

Chapter 1. General provisions

Art. 1 Applicability of the General Terms and Conditions of MK digital B.V. (hereafter called "Cloudsuppliers")

- 1.1 These General Terms and Conditions apply to all offers and agreements pursuant to which Cloudsuppliers delivers goods and/or provides services of any nature whatsoever and under whatever name to the customer.
- 1.2 Departures from and additions to these general terms and conditions shall only be valid if they are agreed between the parties in writing.
- 1.3 The applicability of the customer's purchasing or other conditions is specifically excluded.
- 1.4 If and insofar as Cloudsuppliers makes third-party products or services (including software) available to customer, the terms and conditions of the third parties concerned shall apply in the relationship between Cloudsuppliers and customer with respect to the products and services instead of the provisions of these general terms and conditions that differ from those licence terms, provided that the applicability of the licence terms of the third party concerned were reported to customer by Cloudsuppliers in writing and, in addition, a copy of the applicable terms and conditions were made available to customer prior to the conclusion of the agreement. In derogation from the provisions of the preceding sentence, customer shall not be entitled to invoke failure on the part of Cloudsuppliers to fulfil the aforementioned obligation to provide information if customer is a party as referred to in Section 235, subsection 1 or subsection 3 of Book 6 of the Dutch Civil Code.
- 1.5 If and insofar as, for whatever reason, the terms and conditions of third parties referred to above are deemed not to apply or are declared inapplicable in the relationship between customer and Cloudsuppliers, the provisions of these general terms and conditions shall apply in full.
- 1.6 If any provision of these general terms and conditions is null and void or is voided, the other provisions of these general terms and conditions shall remain fully in effect. Cloudsuppliers and customer shall in this case consult each other for the purpose of agreeing new provisions to replace the null and void or voided provisions.

Art. 2 Offers

All offers and other communications of Cloudsuppliers are subject to confirmation unless Cloudsuppliers has indicated otherwise in writing. Customer warrants that the information that it has provided or that has been provided on its behalf to Cloudsuppliers and on which Cloudsuppliers has based its offer is accurate and complete.

Art. 3 Price and payment

- 3.1 The payment term is 30 days of the date of invoice. All prices are exclusive of turnover tax (VAT) and other levies imposed by the government. All prices stated by Cloudsuppliers are in euros (EUR) and customer must make all payments in euros.
- 3.2 Customer may not derive any rights or expectations from a cost estimate or budget issued by Cloudsuppliers unless the parties have otherwise agreed in writing. An available budget made known to Cloudsuppliers by customer shall only apply as a (fixed) price agreed between the parties for the performance to be delivered by Cloudsuppliers if this has been expressly agreed in writing.
- 3.3 If, according to the agreement concluded between the parties, customer consists of several natural persons and/or legal entities, each of these natural persons and/or legal entities shall be jointly and severally liable towards Cloudsuppliers for performance of the agreement.
- 3.4 Information from Cloudsuppliers' records shall count as conclusive evidence with respect to the performance delivered by Cloudsuppliers and the amounts owed by customer for delivery of this performance, without prejudice to customer's right to produce evidence to the contrary.
- 3.5 If a periodic payment obligation on the part of customer applies, Cloudsuppliers shall be entitled to adjust, in writing and in accordance with the services price index (Dienstenprijsindex, DPI) as published by the Dutch Central Bureau for Statistics, the applicable prices and rates to the term specified in the agreement.
- 3.6 The parties shall record the date or dates on which Cloudsuppliers shall charge customer for the performance agreed in the agreement. Customer may not suspend any payment and may also not set off any amounts owed.
- 3.7 If customer fails to pay amounts due or fails to do so on time, customer shall owe statutory interest for commercial agreements on the outstanding amount without a demand for payment or a notice of default being required. If customer fails to pay the amount due after a demand for payment or a notice of default has been issued, Cloudsuppliers shall be entitled to refer the debt for collection, in which case customer must pay all judicial and extrajudicial costs, including all costs charged by external experts. The foregoing shall be without prejudice to Cloudsuppliers' other legal and agreemental rights.

Art. 4 Term of the agreement

- 4.1 If and insofar as the agreement concluded between the parties is a continuing performance agreement, the agreement shall be entered into for the term agreed between the parties. A term of one year shall apply if no term has been agreed.
- 4.2 The term of the agreement shall be tacitly renewed each time with the period of time originally agreed, unless customer or Cloudsuppliers terminate the agreement in writing with due observance of a notice period of three months prior to the end of the current term.

Art. 5 Confidentiality

- 5.1 Customer and Cloudsuppliers must ensure that all information received from the other party that the receiving party knows or should reasonably know is confidential is kept secret. This duty of confidentiality shall not apply to Cloudsuppliers if and insofar as Cloudsuppliers is required to provide the information concerned to a third party in accordance with the agreement (either under embargo or not), a court decision or a statutory requirement, or if and insofar as doing so is necessary for the proper performance of the agreement by Cloudsuppliers. The party that receives the confidential information may only use it for the purpose for which

it was provided. Information shall in any case be deemed to be confidential if it has been qualified as such by one of the parties.

- 5.2 Customer acknowledges that software originating from Cloudsuppliers is always confidential in nature and that this software contains trade secrets of Cloudsuppliers and its suppliers or the producer of the software.

Art. 6 Privacy and data processing

- 6.1 If relevant for the performance of the agreement, customer shall on request inform Cloudsuppliers in writing about the way in which customer performs its legal obligations regarding the protection of personal data.
- 6.2 Customer indemnifies Cloudsuppliers against claims of any person whose personal data is processed by or on behalf of customer or for which customer is otherwise responsible by law, unless customer proves that the facts on which a claim is based are attributable to Cloudsuppliers.
- 6.3 Customer is fully responsible for the data that it processes in the context of using a service of Cloudsuppliers. Customer guarantees vis-à-vis Cloudsuppliers that the content, use and/or processing of the data are not unlawful and do not infringe any right of a third party. Customer indemnifies Cloudsuppliers against any claim of a third party instituted for whatever reason in connection with this data or the performance of the agreement.
- 6.4 If Cloudsuppliers performs any work on request of or on the basis of an authorized order from a public authority government body or in relation to any legal duty in relation to any data from customer, its employees or users, Cloudsuppliers has the right to charge customer for all costs made by Cloudsuppliers.
- 6.5 If Cloudsuppliers performs any services for customer as a data processor as intended in the General Data Protection Regulation then chapter 2 of these General Terms and Conditions is applicable to the processing.

Art. 7 Security

- 7.1 If Cloudsuppliers is obliged to provide for a form of information security under the agreement, this security shall meet the specifications agreed in writing between the parties regarding security. Cloudsuppliers does not guarantee that the information security provided is effective under all circumstances. If the agreement does not include an explicitly defined security method, the security provided shall meet a standard that is not unreasonable in terms of the state of the art, the costs associated with the security measures, the nature, scope, context and sensitivity known to Cloudsuppliers of the data to be protected, the purpose and intended use of the products and services, the likelihood and severability of foreseeable risks and the taken.
- 7.2 The access or identification codes, certificates and other security means provided by or on behalf of Cloudsuppliers to customer are confidential and must be treated as such by customer, and may only be made known to authorised personnel in customer's own organisation. Cloudsuppliers is entitled to change the access or identification codes and certificates. Customer is responsible for the administration of authorizations and revocation of access- and identification codes.
- 7.3 Cloudsuppliers may change and update the security measures from time to time. Even if the agreement does not specifically provides this, Cloudsuppliers is entitled to take technical and organisational measures to protect hardware and software, databases or websites or any other products and services provided to prevent any misuse thereof. Customer shall not remove any such security measures.
- 7.4 Customer must adequately secure its systems and infrastructure and have active antivirus software protection at all times.

Art. 8 Retention of title, reservation of rights and risk transfer

- 8.1 As and when necessary, rights shall be granted or transferred to customer subject to the condition that customer has paid all amounts owed under the agreement.
- 8.2 Cloudsuppliers may retain all information, documents, software and/or data files received or created in the context of the agreement in spite of an existing obligation to hand over or transfer until customer has paid all amounts owed to Cloudsuppliers.
- 8.3 The risk of loss, theft, misappropriation or damage of items, information (including user names, codes and passwords), documents, software or data files that are created, supplied or used in the context of performing the agreement shall pass to customer at the time at which customer or an auxiliary person of customer comes into actual possession of the items and information referred to, or at the time customer has obtained access rights.

Art. 9 Intellectual property

- 9.1 All intellectual property rights to the software, content, websites, data files, databases, equipment and training, testing and examination materials, as well as other materials like analyses, designs, documentation, reports and offers, including preparatory materials in this regard, developed or made available to customer under the agreement are held exclusively by Cloudsuppliers, its licensors or its suppliers. Customer shall have the rights of use expressly granted under these general terms and conditions, the agreement concluded in writing between the parties and the law. A right accorded to customer is non-exclusive and may not be transferred, pledged or sublicensed.
- 9.2 If Cloudsuppliers is prepared to undertake to transfer an intellectual property right, such a commitment may only be undertaken expressly and in writing. If the parties agree in writing that an intellectual property right with respect to software, content, websites, data files, equipment or other materials specifically developed for customer shall transfer to customer, this shall be without prejudice to Cloudsuppliers' right or option to use and/or operate, either for itself or for third parties and without any restriction, the parts, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like on which the developments referred to are based for other purposes. The transfer of an intellectual property right shall likewise be without prejudice to Cloudsuppliers' right to complete developments, either for itself or for a third party, that are similar to or derived from developments that were or are being completed for customer.
- 9.3 Customer may not remove or change any indication concerning the confidential nature of or concerning the copyrights, brands, trade names or any other intellectual property right pertaining to the software, websites, data files, equipment or materials, or have any such indication removed or changed.
- 9.4 Even if not expressly provided for in the agreement, Cloudsuppliers may always take technical measures to protect equipment, data files, websites, software made available, software to which customer is granted direct

or indirect access, and the like in connection with an agreed limitation in terms of the content or duration of the right of use of these items. Customer may not remove or bypass such technical measures or have such technical measures removed or bypassed.

- 9.5 Cloudsuppliers indemnifies customer against any claim of a third party based on the allegation that software, websites, data files, equipment or other materials developed by Cloudsuppliers itself infringe an intellectual property right of that third party, subject to the condition that customer immediately informs Cloudsuppliers in writing about the existence and content of the claim and leaves the settlement of the claim, including any arrangements made in this regard, entirely to Cloudsuppliers. Customer shall provide the powers of attorney and information required to Cloudsuppliers and assist Cloudsuppliers to defend itself against such claims. This obligation to indemnity shall not apply if the alleged infringement concerns (i) materials made available to Cloudsuppliers by customer for use, modification, processing or maintenance or (ii) changes made or commissioned by customer in the software, website, data files, equipment or other materials without Cloudsuppliers' written permission. If it is irrevocably established in court that software, websites, data files, equipment or other materials developed by Cloudsuppliers itself is or are infringing any intellectual property right held by a third party, or if, in the opinion of Cloudsuppliers, there is a good chance that such an infringement is occurring, Cloudsuppliers shall if possible ensure that customer can continue to use, or use functional equivalents of, the software, websites, data files, equipment or materials supplied. Any other or further obligation to indemnify on the part of Cloudsuppliers due to infringement of a third party's intellectual property right is excluded.
- 9.6 Customer guarantees that making equipment, software, material intended for websites, data files and/or other materials, designs or other works available to Cloudsuppliers for the purpose of use, maintenance, processing, installation or integration does not infringe any rights of third parties and that customer obtained the correct licenses to prevent such infringement. Customer indemnifies Cloudsuppliers against any claim of a third party based on the allegation that such making available, use, maintenance, processing, installation or integration infringes a right of that third party.
- 9.7 Cloudsuppliers is never obliged to perform data conversion unless doing so has been expressly agreed in writing with customer.
- 9.8 Cloudsuppliers is entitled to use customers' logo's, tradenames and trademarks for its own commercial communications. Customer agrees to act as a reference customer on request of Cloudsuppliers.

Art. 10 Performance of services

- 10.1 Cloudsuppliers shall make an effort to perform its services with care to the best of its ability, if applicable in accordance with the agreements and procedures agreed in writing with customer. All services by Cloudsuppliers shall be performed on the basis of an obligation to use best endeavours unless and insofar as Cloudsuppliers has expressly promised a result in the written agreement and the result concerned has also been defined with sufficient determinability in the agreement. Cloudsuppliers is only obliged to periodically provide information concerning the performance of the work to customer through the contact person designated by customer.
- 10.2 Cloudsuppliers shall not be liable for loss or costs that are the result of the use or misuse of access or identification codes, certificates or other security measures provided to Cloudsuppliers for the performance of the services unless the misuse is the direct result of deliberate intent or recklessness on the part of Cloudsuppliers' management.
- 10.3 If the agreement has been entered into with a view to performance by one specific person, Cloudsuppliers shall always be entitled to replace this person with one or more persons who have the same and/or similar qualifications.
- 10.4 Cloudsuppliers is not obliged to follow customer's instructions in the performance of its services, particularly not if these instructions change or add to the content and scope of the agreed services. If such instructions are followed, however, payment shall be made for the work concerned in accordance with Cloudsuppliers' usual rates.
- 10.5 When providing any services Cloudsuppliers may engage third parties as subcontractors. In a number of cases, such as when organizing events that require a location, catering, sponsoring, or other facilities, Cloudsuppliers will only act as an intermediary for customer and customer will enter into an agreement directly with the third party. In those cases, customer shall provide its full cooperation in a timely manner in the closing of such agreements. The risk for conclusion and performance of these agreement lies with customer. Where relevant, customer shall provide a proxy to Cloudsuppliers to conclude such agreements.

Art. 11 Obligations to provide information and other obligations to cooperate

- 11.1 Customer acknowledges that the success of work in the field of the services provided by Cloudsuppliers depends on proper and timely cooperation between the parties. Customer shall always extend, in a timely manner, the cooperation reasonably required by Cloudsuppliers and provide all information reasonably required by Cloudsuppliers to Cloudsuppliers in a timely manner.
- 11.2 Customer guarantees that the information, designs and specifications that it has provided to Cloudsuppliers is or are accurate and complete. If the information, designs or specifications provided by customer contain inaccuracies apparent to Cloudsuppliers, Cloudsuppliers shall contact customer to make enquiries about the matter.
- 11.3 In connection with continuity, customer shall designate a contact person or contact persons who shall act in that capacity for the duration of Cloudsuppliers' work. Customer's contact persons shall have the experience required, specific knowledge of the subject matter and a proper understanding of the objectives that customer wishes to achieve and the authorization to make decisions on behalf of customer.
- 11.4 Customer bears the risk of selecting the items, goods and/or services to be provided by Cloudsuppliers. Customer must always exercise the utmost care to guarantee that the requirements that Cloudsuppliers' performance must meet are accurate and complete. Measurements and particulars given in drawings, images, catalogues, websites, offers, advertising material, standardisation sheets and the like are not binding for Cloudsuppliers unless expressly stated otherwise by Cloudsuppliers.
- 11.5 Customer is responsible for the management, including checking the settings, and use of the products supplied and/or services provided by Cloudsuppliers, and the way in which the results of the products and services are used. Customer is also responsible for appropriately instructing users and for the use made by users. If

Cloudsuppliers' employees perform work at customer's location, customer must provide, on time and free of charge, the facilities required, such as a workspace with computer and network facilities. Cloudsuppliers shall not be liable for damage or costs due to transmission errors, malfunctions or the non-availability of these facilities unless customer proves that this damage or these costs are the result of deliberate intent or recklessness on the part of Cloudsuppliers' management.

- 11.6 The workspace and facilities must meet all legal requirements. Customer indemnifies Cloudsuppliers against claims of third parties, including Cloudsuppliers' employees, who suffer injury in the context of performing the agreement as a result of acts or omissions of customer or unsafe situations in customer's organisation. Customer shall make the company and information security and other security rules current in its organisation known to workers deployed by Cloudsuppliers prior to the start of the work. If customer deploys employees and/or auxiliary persons in the performance of the agreement, these employees and auxiliary persons must have the knowledge and experience required.
- 11.7 Customer shall itself install, organise, parameterise and tune the software and support software required on its own equipment and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

Art. 12 Project and steering groups

- 12.1 If both parties are participating in a project or steering group through one or more employees that they have deployed, the provision of information shall take place in the manner agreed for the project or steering group.
- 12.2 Decisions made in a project or steering group in which both parties are participating shall only be binding for Cloudsuppliers if the decisions are made in accordance with that which has been agreed between the parties in writing in this regard or, in the absence of written agreements in this context, if Cloudsuppliers has accepted the decisions in writing. Cloudsuppliers is never obliged to accept or implement a decision if, in its opinion, the decision cannot be reconciled with the content and/or proper performance of the agreement.
- 12.3 Customer guarantees that the persons that it has designated to participate in a project or steering group are authorised to make decisions that are binding for customer.

Art. 13 Service Level Agreement

- 13.1 Any agreements concerning a service level (Service Level Agreements) shall only be expressly agreed in writing. Customer shall always inform Cloudsuppliers without delay about any circumstances that affect or that could affect the service level and its availability.
- 13.2 If agreements about a service level have been made, the availability of software, systems and related services shall always be measured such that unavailability due to preventive, corrective or adaptive maintenance or other forms of service announced by Cloudsuppliers in advance and circumstances beyond Cloudsuppliers' control are not taken into account. The availability measured by Cloudsuppliers shall count as conclusive evidence, subject to evidence to the contrary produced by customer.

Art. 14 Backups

- 14.1 The services provided by Cloudsuppliers do not include the making of any back ups. Customer is solely responsible for the provisioning of regular back ups. If however the services provided to customer under the agreement explicitly include making backups of customer's data, Cloudsuppliers shall make a complete backup of customer's data in its possession in accordance with the periods agreed in writing or once a week if such periods have not been agreed. Cloudsuppliers shall retain the backup for the duration of the agreed term or for the duration of Cloudsuppliers' usual term if agreements have not been made in this regard. Cloudsuppliers shall retain the backup with due care.
- 14.2 Customer remains responsible for the fulfilment of all administrative and retention obligations that apply to it by law.

Art. 15 Terms

- 15.1 Cloudsuppliers shall make reasonable efforts to comply to the greatest extent possible with the terms and delivery periods and/or dates and delivery dates, whether or not these are firm deadlines and/or dates, that it has specified or that have been agreed between the parties.
The interim dates and delivery dates specified by Cloudsuppliers or agreed between the parties shall always apply as target dates, shall not bind Cloudsuppliers and shall always be indicative.
- 15.2 If a term is likely to be exceeded, Cloudsuppliers and customer shall consult with each other about the consequences of the term being exceeded in relation to further planning.
- 15.3 In all cases, therefore also if the parties have agreed firm deadlines and delivery periods or dates and delivery dates, Cloudsuppliers shall only be in default as a result of a period of time being exceeded after customer has declared Cloudsuppliers to be in default in writing and a reasonable term that customer granted to Cloudsuppliers to remedy the breach has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Cloudsuppliers the opportunity to respond adequately.
- 15.4 If it has been agreed that the work under the agreement is to be performed in phases, Cloudsuppliers shall be entitled to postpone the start of a phase's work until customer has approved the results of the preceding phase in writing.
- 15.5 Cloudsuppliers shall not be bound by a date or delivery date or term or delivery period, whether or not final, if the parties have agreed an amendment to the content or scope of the agreement (additional work, a change of specifications and so on) or a change in approach with respect to performance of the agreement, or if customer fails to fulfil its obligations arising from the agreement or fails to do so on time or in full. The need for or occurrence of additional work during performance of the agreement shall never constitute a reason for customer to give notice of termination or to rescind (in Dutch: 'ontbinden') the agreement.

Art. 16 Termination and cancellation of the agreement

- 16.1 Each party shall only be authorised to rescind the agreement due to an attributable failure in the performance of the agreement if the other party, in all cases after a written notice of default that is as detailed as possible and that grants a reasonable term to remedy the breach has been issued, is culpably failing to fulfil essential

- obligations under the agreement. Customer's payment obligations and all obligations of customer or a third party engaged by customer to cooperate and/or provide information apply in all cases as essential obligations under the agreement.
- 16.2 If, at the time of rescission, customer has already received goods or services in the performance of the agreement, these goods or services and the associated payment obligations shall not be undone unless customer proves that Cloudsuppliers is in default with respect to the essential part of such goods or services. With due regard to the stipulation of the preceding sentence, amounts invoiced by Cloudsuppliers prior to rescission in connection with what it already properly performed or delivered in the performance of the agreement shall remain payable in full and shall become immediately due and payable at the time of termination.
- 16.3 An agreement which, due to its nature and content, does not end in completion and which has been entered into for an indefinite period of time may be terminated by either of the parties in writing following consultation between the parties. Reasons for the termination must be stated. If a notice period has not been agreed between the parties, a reasonable period must be observed when notice of termination is given. Cloudsuppliers is never obliged to pay any compensation due to termination.
- 16.4 Customer may not terminate an agreement of engagement that has been entered into for a definite period of time.
- 16.5 Either of the parties may terminate the agreement in writing, in whole or in part, without notice of default being required and with immediate effect, if the other party is granted a moratorium, whether or not provisional, a petition for bankruptcy is filed for the other party or the company of the other party is liquidated or dissolved other than for restructuring or a merger of companies. Cloudsuppliers may also terminate the agreement, in whole or in part, without notice of default being required and with immediate effect, if a direct or indirect change occurs in the decisive control of customer's company. Cloudsuppliers is never obliged to repay any amount in money already received or pay any amount in compensation due to termination as referred to in this paragraph. If customer goes irrevocably bankrupt, its right to use the software, websites and the like made available to it shall end, as shall its right to access and/or use Cloudsuppliers' services, without termination by Cloudsuppliers being required.

Art. 17 Liability of Cloudsuppliers

- 17.1 Cloudsuppliers' total liability due to an attributable failure in the performance of the agreement or on any legal basis whatsoever, expressly including each and every failure to fulfil a warranty obligation agreed with customer, shall be limited to compensation for direct loss up to a maximum of the price stipulated for the agreement concerned (excluding VAT). If the agreement is mainly a continuing performance agreement with a term of more than one year, the price stipulated for the agreement shall be set at the total amount of the payments (excluding VAT) stipulated for one year. Cloudsuppliers' total liability for direct loss, on any legal basis whatsoever, shall never amount to more than EUR 500.000 (five hundred thousand euros), however.
- 17.2 Cloudsuppliers' total liability for loss due to death or bodily injury or as a result of material damage to items shall never amount to more than EUR 1.250.000 (one million two hundred fifty thousand euros).
- 17.3 Cloudsuppliers' liability for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of customer's customers, loss arising from the use of items, materials or software of third parties prescribed by customer to Cloudsuppliers and loss arising from the engagement of Cloudsuppliers prescribed by customer to Cloudsuppliers is excluded. Cloudsuppliers' liability for corruption, destruction or loss of data or documents is likewise excluded.
- 17.4 The exclusions and limitations of Cloudsuppliers' liability described paragraphs 17.1 up to and including 17.3 are entirely without prejudice to the other exclusions and limitations of Cloudsuppliers' liability described in these general terms and conditions.
- 17.5 The exclusions and limitations referred to in paragraphs 17.1 up to and including 17.4 shall cease to apply if and insofar as the loss is the result of deliberate intent or recklessness on the part of Cloudsuppliers' management.
- 17.6 Unless performance by Cloudsuppliers is permanently impossible, Cloudsuppliers shall only be liable due to an attributable failure in the performance of an agreement if customer declares Cloudsuppliers to be in default in writing without delay and grants Cloudsuppliers a reasonable term to remedy the breach, and Cloudsuppliers culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Cloudsuppliers the opportunity to respond adequately.
- 17.7 For there to be any right to compensation, customer must always report the loss to Cloudsuppliers in writing as soon as possible after the loss has occurred. Each claim for compensation against Cloudsuppliers shall be barred by the mere expiry of a period of 24 months following the inception of the claim unless customer has instituted a legal action for damages prior to the expiry of this period.
- 17.8 Customer indemnifies Cloudsuppliers against any and all claims of third parties due to product liability as a result of a defect in a product or system that customer supplied to a third party and that consisted in part of equipment, software or other materials supplied by Cloudsuppliers, unless and insofar customer is able to prove that the loss was caused by the equipment, software or other materials referred to.
- 17.9 The provisions of this article and all other limitations and exclusions of liability referred to in these general terms and conditions shall also apply for the benefit of all natural persons and legal entities that Cloudsuppliers engages in the performance of the agreement.

Art. 18 Force majeure

- 18.1 None of the parties shall be obliged to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure on the part of Cloudsuppliers means, among other things: (i) force majeure on the part of Cloudsuppliers of Cloudsuppliers, (ii) the failure to properly fulfil obligations on the part of Cloudsuppliers that were prescribed to Cloudsuppliers by customer, (iii) defects in items, equipment, software or materials of third parties the use of which was prescribed to Cloudsuppliers by customer, (iv) government measures, (v) power failures, (vi) Internet, data network or telecommunication facilities failures, (vii) (cyber-)crime, war or terrorism and (viii) general transport problems.

- 18.2 Either of the parties shall have the right to rescind the agreement in writing if a situation of force majeure persists for more than 60 days.
In such an event, that which has already been performed under the agreement shall be paid for on a proportional basis without the parties owing each other anything else.

Art. 19 Changes and additional work

- 19.1 If, at the request or prior consent of customer, Cloudsuppliers has performed work or supplied goods or services that is or are outside the scope of the agreed work and/or provision of goods or services, customer shall pay for this work or provision of goods or services in accordance with the agreed rates or, if no rates have been agreed between the parties, in accordance with Cloudsuppliers' usual rates.
Cloudsuppliers is not obliged to honour such a request and may require that a separate agreement be concluded in writing for the purpose.
- 19.2 Customer is aware of the fact that changes in scope or additional work may lead to a shift in delivery dates. Any new delivery dates provided by Cloudsuppliers shall replace earlier dates.
- 19.3 Insofar as a fixed price has been agreed for the provision of services, Cloudsuppliers shall on request inform customer in writing about the financial consequences of the additional work or additional provision of goods or services as referred to in this article.

Art. 20 Transfer of rights and obligations

- 20.1 Customer may not sell, transfer or pledge its rights and obligations under an agreement to a third party.
- 20.2 Cloudsuppliers is entitled to sell, transfer or pledge its claims to payment of amounts owed to a third party.

Art. 21 Applicable law and disputes

- 21.1 Agreements between Cloudsuppliers and customer are governed by Dutch law.
The United Nations Convention on Agreements for the International Sale of Goods (CISG) does not apply.
- 21.2 Disputes that arise by reason of the agreement concluded between the parties and/or by reason of any further agreements deriving from it shall be resolved by arbitration in accordance with the Arbitration Regulations of the Foundation for the Settlement of Automation Disputes (Stichting Geschillenoplossing Automatisering – SGOA, www.sgoa.ec), the foregoing without prejudice to the right of each party to request preliminary relief in summary arbitral proceedings and without prejudice to the right of each party to take precautionary measures. Arbitration proceedings shall take place in The Hague.
- 21.3 If a dispute that arises by reason of the agreement concluded between the parties or by reason of any further agreements deriving from it is within the jurisdiction of the cantonal court (in Dutch: kantongerecht), each party, in derogation from the provisions of Article 21.2, shall be entitled to bring the case before the legally competent court as a cantonal court case.
The parties shall only be entitled to take the aforementioned action if arbitration proceedings concerning the dispute have not yet been instituted in accordance with the provisions of Article 21.2. If, with due observance of the provisions of Article 21.3, one or more of the parties have brought the case before the legally competent court in order for it to be heard and settled, the cantonal court judge of that court shall be competent to hear and settle the case.
- 21.4 Regarding a dispute that arises by reason of the agreement concluded between the parties or by reason of any further agreements deriving from it, each party shall in all cases be entitled to institute ICT mediation proceedings in accordance with the ICT Mediation Regulations of the Foundation for the Settlement of Automation Disputes. The other party must then actively participate in ICT mediation proceedings that have been instituted. This legally enforceable obligation in any case includes attending at least one joint meeting of mediators and the parties to give this extrajudicial form of dispute resolution a chance of success. Each party shall be free to terminate the ICT mediation proceedings at any time after a joint first meeting of mediators and the parties. The provisions of this paragraph do not prevent a party from requesting preliminary relief in summary arbitral proceedings or from taking precautionary measures if the party deems doing so necessary.

Chapter 2. Standard clauses for data processing

The provisions of this 'standard clauses for data processing' chapter shall apply in addition to the general provisions of these general terms and conditions if Cloudsuppliers performs services to customer as a (sub-) data processor as meant in the General Data Protection Directive (GDPR). These standard clauses together with the specific terms and conditions as described in the agreement or a separate appendix on the services to be provided form a data processing agreement as described in article 28 sub 3 of the GDPR.

Art. 22 General

- 22.1 Cloudsuppliers will process the personal data on behalf of the customer, in accordance with the written instructions provided by the customer and accepted by the Cloudsuppliers.
- 22.2 Customer, or its client, will serve as the controller within the meaning of the GDPR, shall have control over the processing of the personal data and will determine the purpose and means of processing the personal data.
- 22.3 Cloudsuppliers will serve as the processor within the meaning of the GDPR and will therefore not have control over the purpose and means of processing the personal data, and will not make any decisions on the use of the personal data and other such matters.
- 22.4 Cloudsuppliers will give effect to the GDPR as laid down in these standard clauses for data processing and the agreement. It is up to the Customer to judge, on the basis of this information, whether Cloudsuppliers is providing sufficient guarantees with regard to the implementation of appropriate technical and organizational measures so as to ensure that the processing operations meet the requirements of the GDPR and that data subjects' rights are sufficiently protected.
- 22.5 Customer will guarantee to Cloudsuppliers that it acts in accordance with the GDPR, that it provides a high level of protection for its systems and infrastructure at all time, that the nature, use and/or processing of the personal data are not unlawful and that they do not violate any third party's rights.
- 22.6 Administrative fines imposed on the Customer by a supervisory authority (SA) will not be able to be recouped from Cloudsuppliers.

Art. 23 Security

- 23.1 Cloudsuppliers shall implement the technical and organizational security measures outlined in the agreement. In implementing the technical and organizational security measures, Cloudsuppliers will take into account the state of the art and the costs of implementation, as well as the nature, scope, context and purposes of the processing operations and the intended use of its products and services, the risks inherent in processing the data and risks of various degrees of likelihood and severity to the rights and freedoms of data subjects that are to be expected considering the nature of the intended use of Cloudsuppliers products and services.
- 23.2 Unless explicitly stated otherwise in the agreement, the product or service provided by Cloudsuppliers will not be equipped to process special categories of personal data or data relating to criminal convictions and offences.
- 23.3 Cloudsuppliers seeks to ensure that the security measures it will implement are appropriate for the manner in which Cloudsuppliers intended the use of the product or service.
- 23.4 In the customers opinion, said security measures provide a level of security that is tailored to the risks inherent in the processing of the personal data used or provided by customer, taking into account the factors referred to in Article 23.1.
- 23.5 Cloudsuppliers will be entitled to adjust the security measures it has implemented if it feels that such is necessary for a continued provision of an appropriate level of security. Cloudsuppliers shall record any significant adjustments it chooses to make, e.g. in a revised attachment to the agreement, and will notify Customer of said adjustments where relevant.
- 23.6 Customer may request Cloudsuppliers to implement further security measures. Cloudsuppliers will not be obliged to honour such requests to adjust its security measures. If Cloudsuppliers makes any adjustments to its security measures at Customer's request, Cloudsuppliers will be allowed to invoice Customer for the costs associated with said adjustments. Cloudsuppliers will not be required to actually implement these security measures until both parties have agreed in writing and signed off on the security measures requested by Customer.

Art. 24 Data breaches

- 24.1 Cloudsuppliers does not guarantee that its security measures will be effective under all conditions. If Cloudsuppliers discovers a data breach within the meaning of Article 4.12 of the GDPR, it will notify Customer without undue delay.
- 24.2 It is up to the controller (the Client or its customer) to assess whether the data breach of which Cloudsuppliers has notified the customer must be reported to the relevant SA or to the data subject concerned. The controller shall at all times remain responsible for reporting data breaches which must be reported to the relevant SA and/or data subjects pursuant to Articles 33 and 34 of the GDPR. Cloudsuppliers is not obliged to report data breaches to a SA and/or to the data subject.
- 24.3 Where necessary, Cloudsuppliers will provide more information on the data breach and will help Customer meet its breach notification requirements within the meaning of Articles 33 and 34 of the GDPR by providing all the necessary information.
- 24.4 If Cloudsuppliers incurs any reasonable costs in doing so, it will be allowed to invoice Customer for these, at the rates applicable at the time.

Art. 25 Confidentiality

- 25.1 Cloudsuppliers will ensure that the persons processing personal data under its responsibility are subject to a duty of confidentiality.
- 25.2 Cloudsuppliers will be entitled to furnish third parties with personal data if and insofar as is necessary due to a court order, statutory provision or legal order to do so issued by a government agency.

Art. 26 Obligations after termination

- 26.1 If the data processing agreement is terminated, Cloudsuppliers will delete all personal data it currently stores and which it has obtained from Customer within the timeframe laid down in the agreement, in such a way that the personal data will no longer be able to be used and will have been rendered inaccessible. Alternatively, if such has been agreed, Cloudsuppliers will return the personal data to Customer in a machine-readable format.
- 26.2 If Cloudsuppliers incurs any costs associated with the provisions of Article 26.1, it will be entitled to invoice Customer for said costs. Further arrangements relating to this subject can be laid down in the agreement.
- 26.3 The provisions of Article 26.1 do not apply if Cloudsuppliers is prevented from removing or returning the personal data in full or in part by a statutory provision. In such cases, Cloudsuppliers will only continue to process the personal data insofar as such is necessary by virtue of its statutory obligations. Furthermore, the provisions of Article 26.1 will not apply if Cloudsuppliers is the controller of the personal data within the meaning of the GDPR.

Art. 27 The rights of Data Subjects, Data Protection Impact Assessments (DPIA) and auditing rights

- 27.1 Where possible, Cloudsuppliers will cooperate with reasonable requests made by Customer relating to data subjects claiming alleged rights from Customer. If Cloudsuppliers is directly approached by a data subject, it will refer the data subject to Customer where possible.
- 27.2 If Customer is required to carry out a DPIA or a subsequent consultation within the meaning of Articles 35 and 36 of the GDPR, Cloudsuppliers will cooperate with such, following a reasonable request to do so.
- 27.3 At Customers request, Cloudsuppliers will provide all information that is reasonably required to demonstrate compliance with the arrangements made in this data processing agreement, f.i. by providing a Data Protection Certificate or equivalent certificate, an audit report (Third Party Memorandum) prepared by an independent expert on the instructions of Cloudsuppliers or by means of other information to be provided by Cloudsuppliers. If, in spite of the foregoing, customer has grounds to believe that the personal data are not processed in accordance with the data processing agreement, customer will be entitled to have an audit performed (at its own expense) not more than once every year by an independent, fully certified, external expert who has demonstrable experience with the type of data processing operations carried out under the agreement. The audit will be limited to verifying that Cloudsuppliers is complying with the arrangements made regarding the processing of the personal data as laid down in the present data processing agreement. The expert will be

subject to a duty of confidentiality with regard to his/her findings and will only notify customer of matters which cause Cloudsuppliers to fail to comply with its obligations under the data processing agreement. The expert will furnish Cloudsuppliers with a copy of his/her report. Cloudsuppliers will be entitled to reject an audit or instruction issued by the expert if it feels that the audit or instruction is inconsistent with the GDPR or any other law, or that it constitutes an unacceptable breach of the security measures it has implemented.

- 27.4 The parties will consult each other on the findings of the report at their earliest convenience. The parties will implement the measures for improvement suggested in the report insofar as they can be reasonably expected to do so. Cloudsuppliers will implement the proposed measures for improvement insofar as it feels these are appropriate, taking into account the processing risks associated with its product or service, the state of the art, the costs of implementation, the market in which it operates, and the intended use of the product or service.
- 27.5 Cloudsuppliers will be entitled to invoice Customer for any costs it incurs in implementing the measures referred to in this article.

Art. 28 Subprocessors

- 28.1 Customer authorizes Cloudsuppliers to hire other sub-processors to meet its obligations under the agreement.
- 28.2 Cloudsuppliers will notify Customer if there is a change with regard to sub-processors hired by Cloudsuppliers. Customer will be entitled to object to the aforementioned change implemented by Cloudsuppliers.

Chapter 3. Software as a Service (SaaS)

The provisions of this 'Software as a Service' chapter shall apply in addition to the general provisions of these general terms and conditions if Cloudsuppliers performs services under the name or in the field of Software as a Service (SaaS). For the application of these general terms and conditions, SaaS means a service by which Cloudsuppliers makes software available to customer remotely through the Internet or another data network, and maintains this availability remotely, without providing a physical carrier with the software concerned to customer.

Art. 29 Provision of SaaS

- 29.1 Cloudsuppliers shall only provide SaaS on the instructions of customer. Customer may not allow third parties to make use of the services provided by Cloudsuppliers in the field of SaaS.
- 29.2 If Cloudsuppliers performs work relating to the data of customer, its employees or users pursuant to a request or a competently issued order of a government agency or in connection with a legal obligation, all costs associated with this work shall be charged to customer.
- 29.3 Cloudsuppliers may change the content or scope of the SaaS delivery model. If such changes result in a change in customer's current procedures, Cloudsuppliers shall inform customer about the matter as soon as possible and the costs of this change shall be borne by customer. Customer may in this case give notice of termination of the agreement, which termination shall then take effect on the date on which the change takes effect, unless the change is related to changes in relevant legislation or other instructions issued by competent bodies, or Cloudsuppliers bears the costs of this change.
- 29.4 Cloudsuppliers may continue to provide SaaS using a new or modified version of the software. Cloudsuppliers is not obliged to maintain, modify or add certain features or functionalities of the service or software specifically for customer.
- 29.5 Cloudsuppliers may temporarily put all or part of the SaaS out of operation for preventive, corrective or adaptive maintenance or other forms of service. Cloudsuppliers shall not allow the period during which the service is out of operation to last longer than necessary and shall ensure if possible that this period occurs outside office hours.
- 29.6 Cloudsuppliers is never obliged to provide a physical carrier to customer that contains the software provided to and held by customer in the context of SaaS.

Art. 30 Guarantee

- 30.1 Cloudsuppliers does not guarantee that the software made available and held in the context of SaaS is free of errors and functions without interruption. Cloudsuppliers shall make efforts to fix the errors as described in Article 35.3 in the software within a reasonable term if and insofar as the matter concerns software developed by Cloudsuppliers itself and customer has provided a detailed, written description of the defects concerned to Cloudsuppliers. Where there are grounds for doing so, Cloudsuppliers may postpone the fixing of defects until a new version of the software is put into operation. Cloudsuppliers does not guarantee that defects in software that it has not developed itself shall be fixed. Cloudsuppliers is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software. If the software was developed on the instructions of customer, Cloudsuppliers may charge for the costs of fixing to customer in accordance with Cloudsuppliers' usual rates.
- 30.2 Based on the information provided by Cloudsuppliers concerning measures to prevent and limit the effects of malfunctions, defects in the SaaS, corruption or loss of data or other incidents, customer shall identify and list the risks to its organisation and take additional measures if necessary. Cloudsuppliers declares that it is prepared to provide assistance, at customer's request, to the extent reasonable and according to the financial and other conditions set by Cloudsuppliers, with respect to further measures to be taken by customer. Cloudsuppliers is never obliged to recover data that has been corrupted or lost.
- 30.3 Cloudsuppliers does not guarantee that the software made available and held in the context of the SaaS shall be adapted to changes in relevant legislation and regulations on time.

Art. 31 Commencement of the service; payment

- 31.1 The SaaS provided by Cloudsuppliers shall commence within a reasonable term following the conclusion of the agreement. Customer shall promptly ensure that it has the facilities required to use the SaaS following the conclusion of the agreement.
- 31.2 Customer shall owe the payment specified in the agreement for the SaaS. In the absence of an agreed payment schedule, all amounts that relate to the SaaS provided by Cloudsuppliers shall be payable each calendar month in advance.

Art. 32 Supplementary provisions

- 32.1 The following clauses apply accordingly to the SaaS: art. 33.3; 33.5; 33.8; art. 34.2; art. 35 sub 1-11; art. 46.4; 47.1, 47.2.

Chapter 4. Software

The provisions of this 'Software' chapter shall apply in addition to the general provisions if Cloudsuppliers makes software, websites or content (further referred to in this chapter as 'software') available to customer for use other than on the basis of SaaS.

Art. 33 Right of use and restrictions on use

- 33.1 Cloudsuppliers shall make the agreed computer programs, including any content, data or databases and agreed user documentation, hereinafter referred to as the 'software', available to customer for use for the duration of the agreement on the basis of a licence for use. The right to use the software is non-exclusive and may not be transferred, pledged or sublicensed.
- 33.2 Cloudsuppliers' obligation to make available and customer's right of use extend only to the software's object code. Customer's right of use does not extend to the software's source code. The software's source code and technical documentation prepared during the development of the software shall not be made available to customer, not even if customer is prepared to pay a financial amount for the source code and technical documentation.
- 33.3 Customer shall always strictly comply with the agreed restrictions on the use of the software, regardless of the nature or content of these restrictions.
- 33.4 If the parties have agreed that the software may only be used in combination with certain equipment, customer shall in the event of any malfunction of this equipment be entitled to use the software on other equipment with the same qualifications during the time that the original equipment remains defective.
- 33.5 Cloudsuppliers may require that customer only starts using the software after having received one or more codes needed for use from Cloudsuppliers, its supplier or the producer of the software. Cloudsuppliers is always entitled to take technical measures to protect the software against unlawful use and/or against use in a manner or for purposes other than the manner or purposes agreed between the parties.
- 33.6 Customer may only use the software in and for its own company or organisation and only insofar as doing so is necessary for the intended use. Customer shall not use the software for third parties, for example in the context of Software as a Service (SaaS) or outsourcing.
- 33.7 Customer may never sell, rent out, dispose of or grant limited rights to, or make available to third parties the software and the carriers on which the software is or will be recorded, in any way whatsoever for whatever purpose or under whatever title. Customer may also not grant, whether or not remotely (online), a third party access to the software or place the software with a third party for hosting, not even if the third party concerned only uses the software for customer.
- 33.8 If so requested, customer shall cooperate without delay in an investigation into compliance with the agreed restrictions on use carried out by or for Cloudsuppliers. Should Cloudsuppliers so demand, customer shall grant Cloudsuppliers access to its buildings and systems. Insofar as such information does not concern the use of the software itself, Cloudsuppliers shall treat all confidential business information that it obtains from customer or at customer's business location in the context of an investigation as confidential.
- 33.9 The parties maintain that the agreement concluded between the parties, insofar as the object of this agreement is the making available of software for use, shall never be deemed to be a purchase agreement.
- 33.10 Cloudsuppliers is not obliged to maintain the software and/or provide support to users and/or administrators of the software. If, contrary to the foregoing, Cloudsuppliers is asked to perform maintenance work and/or provide support with respect to the software, Cloudsuppliers may require that customer enter into a separate, written agreement for the purpose.

Art. 34 Delivery and installation

- 34.1 At its discretion, Cloudsuppliers shall deliver the software on the agreed type of data carrier or, if no agreements have been made in this regard, on a type of data carrier determined by Cloudsuppliers, or shall make the software available to customer online. At Cloudsuppliers' discretion, any agreed user documentation shall be made available in printed or digital form in a language determined by Cloudsuppliers.
- 34.2 Cloudsuppliers shall only install the software at customer's business location if this has been agreed between the parties. If no agreements have been made for the purpose, customer shall itself install, organise, parameterise, tune and, if necessary, modify the equipment and operating environment used.

Art. 35 Acceptance

- 35.1 If the parties have not agreed an acceptance test, customer shall accept the software in the state that it is in when delivered ('as is, where is'), therefore with all visible and invisible errors and defects, without prejudice to Cloudsuppliers' obligations under the guarantee scheme as set out in Article 39. In the aforementioned case, the software shall be deemed to have been accepted by customer upon delivery or, if installation by a Cloudsuppliers has been agreed in writing, upon completion of installation.
- 35.2 The provisions of paragraphs 35.3 up to and including 35.11 shall apply if an acceptance test has been agreed between the parties.
- 35.3 In these general terms and conditions, 'error' means substantial failure of the software to meet the functional or technical specifications of the software expressly made known by Cloudsuppliers in writing and, if all or part of the software concerns customised software, to meet the functional or technical specifications expressly agreed in writing. An error only applies if it can be demonstrated by customer and if it is reproducible. Customer must report errors without delay. Any obligation of Cloudsuppliers is limited to errors within the meaning of these general terms and conditions. Cloudsuppliers does not have any obligation whatsoever with respect to other defects in or on the software.
- 35.4 If an acceptance test has been agreed, the test period shall amount to 14 days following delivery or, if installation by Cloudsuppliers has been agreed in writing, 14 days following the completion of installation. Customer may not use the software for production or operational purposes during the test period. Customer shall carry out the agreed acceptance test with qualified personnel and with sufficient scope and depth.

- 35.5 If an acceptance test has been agreed, customer must check whether the software delivered meets the functional or technical specifications expressly made known by Cloudsuppliers in writing and, if and to the extent that all or part of the software concerns customised software, meets the functional or technical specifications expressly agreed in writing.
- 35.6 The parties shall deem the software to have been accepted:
- a. if the parties have agreed an acceptance test: on the first day following the test period, or
 - b. if Cloudsuppliers receives a test report as referred to in Article 30.7 prior to the end of the test period: at the time at which the errors stated in this test report have been fixed, notwithstanding the presence of errors that, according to Article 30.8, do not prevent acceptance, or
 - c. if customer uses the software in any way for production or operational purposes: at the time at which this use occurs.
- 35.7 If it becomes apparent during performance of the agreed acceptance test that the software contains errors, customer shall report the test results to Cloudsuppliers in writing in a clear, detailed and comprehensible manner no later than on the last day of the test period. Cloudsuppliers shall strive to the best of its ability to fix the errors referred to within a reasonable term. Cloudsuppliers shall be entitled to install temporary solutions, program bypasses or problem-avoiding limitations in this regard.
- 35.8 Customer may not refuse to accept the software for reasons that are not related to the specifications expressly agreed in writing between the parties and, furthermore, may not refuse to accept the software because of the existence of minor errors, these being errors that do not reasonably prevent the operational or productive use of the software, the foregoing without prejudice to Cloudsuppliers' obligation to fix these minor errors in the context of the guarantee scheme referred to in Article 39. In addition, acceptance may not be refused because of aspects of the software that can only be assessed subjectively, such as aesthetic aspects of user interfaces.
- 35.9 If the software is delivered and tested in phases and/or parts, non-acceptance of a certain phase and/or part shall be without prejudice to the acceptance of a previous phase and/or a different part.
- 35.10 Acceptance of the software in one of the ways referred to in this article shall serve to discharge Cloudsuppliers of its obligations regarding making the software available and delivering the software and, if installation of the software by Cloudsuppliers has also been agreed, of its obligations regarding installation. Acceptance of the software shall be without prejudice to customer's rights based on Article 35.8 regarding minor defects and Article 39 regarding the guarantee.
- 35.11 If during testing on behalf of customer any personal data is used, customer shall make sure use of that data for this purpose is allowed.

Art. 36 Availability

- 36.1 Cloudsuppliers shall make the software available within a reasonable term following the conclusion of the agreement.
- 36.2 Following the end of the agreement, customer shall return all copies of the software in its possession to Cloudsuppliers without delay. If it has been agreed that customer must destroy the copies concerned at the end of the agreement, customer shall report the destruction of the copies to Cloudsuppliers in writing without delay. At or following the end of the agreement, Cloudsuppliers shall not be obliged to provide assistance for the purpose of a data conversion desired by customer.

Art. 37 Payment for the right of use

- 37.1 Customer must pay the amount owed for the right of use at the agreed times or, if a time has not been agreed:
- a. if the parties have not agreed that Cloudsuppliers shall install the software:
 - when the software is delivered;
 - or, in the case of periodically owed payments for the right of use, when the software is delivered and subsequently at the start of each new right of use term;
 - b. if the parties have agreed that Cloudsuppliers shall install the software:
 - upon completion of installation;
 - or, in the case of periodically owed payments for the right of use, upon completion of installation and subsequently at the start of each new right of use term.

Art. 38 Changes in the software

- 38.1 Barring exceptions provided for by law, customer may not change all or part of the software without the prior written permission of Cloudsuppliers. Cloudsuppliers is entitled to refuse or attach conditions to such permission. Customer shall bear the entire risk of all changes that it makes or changes made by third parties on its instructions, whether or not with Cloudsuppliers' permission.

Art. 39 Guarantee

- 39.1 Cloudsuppliers shall strive to the best of its ability to fix errors in the sense of art. 35.3 within a reasonable term if these errors are reported in writing in a detailed manner to Cloudsuppliers within a period of three months following delivery or, if an acceptance test was agreed, within three months following acceptance. Cloudsuppliers does not guarantee that the software is suitable for actual use and/or the intended use. Cloudsuppliers also does not guarantee that the software will operate without interruption and/or that all errors will always be fixed.
Fixing work shall be carried out free of charge unless the software was developed on the instructions of customer other than for a fixed price, in which case Cloudsuppliers shall charge for the costs of fixing in accordance with its usual rates.
- 39.2 Cloudsuppliers may charge for the costs of fixing in accordance with its usual rates if such work is required as a result of user errors or improper use on the part of customer, or as a result of causes that cannot be attributed to Cloudsuppliers. The obligation to fix errors shall cease to apply if customer makes changes in the software or has such changes made without Cloudsuppliers' written permission.
- 39.3 The fixing of errors shall take place at a location and in a manner determined by Cloudsuppliers. Cloudsuppliers is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software.
- 39.4 Cloudsuppliers is never obliged to recover data that has been corrupted or lost.

- 39.5 Cloudsuppliers does not have any obligation whatsoever, of whatever nature or content, with respect to errors reported after the end of the guarantee period referred to in Article 39.1.

Chapter 5. Development of software, websites and content

The provisions of this 'Development of software, websites and content' chapter shall apply in addition to the general provisions if Cloudsuppliers designs and/or develops software, websites and/or content (further collectively referred to as 'website' in this chapter) specifically for customer and possibly installs the software and/or website and/or publishes the content.

Art. 40 Specifications and development of websites

- 40.1 If specifications or a design of the website to be developed have not already been provided prior to the conclusion of the agreement or are not provided when the agreement is concluded, the parties shall in consultation specify, in writing, the website to be developed and the manner in which the development is to be carried out.
- 40.2 Cloudsuppliers shall develop the website with due care in accordance with the expressly agreed specifications or design and, if applicable, having regard to the project organisation, methods, techniques and/or procedures agreed in writing with customer. Cloudsuppliers may require that customer agree to the specifications or design in writing prior to commencement of the development work.
- 40.3 Cloudsuppliers hereby grants a perpetual, non-exclusive, non-transferrable licence to use, copy, store, make public, distribute, change or adapt the websites and content specifically developed for customer by Cloudsupplier itself.
- 40.4 If the parties use a development method based on iterative design and/or development of the website (Scrum, for example), the parties shall accept that, at the start, the work shall not be performed on the basis of complete or fully detailed specifications, and also that specifications, which may or may not have been agreed on commencement of the work, may be changed, in consultation and with due observance of the project approach that forms part of the development method concerned, during the performance of the agreement. During the performance of the agreement, the parties shall make decisions in consultation regarding the specifications that shall apply in the subsequent phase of the project (a time box, for example) and/or in the subsequent, constituent development process. Customer accepts the risk that the website may not necessarily meet all specifications. Customer shall ensure that relevant end users permanently and actively contribute and cooperate with respect to, among other things, testing and (further) decision-making, and that the contributions and cooperation of these end users is supported by customer's organisation. Customer guarantees that the employees whom it deploys and who are appointed to key positions shall have the decision-making powers required for these positions. Customer guarantees expeditiousness with respect to the progress-related decisions that it must make during the performance of the agreement. If customer fails to make clear progress-related decisions in a timely manner in accordance with the project approach that forms part of the development method concerned, Cloudsuppliers shall be entitled, though not obliged, to make the decisions that it deems to be appropriate.
- 40.5 The provisions of Article 35.1, Articles 35.4 up to and including 35.11 and Article 39.1 shall not apply if the parties use a development method as referred to in Article 40.4. Customer shall accept the website in the state that it is in at the end of the last development phase ('as is, where is'). Cloudsuppliers shall not be obliged to fix errors after the last development phase unless otherwise agreed in writing.
- 40.6 In the absence of specific agreements on the matter, Cloudsuppliers shall commence the design and/or development work within a term that it deems reasonable following the conclusion of the agreement.
- 40.7 If so requested, customer shall make it possible for Cloudsuppliers to perform work outside the usual working days and working hours at the office or location of customer.
- 40.8 Cloudsuppliers' performance obligations with respect to the development of a website do not include making a content management system available.
- 40.9 Cloudsuppliers' performance obligations do not include maintaining the website, and/or providing support to users and/or administrators of the website. If, contrary to the foregoing, Cloudsuppliers must also perform maintenance work and/or provide support, Cloudsuppliers may require that customer enter into a separate, written agreement for the purpose. Cloudsuppliers shall charge for this work in accordance with Cloudsuppliers' usual rates.

Art. 41 Delivery, installation and acceptance

- 41.1 The provisions of Article 34 concerning delivery and installation apply *mutatis mutandis*.
- 41.2 Unless, pursuant to the agreement, Cloudsuppliers must host the website on its own computer system for customer, Cloudsuppliers shall deliver the website to customer on a data carrier and in a form determined by Cloudsuppliers, or shall make the website available to customer online.
- 41.3 The provisions of Article 35 of these general terms and conditions concerning acceptance apply *mutatis mutandis*.

Art. 42 Right of use

- 42.1 Cloudsuppliers shall make the website developed on the instructions of customer and any associated user documentation available to customer for use.
- 42.2 If applicable the source code of the underlying software for website and the technical documentation prepared during development of the website shall only be made available to customer if this has been agreed in writing, in which case customer shall be entitled to make changes to the underlying software of the website.
- 42.3 Cloudsuppliers is not obliged to make available the support software and program or data libraries required for the use and/or maintenance of the website.
- 42.4 The provisions of Article 33 concerning right of use and restrictions on use apply *mutatis mutandis*.

Art. 43 Payment

- 43.1 In the absence of an agreed payment schedule, all amounts that relate to the design and development of the websites shall be payable each calendar month in arrears.

- 43.2 The price for the development work includes the payment for the right to use the website during the term of the agreement.
- 43.3 The payment for the development of the website does not include a payment for support software and program and data libraries, and any installation services and any modification and/or maintenance of the website required by customer. The payment also does not include the provision of support to users of the website.

Art. 44 Guarantee

- 44.1 The provisions of Article 39 concerning the guarantee apply *mutatis mutandis*.
- 44.2 Cloudsuppliers does not guarantee that the website that it has developed functions well with all (new versions of) web browser types and possibly other software. Cloudsuppliers also does not guarantee that the website functions well with all types of equipment.

Chapter 6. Software and website maintenance and support

The provisions of this 'Software maintenance and support' chapter shall apply in addition to the general provisions of these general terms and conditions if Cloudsuppliers performs services in the field of maintenance and support in the use of software or websites (further referred to as in this chapter as 'software').

Art. 45 Maintenance services

- 45.1 If agreed, Cloudsuppliers shall perform maintenance work with respect to the software specified in the agreement. The maintenance obligation includes fixing errors in the software within the meaning of Article 35.3 and, exclusively if agreed in writing, making new versions of the software available in accordance with Article 46.
- 45.2 customer must report errors discovered in the software in detail. Following receipt of the report, Cloudsuppliers shall strive to the best of its ability to fix errors and/or implement improvements in later, new versions of the software in accordance with its usual procedures. Depending on the urgency and Cloudsuppliers' version and release policy, the results shall be made available to customer in a manner and within a term determined by Cloudsuppliers. Cloudsuppliers is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software. Customer shall itself install, organise, parameterise and tune the corrected software or the new version of the software made available, and, if necessary, modify the equipment and operating environment used.
- 45.3 The provisions of paragraphs 39.3 and 39.4 apply *mutatis mutandis*.
- 45.4 If Cloudsuppliers performs maintenance work online, customer shall promptly ensure that a proper infrastructure and network facilities are in place.
- 45.5 customer shall extend the cooperation required by Cloudsuppliers in the context of maintenance, including temporarily ceasing use of the software and making a backup of all data.
- 45.6 If the maintenance work relates to software that was not supplied to customer by Cloudsuppliers, customer, if Cloudsuppliers believes this is necessary or desirable for the maintenance work, shall make the source code and the technical (development) documentation of the software, including data models, designs, change logs and the like, available. Customer guarantees that it is entitled to make the aforementioned items available. Customer grants Cloudsuppliers the right to use and change the software, including the source code and technical (development) documentation, in the context of performing the agreed maintenance work.
- 45.7 The maintenance work performed by Cloudsuppliers does not affect customer's own responsibility for managing the software, including checking the settings and the way in which the results arising from operating the software are used. Customer shall itself install, organise, parameterise and tune the software and support software required and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

Art. 46 New versions of software

- 46.1 Maintenance shall include making new versions of the software available only if and insofar as this has been agreed in writing. If maintenance includes making new versions of the software available, they shall be made available at Cloudsuppliers' discretion.
- 46.2 Three months after an improved version has been made available, Cloudsuppliers shall no longer be obliged to fix errors in the previous version and to provide support and/or perform maintenance work with respect to a previous version.
- 46.3 Cloudsuppliers may require that customer enter into a further written agreement with Cloudsuppliers for a version with new functionality and that a further payment be made for this this version. Cloudsuppliers may incorporate functionality from a previous version of the software in unaltered form, but does not guarantee that each new version includes the same functionality as the previous version. Cloudsuppliers is not obliged to maintain, modify or add certain features or functionalities of the software specifically for customer.
- 46.4 Cloudsuppliers may require that customer modify its system (equipment, software and the like) if doing so is necessary for the proper functioning of a new version of the software.

Art. 47 Support services

- 47.1 If the services provided by Cloudsuppliers under the agreement include the provision of support to users and/or administrators of the software, Cloudsuppliers shall provide, by telephone or email, advice on the use and functioning of the software specified in the agreement. Cloudsuppliers may set conditions with respect to the qualifications and the number of persons eligible for support. Cloudsuppliers shall handle properly substantiated requests for support within a reasonable term in accordance with its usual procedures. Cloudsuppliers does not guarantee the accuracy, completeness or timeliness of replies or the support offered. Support services shall be performed on working days during Cloudsuppliers' usual business hours.
- 47.2 If the services provided by Cloudsuppliers under the agreement include the provision of standby services, Cloudsuppliers shall ensure that one or more staff members are available on the days and during the times specified in the agreement. Customer shall in this case be entitled in the event of urgency to call in the support of staff members on standby if there is a serious malfunction in the operation of the software. Cloudsuppliers does not guarantee that all malfunctions will be repaired speedily.

- 47.3 The maintenance and other agreed services as referred to in this chapter shall be performed as from the date on which the agreement is concluded, unless the parties have agreed otherwise in writing.

Art. 48 Payment

- 48.1 In the absence of an expressly agreed payment schedule, all amounts that relate to the maintenance of the software and the other services as referred to in this chapter and laid down in the agreement shall be payable each calendar month in advance.
- 48.2 Amounts relating to the maintenance of the software and the other services as referred to in this chapter and laid down in the agreement shall be payable from the moment of commencement of the agreement. The payment for maintenance and other services shall be due regardless of whether or not customer is using the software or exercising the option of maintenance or support.

Chapter 7. Advice and consultancy

The provisions of this 'Advice and consultancy' chapter shall apply in addition to the general provisions of these general terms if Cloudsuppliers provides services in the field of advice and consultancy.

Art. 49 Performance of advisory and consultancy services

- 49.1 Cloudsuppliers shall carry out its advisory and consultancy services completely independently, at its own discretion and not under the supervision and direction of customer.
- 49.2 The completion time of an assignment in the field of advice and consultancy depends on various factors and circumstances, such as the quality of the data and information provided by customer and the cooperation of customer and relevant third parties. Unless otherwise agreed in writing, therefore, Cloudsuppliers shall not commit to an assignment completion time in advance.
- 49.3 Cloudsuppliers' services shall only be performed on Cloudsuppliers' usual working days and during Cloudsuppliers' usual business hours.
- 49.4 The use that customer makes of advice and/or a consultancy report issued by Cloudsuppliers shall always be at customer's risk. The onus to prove that the advisory and consultancy services or the way in which they are performed are not in conformance with that which has been agreed in writing or may be expected from a competent Cloudsuppliers acting reasonably is entirely on customer, without prejudice to Cloudsuppliers' right to furnish evidence to the contrary through all means.
- 49.5 Without Cloudsuppliers' prior written permission, customer may not disclose Cloudsuppliers' way of working, methods and techniques and/or the content of Cloudsuppliers' advice or reports to third parties. Customer may not provide Cloudsuppliers' advice or reports to a third party or otherwise make Cloudsuppliers' advice or reports public.

Art. 50 Reporting

- 51.1 Cloudsuppliers shall periodically inform customer, in the manner agreed in writing, about the performance of the work. Customer shall inform Cloudsuppliers in advance and in writing about circumstances of importance or circumstances that could be of importance to Cloudsuppliers, such as the manner of reporting, the issues to be addressed, customer's prioritisation, the availability of resources and personnel of customer, and special facts or circumstances or facts or circumstances of which Cloudsuppliers is possibly unaware. Customer shall ensure that the information provided by Cloudsuppliers is further disseminated and noted within customer's organisation and that it is assessed partly on the basis of this inspection, and shall inform Cloudsuppliers about this inspection and assessment.

Art. 51 Payment

- 51.1 In the absence of an expressly agreed payment schedule, all amounts that relate to the services provided by Cloudsuppliers as referred to in this chapter shall be payable each calendar month in arrears.