the Contractor and its chain of contractors and suppliers to check compliance with Article 4. Contractor will collaborate with such an audit and will also ensure its subcontractors and suppliers cooperate as well.

Article 6 Laws, acts, regulations, permits and licenses

1 Contractor is expected to be acquainted with all legal and other regulations and stipulations that apply to the execution of the Order, regarding safety, the environment, working conditions and wage rates and payments, and Contractor is obliged to take all required measures to observe such regulations and stipulations.

2 The Contractor at all times will follow any instructions given by the Client or the competent authorities concerning the compliance with legal and other regulations and stipulations.

3 Contractor will indemnify and hold the Client harmless from third-party liability without any reservation for all damages and costs and any other detrimental consequences of any type that occur because the Contractor omits to take measures to comply with legal and other regulations and stipulations, or because the Contractor does not follow the instructions given by the Client or the competent authorities.

4 a. If, within the scope of the Order and for its realization, the Contractor will process any personal data of one or more Workers Contractor guarantees Client that these data will be processed in keeping with the applicable legislation concerning personal data protection.

b. Contractor is also obliged to help Client or provide full collaboration to Client in order to be able to meet all its obligations as "Controller" or "(Sub-)Processor" within the meaning of the applicable data protection legislation. This collaboration includes closing a separate agreement to process, based on a template text of the Client, as the occasion arises.

Article 7 Data

1 All drawings, designs, models, specifications and other data that the Contractor receives from the Client for the preparation or execution of the Order remain the property of the Client.

2 All data that the Client makes available to the Contractor must be checked by Contractor immediately after receipt for correctness and completeness. The Contractor must inform the Client at once in writing after finding any incorrectness or incompleteness. If and as far as Contractor has not informed the Client in writing at the latest when submitting the quotation of any errors or omissions, the Contractor is deemed to have accepted without reservation the correctness and completeness of the information submitted to the Contractor, and all consequences of using incorrect or incomplete information will be for the account of the Contractor.

3 The information made available to the Contractor by the Client may not be used by Contractor or others for any other purpose than for the preparation and execution of the Order.

4 After the execution of the Order the Contractor must on first request return to the Client all information provided, including any digital copies, copies and/or photo copies, without any delay.

5 With regard to Products the Contractor received from the Client, the Contractor vouches having all data and information available that may affect the completion of the work or project, including though not limited to obtaining and/or keeping Statements of Conformity and/or CE certificates for used or processed Products. The Contractor will properly store the data and information during the period of time indicated in the applicable European and national regulations and submit to the Client on first request.

Article 8 Price, contract sum

The price or the contract sum agreed on with the Contractor is fixed. Alterations in costs of materials or wages or taxes owed by the Contractor or any other costs will not be charged to the Client, unless stated otherwise in the Order.

Article 9 Workers of Contractor

1 The Contractor warrants and shall see to it, at its own expense, that its Workers have all skills required for a professional, safe and efficient performance of the agreed work and are in possession of the required certificates.

2 Work for the Order may not be stopped without the prior written consent of the Client.

3 Unless otherwise agreed the Contractor is not allowed to employ members of staff of the Client directly or indirectly, have them perform work in another way for Contractor or approach these members of staff for a position elsewhere.

Article 10 To contract out work

1 The Contractor may not have third parties execute the Order the Client granted either completely or partially unless Contractor received prior written permission from Client.

2 Contractor remains responsible at all times for activities or deliveries that the Contractor with the permission of Client has executed by a third party.

3 Should it occur that Contractor is unable to meet its payment commitments towards a third party who the Contractor had taken on to execute the Order granted by the Client completely or partially, then Client may pay this third party the amounts owed by the Contractor directly. In such a case the Client may set off all payments made against any payments the Client may owe to Contractor now or in future.

Article 11 Contract variations

1 If Contractor is of the opinion that contract variations occur Contractor must immediately report this to Client in writing, quoting the consequences in time and money. The execution of such work may not begin before an additional Order has been issued in writing, unless the Client or its representative expressly state that the execution of the work does not brook delay and the work must be started.

2 The sole change of a time schedule does not entitle Contractor to reimbursement of change order work.

3 Contract variations and/or other deviations from the Order, also if this is a cutback or improvement, will only be considered if they have been reported by the Contractor in advance and have been ordered in writing by the Client.

Article 12 Liability, insurances

1 Client can claim reimbursement for all damages due to Defects and/or of any other shortcoming that can be attributed to Contractor, including any penalty imposed on Client by Principal or a legal body in connection with a shortcoming that can be attributed to the Contractor's execution of the Order.

2 Contractor must take out a sound insurance for its own account that covers the legal and contractual liability for da-

mages that may be the consequence of the execution of the Order. On first request of Client Contractor will allow Client access to the policy and its conditions.

Article 13 Invoicing

1 Parties strive to have XML-invoicing take place as much as possible. The Contractor will also sent the invoice in PDF-format to the Client.

2 The invoice must meet the requirements under the Turnover Tax Act 1968 (Wet op de Omzetbelasting 1968). Contractor must specify in any case the following data on the dated and numbered invoice:

- a. the complete name and address and place of residence of Client and Contractor;
- b. the bank account of Contractor;
- c. a description or name of the Project, as well as the work location;
- d. the project number;
- e. the inquiry number, request for tender or order number;
- f. the VAT identification number the Contractor uses for its Deliverable;
- g. the quantity and nature of the Deliverable.
- h. the date on which the Deliverable was rendered or completed.

3 Every invoice must be cumulative, i.e. the invoice must state the overall amount the Contractor claims up to the date of invoice for the work executed so far. The amounts of the invoices that have been submitted earlier will be deducted from the amount. A separate invoice must be submitted by Contractor for any contract variations.

4 Processing invoices that do not meet all requirements as described in these General ICT Purchasing Conditions will be suspended until Contractor has issued all missing data.

5 Claims for payment of Contractor's invoices submitted to Client later than six (6) months after completion of the work (or, if applicable, after Acceptance) will be deemed expired.

Article 14 Payment

1 Payment will only take place if Contractor met all obligations described in the Order and these General ICT Purchasing Conditions and in so far as the Deliverable has been approved by Client; unless otherwise agreed payment will take place within 60 days after receipt of the Contractor's invoice, however not before the Contractor signed and returned a second copy of the Order.

2 Contractor states without any reservation that it renounces its right of retention or any other legal right to suspend his performance.

3 Client is entitled to settle amounts it owes to Contractor with any amount that Contractor may or will be able to claim on any account from Client, also if such a claim is not yet due and payable.

4 Contractor may only claim instalments or prepayments if this is expressly stipulated in the Order.

Article 15 Ban on transfer and pledging

Claims that Contractor has or will have on Client may not be transferred or pledged. This clause has the effect of the law of property (goederenrechtelijke werking).

Article 16 Security

Client is entitled to require from Contractor that Contractor will provide security to the satisfaction of Client for meeting its obligations under the Order.

Article 17 Termination

1 In case the Contractor attributably fails to meet its obligations under the Order issued by the Client, Client has the right to terminate the Order granted to Contractor, either completely or partially without serving any previous reminder or notice of default, by means of a single written statement addressed to Contractor.

2 In case of termination Client can claim indemnification for all damages Client suffered or may suffer on that account. Damages will include the extra costs Client must pay to have the Order originally granted to the Contractor executed or completed by a third party. Client may deduct damages the Client can claim indemnification for from the payments Client owes the Contractor. All payment obligations of the Client are suspended until the amount Client can claim from Contractor as a consequence of the termination of the Order has been determined.

3 Client is never obliged to pay any indemnification or compensation due to the termination of the Order granted to the Contractor.

4 The conditions in this Article also apply if the Contractor has applied for suspension of payment or bankruptcy, or requests for the assignment of one or more intended trustees (silent administrator), or a third party lodges a petition for bankruptcy, the Contractor is granted suspension of payment or declared bankrupt or if the Contractor closes down the business, liquidates or transfers or assigns its company to a third party, and solely the first and third condition in this Article apply if the project is terminated while still incomplete or the Main Assignment is terminated for any reason.

Article 18 Advertising and publication

Contractor is not allowed to advertise with regard to the Order including publications on social media, without the prior written permission of Client.

Article 19 Non-Disclosure

1 The Contractor shall observe strict confidentiality and is held to non-disclosure of information regarding the Client's organisation, the Order, the functioning of the Product, the Application Landscape, the files, data, software, Source

Code, Documentation, and the Principal. Except for the Client's prior written consent, the Contractor shall not reveal or disclose to third parties such information, data, and data carriers available to the Contractor in whatever way, whether directly or indirectly, whether in writing or verbally, and shall only disclose such information and data to its Workers if and insofar as this is necessary in order to perform the agreed Deliverables.

2 The Contractor shall make it mandatory for its Workers to comply with the same non-disclosure provisions.

3 The Contractor warrants that its Workers shall observe the security procedures applied by the Client or the Principal.

4 With respect to the information provided by the Client or the Principal which is held by the Contractor, the Contractor undertakes:

- a. to use information and data obtained within the context of the Order only for the purpose for which the Order has been granted;
- b. to take all reasonable measures for safekeeping. In doing so, the Contractor shall save all information and data in a place that is not accessible to third parties, so that the information and data cannot be viewed by third parties and do not end up in the hands of third parties;
- c. not to keep the information in its possession longer than necessary for the performance of the Order and to make this information, including but not limited to the copies made, available again to the Client immediately after completion of the Order or after termination of the Order, or to destroy this information after written permission thereto has been obtained from the Client, in which case proof of destruction must be produced to the Client.

5 Confidentiality of information shall not exist or cease to exist at the moment when:

- a. the information becomes publicly known or available without the consent of the receiving party;
- b. the information was already demonstrably known to the receiving party before acceptance of this Order;
- c. the information has been demonstrably acquired independently of the Client.

6 Without prejudice to the Client's right to compensation and other statutory rights of the Client in the event that the Contractor imputably fails to perform its obligations under this Order, the Client shall, in the event of breach or violation of the non-disclosure undertaking, be entitled to collect an immediately payable penalty amounting to 10% of the price/contract sum referred to in Article 8 per breach, but at least amounting to EUR 25,000 (twenty-five thousand euros only). The amount of the penalty shall be paid by the Contractor immediately after the breach has been established and notified by the Client to the Contractor.

7 The obligations arising from this article shall remain applicable even after termination of the Order.

Article 20 Nullity

If one or more clauses of these General ICT Purchasing Conditions are null and void or nonbinding this shall not affect the validity and applicability of any of the other provisions. Parties commit themselves to making arrangements in mutual consultation that will help approach the purpose of the non-binding clause as much as possible.

Article 21 Applicable law, disputes

1 The Order granted to the Contractor shall be governed by the Laws of the Netherlands. Should any clause of the Order or these General ICT Purchasing Conditions be contrary to imperative law this clause will be nonbinding, but the remaining clauses will be fully applicable.

2 All disputes that originate from the Order issued to the Contractor or of any further to be granted Order will be settled by arbitration in accordance with the statutes of the Arbitration board for the building industry (Raad van Arbitrage voor de Bouw), unless another arbitration service is specified in the Order. In that case this other service also applies to disputes that may arise between Contractor and Client. However, Client is qualified at all times to present a dispute to the competent Court, or as the occasion arises refer to the Court hearing applications for interim relief (Voorzieningenrechter) in order to obtain a provisional injunction in summary proceedings or the permission to take precautionary measures.

3 If and as far as Contractor is established abroad Client may (with the exclusion of Contractor) without prejudice to the previous, have disputes with Contractor settled by the competent foreign court.

4 If any dispute is decided in favor of the Client the Contractor is obliged to pay all legal and extrajudicial costs, including the costs of legal aid and those costs not awarded by the Arbitration board and/or the court.

B. SPECIAL HARDWARE PROVISIONS

Article 22 Applicability

The provisions in this chapter B, in conjunction with the General Provisions, are at all times applicable to the purchase of Hardware by the Client.

Article 23 Delivery of Hardware

1 The Hardware to be delivered by the Contractor shall comply with:

- the Interoperability Requirements and the description and/or specifications given by the Client to the Contractor;
- the expectations that the Client may reasonably have of the Hardware in terms of, inter alia, its

characteristics, quality, and/or reliability and suitability for the Agreed Use.

2 Unless stated otherwise in the Order, Hardware shall be delivered "Delivered Duty Paid" ("DDP"), as referred to in the most recent version of the Incoterms, by or on behalf of the Contractor at the address specified by the Client.

3 The Hardware shall be packaged and secured in such a way that it shall reach its destination in good working order. Unless stated otherwise in the Order, no costs shall be charged for the packaging, packing and repackaging of the Hardware.

4 The Hardware rejected by the Client in whole or in part because it is not in compliance with the Order shall be returned at the Contractor's expense and risk.

5 The ownership of Hardware shall be transferred to the Client immediately upon delivery at the (work) location. The ownership and risk of rejected Hardware shall be deemed never to have been transferred to the Client, unless the Client has explicitly indicated otherwise.

6 Each consignment must be accompanied by a packing list and a bill of lading stating the order number of the Order and, where applicable, the applicable instruction for handling, processing, connection, operations, and maintenance.

Article 24 Installation

1 If the nature and/or scope of the Order give(s) reason to do so, the Contractor may inspect the place of installation of the Hardware prior to delivery.

2 If the Contractor finds the location of the installation unsuitable, the Contractor shall inform the Contractor as soon as possible. The Client and the Contractor shall then determine a suitable installation location by mutual agreement.

Article 25 Warranties

1 The Contractor warrants for a period of 36 (thirty-six) months after delivery - or, if Installation and Implementation have been agreed between parties, after Acceptance - that:

- upon delivery, the Hardware is composed of new parts;
- it has the full ownership of the Hardware at the time of delivery, the full ownership is not subject to any retention of title, limited right, or attachment by a third party, and is free of any other encumbrances and restrictions;
- the Hardware is in compliance with the quality, description, specifications and other details of the Hardware prescribed in the Order;
- the Hardware is in compliance with all descriptions and specifications expressed by the Contractor to the Client;
- the Hardware is in compliance with the law and all standards to which reference is made;
- the Hardware is in compliance with all descriptions and

- specifications stated on each component of the Hardware and/or on the product packaging and/or in the documentation supplied along with the Hardware;
- g. the Hardware is suitable for and has the quality for each form of Agreed Use, and shall not have any Defects;
 - h. the use of the Hardware supplied or installed by the Contractor does not infringe any third-party Intellectual Property Rights and the Contractor indemnifies the Client against all and any claims made in respect of such (alleged) infringement;
 - i. without charging any further costs, the Contractor shall provide the Client with high-quality user manuals and other documentation in the manner and quantity reasonably required by the Client.

2 The Contractor acknowledges and accepts that, if the Client does not enter into a maintenance agreement, the Client shall be entitled to maintain the Hardware itself or outsource the maintenance of the Hardware to a third party.

3 If the Client notifies the Contractor of any Defects in the Hardware, as a result of which the Contractor fails to comply with one of the warranties specified in article 25.1, the Contractor shall immediately repair or replace the Hardware at the Contractor's expense and risk.

C. SPECIAL SOFTWARE PROVISIONS

Article 26 Applicability

The provisions in this Chapter C shall be applicable at all times in conjunction with the General Provisions, if the Contractor sells Software, makes it available for Use, or makes it available to the Client otherwise, whether or not as a component of Hardware or together with Hardware.

Article 27 Standard Software

1 The Contractor shall provide the Standard Software in the manner laid down in the Order.

2 All Intellectual Property Rights to the Standard Software and Documentation are vested in the Contractor or its licensors.

3 Unless expressly agreed otherwise in the Order, the Contractor herewith grants the Client an unconditional, open-ended, irrevocable, non-terminable, transferable and royalty-free non-exclusive (sub-) licence to use all its Intellectual Property Rights that have arisen or shall arise in connection with the Standard Software as well as to the New Releases and Documentation, the works embodied therein, and the resulting works, or the works in connection with this Order, including but not limited to the right of the Client to grant sub-licences to the Principal and its Group Companies or to persons working there.

4 The parties acknowledge and accept that the Use of the Standard Software shall be limited to Use of the Standard Software in object-code format. The right of Use referred to in the preceding paragraph does not include transfer by

the Contractor to the Client of any patents, copyrights or trademark rights to the Standard Software concerned.

5 Until the moment of Acceptance of the Standard Software, the Client shall acquire a non-exclusive right to use the Standard Software for installation and testing purposes.

Article 28 Custom-Made Software

1 The Contractor shall develop the Custom-Made Software as agreed in the Order.

2 All Intellectual Property Rights to Custom-Made Software and its Documentation are vested in the Client, unless the parties have agreed otherwise in writing.

3 In the event that, by way of deviation from the previous paragraph, the parties agree that the Intellectual Property Rights to the Custom-Made Software shall be vested in the Contractor, the Contractor herewith grants the Client an unconditional, open-ended, irrevocable, non-terminable, transferable and royalty-free non-exclusive (sub-)licence, including but not limited to the Client's right to sub-licence, to the Principal and its Group Companies or to persons working there, to Use all of its Intellectual Property Rights created or yet to be created in connection with the Custom-Made Software as well as the New Releases and Documentation, the works embodied therein, and the works resulting therefrom or as a result of this Order, and which shall furthermore include all powers that the entitled party or copyright owner can exercise with regard to the Custom-Made Software and Documentation thereof, including but not limited to the right to reproduce, publish, reverse-engineer, and modify the Custom-Made Software and Documentation, and to allow a third party to do so, all this if and insofar as this is useful or necessary for the Use by the Client of the Custom-Made Software and Documentation.

4 Unless the parties to the Order agree otherwise in writing, the entitlement referred to in the previous paragraph shall apply mutatis mutandis to the Source Code of the Custom-Made Software.

5 The Contractor shall present the Source Code of the Custom-Made Software and corresponding Documentation to the Client immediately after Acceptance.

Article 29 Escrow

1 If the Client so desires, the Contractor shall deposit a copy of the Custom-Made Software in Escrow any time, more in specific a copy of the Source Code for the benefit of the Client, with a professional source-code depositary to be approved in writing by the Client. A form of active Escrow must then be arranged, which shall reasonably ensure that the carrier of the deposited Source Code actually contains all Source Code(s) needed in order to obtain an understanding of the architecture, design choices, chosen algorithms, and other preparatory material leading to the deposited Source Code.

2 In case of deposit in Escrow, the Contractor shall hand out, not later than on the date of delivery, a written confirmation from that depositary to the Client demonstrating that the Source Code cum annexis (c.a.) of the Custom-Made Software has been deposited with the said depositary. If the Source Code cum annexis (c.a.) of the Custom-Made Software is changed at any time, the Contractor shall also deposit the changed version(s) with the said depositary.

3 The Client shall have the right to require the said depositary to produce all versions of the Source Code(s) in the possession of the depositary, if and as soon as the Client declares in writing to the depositary that the Order has been rescinded by the Client due to circumstances which are within the risk sphere of the Contractor or that the Order has been terminated by the Contractor or shall be terminated within one month by the Contractor, or shall not be extended by the Contractor. Today for the future, the Contractor herewith grants the Client a right to use the Source Code(s) or have the Source Code(s) used, et cetera, as set forth in the Order. The Client may furthermore demand the depositary to issue a statement confirming that the Source Code has been deposited with the said depositary properly and completely.

4 If Escrow does not form part of the Order, the Client shall be entitled to demand that such an arrangement be concluded after all.

Article 30 Delivery of Software

1 Unless agreed otherwise in the Order, the Contractor shall:

- a. deliver the Software at the location(s) and on the delivery date specified in the Order;
- b. deliver software which is in compliance with:
 - i the Interoperability Requirements and the description and/or specifications given by the Client to the Contractor;
 - ii the expectations that the Client may reasonably have of the Software with regard to, inter alia, its characteristics, quality, and/or reliability, and its suitability for the Agreed Use.
- c. provide information and assistance to the Client within a reasonable period of time prior to the applicable delivery date in order to enable the Client to prepare the location(s) where the Installation and Implementation Services are to be performed for the installation of the Software; and
- d. at the Client's request, provide reasonable assistance in order to be able to carry out such preparation.

2 The Contractor shall perform Installation and Implementation Services with regard to the Standard Software if so agreed in the Order.

3 Unless explicitly stated otherwise in the Order, the Contractor shall perform the Installation and Implementation Services concerning the Custom-Made Software.

Article 31 Software Warranties

1 The Contractor warrants, for a period of twelve (12) months after delivery - or, if Installation and Implementation has been agreed between parties, after Acceptance - that:

- a. the Software is in compliance with the quality, description, specifications, and other details of the Software prescribed in the Order;
- b. the Software is in compliance with all descriptions and specifications submitted by the Contractor to the Client;
- c. the Software and (if applicable) the media to which the Contractor provides the Software are free of viruses and other harmful codes;
- d. the Software is suitable and has the appropriate quality for Agreed Use, and is free of any Defects;
- e. no use has been made (in the development of the Software) of open-source software or libraries or codes licensed for a specified period of time only and/or under, or similar to, a General Public Licence (as defined by the open-source initiative or the free software foundation), nor shall the Software function in such a way that it is compiled or associated with such a licence, unless agreed otherwise in an agreement;
- f. the Software does not infringe any third-party Intellectual Property Rights and the Contractor indemnifies the Client against all and any claims made in respect of such (alleged) infringement;
- g. the Contractor is entitled to enter into an agreement with the Client and to grant the Client a licence for the Use of Software, for the purposes agreed upon in the Order;
- h. the Software is compatible with other software set forth under "objectives" and/or the Interoperability Requirements;
- i. the Contractor shall provide the Client with high-quality user manuals and other documentation concerning the Software without charging any further costs, in the manner and quantity reasonably required by the Client.

2 The Contractor acknowledges and accepts that, if the Client does not enter into a maintenance agreement, the Client shall be entitled to maintain the Software itself or outsource the maintenance of the Software to a third party.

3 If and insofar as the execution of the Order requires that licences be obtained concerning third-party Intellectual Property Rights - such as for the reuse of old designs or for the use of software -, the Contractor shall endeavour to obtain the necessary licences for and in the name of the Client. Should it be impossible to obtain the said licences in the name of the Client, the Contractor must consult with the Client, and the consent of the third parties concerned must at least be such that the Client shall not be bound vis-à-vis the Contractor for the future commercialization and/or maintenance of Goods and is able to continue the commercialization and maintenance itself by outsourcing the maintenance to a third party or otherwise.

4 If the Client notifies the Contractor of any bug in the Software, the Contractor shall repair or replace the Software immediately upon first notification and at its own expense and risk.

5 The provisions of this article shall remain applicable after any delivery, inspection, Acceptance, payment or Deliverable by virtue of the Order, and refer to any replacement, repair, and/or corrective Software provided by the Contractor.

D. SPECIAL PROVISIONS CONCERNING SERVICES

Article 32 Applicability

These provisions in this Chapter D, together with General Provisions, shall be applicable at all times to the performance of Services to the Client.

Article 33 General provisions concerning Services

1 The Contractor shall perform the Services in accordance with the service description contained in the Order.

The Services shall include:

- a. all and any activities and services required to meet the obligations by virtue of the Order; and
- b. all and any activities and services that a competent professional would perform, even if such activities and services are not specified in the agreed service description.

2 The Contractor shall perform the Services as of:

- a. the effective date specified in the Order; or
- b. another date agreed in writing between the parties.

3 The Contractor shall adhere to the dates stated in the Order or communicated in writing by the Client to the Contractor during the execution of the Services.

4 During the Order, the Contractor shall:

- a. collaborate with the Client in all matters relating to the Services and shall follow all instructions given by the Client;
- b. perform the Services with its best due care, professional competence, and dedication;
- c. obtain and retain all permits and permissions needed in order to comply with applicable laws and regulations;
- d. comply with all health and safety regulations and other reasonable security regulations applicable at the location where the Order must be carried out; and
- e. refrain from doing or omitting anything that may cause the Client to lose a licence, influence or permission relied on by the Client in connection with the conduct of its business and/or the execution of the Project.

Article 34 Installation and Implementation Services

1 The Contractor shall:

- a. perform the Installation and Implementation Services in the manner set forth in the Order; and
- b. complete the installation and/or implementation of each Product at the agreed location(s) on the date of

installation and/or implementation as laid down in the Order.

2 The Contractor shall carry out the agreed acceptance tests for each Product within the term specified in the Order. The acceptance tests shall commence as soon as reasonably possible after installation and/or implementation, and shall be carried out on a continuing basis on regular business days during normal working hours. Custom-Made Software shall not be delivered until the acceptance tests have been carried out successfully or the resulting errors have been fixed.

3 If a Product does not pass the acceptance tests, the Client shall send a written notice to the Contractor with details of the Defect(s) within a reasonable period of time after completion of the acceptance tests or part of these tests. The Contractor shall rectify the Defects and bugs and repeat the relevant acceptance test(s) within a reasonable period of time after receipt of the written notice.

4 If a Product does not pass a repeated acceptance test within a reasonable period of time, the Client may, at its discretion, through written notification:

- a. set a new date for carrying out further testing on the Product on the same conditions. If the Product does not pass these tests, the Client may require a repetition of the acceptance test(s); or
- b. reject the Product, in which case the Client may immediately dissolve the Order in whole or in part and claim damages.

5 Acceptance of the Product is deemed to have taken place:

- a. if the Client has signed a Certificate of Acceptance of the Product after successful completion of the acceptance test(s); or (whichever is earlier)
- b. after expiry of fourteen (14) business days after completion of all acceptance tests, unless the Client has given written notice pursuant to Article 34.3.

Article 35 Maintenance and Support

Unless determined otherwise in the Order, the Contractor shall, during Maintenance and Support Services:

- a. provide the Client with New Releases in a machine-readable form, together with the relevant changes to the Documentation, at no additional charge. The Contractor may make such New Releases available by means of the option of downloading the New Releases online, and shall inform the Client immediately when such a download is available;
- b. test the functionality of the Hardware and/or Software, and make all and any adjustments, repairs or replacements needed in order to ensure a proper functioning of the Hardware and/or Software;
- c. ensure that a telephone help desk, e-mail or remote support be available on regular business days during normal working hours in order to assist the Client in

resolving Defects in the Software, and provide advice on the use of the Software; and

- d. repair any Defects reported by the Client to the Contractor, within a timeframe matching with the serious nature of the circumstances, in accordance with the procedures laid down in the Order.