

ICT Purchasing Conditions Royal BAM Group N.V.

Version July 1st, 2017

CHAPTER I. GENERAL

Article 1. Definitions

- In these conditions the following definitions shall apply:
 - Agreement: the agreement (including corresponding annexes) to which these conditions apply;
 - Customer: Royal BAM Group N.V. and/or its subsidiary or other party associated with Royal BAM Group N.V. which enters into negotiations or an agreement with Supplier;
 - Customisations means any additions, changes, modifications, add-ons or new modules to, new versions or enhancements of and/or interfaces or connecting items of the Software which are created specifically on request of Customer;
 - Delivery: the delivery or handover of Products and/or Services;
 - Deliverables means any materials, including computer programme code (including the object code and where agreed the source code) plus documentation associated therewith, including any configurations and scripts, as well as modifications and enhancements thereto and all other materials (including specifications, plans, methodologies, reports, processes, designs, systems, documentation, information and equipment), delivered or produced by or on behalf of Supplier in connection with or for the purposes of this agreement, including the Software and all changes and modifications thereto such as new versions, releases, updates and customisations
 - Documentation means the documentation described in article 33 and 39;
 - Hardware means all physical ICT components, including computers, laptops, printers, smartphones and tablets;
 - Order means the written assignment given by Customer to Supplier with respect to the execution of the Performance (including the corresponding annexes);
 - Performance means the Products and/or Services to be delivered and the works to be executed under the Agreement;
 - Products means Hardware and/or Software;
 - Supplier: the party with whom Customer negotiates towards conclusion of an agreement and/or with whom Customer enters into an agreement;
 - Services means all services described in the Agreement;
 - Service Levels means the measure of the standard to which the Services are performed;
 - Software means the computer programs and associated documentation provided and/or licensed by Supplier to Customer, including apps, websites and platforms (including Customisations).

Article 2. Applicability

- These conditions are applicable to all applications, quotations, offers, Orders, purchase orders, order confirmations, agreements and other legal acts concerning the Performance.
- The applicability of general terms and conditions of Supplier is explicitly excluded.
- The invalidity of a provision of the Agreement or these conditions has no consequences for the validity of the other provisions of the Agreement and these conditions.

Article 3. Agreement

- An Agreement shall only be concluded once:
 - A contract document has been signed by Supplier and Customer; or
 - Supplier has signed and returned the Order that Customer sent to Supplier; or
 - Supplier has started with the execution of the Order without objecting in writing against the contents of the Order, implying that Supplier has accepted the Order including these conditions.
- If the Order contains apparent contradictions, errors or omissions, Supplier shall warn Customer thereof before proceeding to signing or carrying out the Agreement (whichever is earlier), for lack of which the consequences will be for the account of Supplier.
- The Agreement and these conditions can only be amended or supplemented in writing.

Article 4. Affiliates

- Customer enters into the Agreement for its own benefit and for the benefit of its affiliates, on behalf of whom Customer will be entitled to enforce the Agreement and these conditions. For this purpose, "Customer" will also mean each of its affiliates, unless explicitly provided otherwise. Customer (but not its affiliates) and Supplier may amend the Agreement without obtaining the consent of Customer's affiliates.
- If Customer sells any part of its business to a third party, or a Customer affiliate no longer is an affiliate of the Customer's group of companies (each referred to as "Divested Entity"), Customer may opt for such divested entity to continue to receive (part of) the Services for up to twelve months or split off such part(s) of the agreement (and the Services) as related to such divested entity. For that purpose, the third party or the divested entity and Supplier will enter into a separate agreement, the terms of which shall only deviate from the terms of the agreement as reasonably required or mutually agreed.

Article 5. Delivery Products and Services

- All Deliveries must take place on the agreed date or in accordance with the agreed timetable. Delivery of Products shall take place DDP (Delivery Duty Paid, Incoterms 2010) at the address and at the time indicated by Customer.
- All agreed delivery times and other times agreed between Customer and Supplier are firm dates. If an acceptance test has been agreed, Supplier shall provide the Deliverable sufficiently in advance for the acceptance testing to be completed before the agreed delivery date. If acceptance testing has not been completed successfully before the agreed delivery date, Delivery will be deemed too late.
- If it is impossible or there is a risk that it will be impossible for Supplier to comply with its obligations on time, it shall immediately notify Customer thereof.
- If Supplier becomes aware or should reasonably become aware of an (actual or likely future) act or failure by Customer which may reasonably be expected to impact Supplier's performance under the Agreement, Supplier shall promptly notify Customer's relationship representative thereof in writing setting out the relevant failure and the (expected) impact on Supplier's performance and costs.
- In the event of a timely notification by Supplier and subject to Supplier's continued compliance with its obligations in so far as possible, the time for performance by Supplier of the relevant obligation shall be extended by the period of the delay caused by Customer's act or failure.
- If the relevant act or failure relates to Services which are performed on a fixed price basis, any necessary changes to the fixed price and the Services will be implemented through article 12. If the relevant act or failure relates to Services which are performed on a time and materials price basis, any necessary changes to the Services will continue to be implemented on a time and materials basis.
- Notwithstanding Customer's failure, Supplier shall use reasonable efforts to avoid or mitigate the consequences of that failure and to continue to perform its obligations in accordance with the Agreement. The reasonable cost of such efforts will be for the account of Customer. If Supplier anticipates activities which exceed 3% of the agreed or budgeted charges, it shall inform Customer thereof in advance.
- Unless Supplier complies with the procedure of notification stated in paragraph 4 Supplier shall not use any of the circumstances referred to in paragraph 4 to excuse any delay or additional cost in performing its obligations under the Agreement.
- Supplier shall fully test each Deliverable to fully comply with the Agreement and the Documentation before delivering such Deliverable to Customer. If the Deliverable is created specifically for Customer, Supplier shall provide Customer with the relevant test results.
- Customer is not obliged to accept a Delivery in parts, unless this has been agreed in writing between Parties and without additional costs for Customer. Customer is not obliged to accept a Delivery earlier than agreed, unless it gives its prior written consent.

- If a penalty is imposed for late or underperformed Delivery, this penalty will be without prejudice to any right of Customer to compensation and/or performance and Customer will still be fully entitled to claim specific performance and/or termination of the relevant Agreement in addition to this penalty.

Article 6. Compliance Products and Services

- Supplier shall have the Products and the Services comply with:
 - the Agreement;
 - all legal requirements applicable to the Products and the Services;
 - any written instructions given by Customer in relation to the Products and the Services required for the purposes of its compliance with the legal requirements applicable to it.
- Whenever persons employed through Supplier are on the premises of Customer, Supplier shall be responsible for ensuring that such persons comply with all of Customer's relevant written policies applicable to Customer's employees and communicated with Supplier.
- If Supplier fails to remedy any defect within the reasonable time period specified in the notice sent by Customer to Supplier, or if it becomes clear that Supplier will not do so, Customer may have a third party remedy any default in providing the Performance. Supplier shall bear the cost thereof and (where first paid for by Customer) those cost will be deductible from the agreed charges.

Article 7. Price and charges

- Prices and charges are fixed and not subject to indexation.
- Customer will not separately reimburse Supplier for any travel, accommodation and subsistence expenses incurred by Supplier or any travel time spent in connection with the Performance.

Article 8. Payment terms

- Customer shall make payments in accordance with the payment schedule forming part of the Agreement, or, for lack thereof, after the last supply or delivery of the Performance.
- The term of payment is sixty (60) days after receipt of the invoice by the Customer.
- Customer shall only have to pay:
 - after conclusion of the Agreement in accordance with article 3;
 - if the Performance or the part thereof to which the invoice refers has been supplied/delivered by Supplier to the reasonable satisfaction of Customer; and
 - after receipt by Customer of an invoice in accordance with article 9;
- If Customer wrongfully fails to pay in time, Supplier shall be entitled to late-payment interest under Section 6:119 of the Dutch Civil Code from 14 days after the date of notice until the date of (late) payment by Customer.
- Reasonably disputed invoices will not become due until the dispute has been resolved. Payment shall not imply any waiver of rights.

Article 9. Invoices

- Supplier shall ensure that each invoice shall meet all applicable legal requirements.
- The invoice shall include at least a reference to the Agreement number and/or Order number
- If Supplier is entitled to compensation of the financial consequences of a change pursuant to article 12, Supplier shall invoice this separately.
- Supplier shall include charges for goods or services within six months of the date of the relevant delivery, in the absence of which they will be waived unless Supplier has provided Customer with a reasonable estimate of the relevant charges to follow within such period.

Article 10. Taxes

- Charges are exclusive of any VAT only. Supplier may add VAT where required. Supplier shall issue an invoice containing wording that will allow Customer to take advantage of any applicable "input" tax deduction.
- Customer may withhold income taxes, stamp duties or any other levies on the amounts payable to Supplier if required by Applicable Legislation, except to the extent Supplier submits a certificate of exemption from withholding.

Article 11. Suspension and set-off

- If Supplier fails to meet its obligations or Performance is rejected, Customer may suspend its payment obligations until Supplier has fulfilled its obligations.
- Customer may set off the amounts that it owes to Supplier in connection with the Agreement against all claims of Customer or (any) party/parties associated with Royal BAM Group N.V. on Supplier or (any) party/parties associated with Supplier respectively pay such amounts in kind by transferring such claims (such claims to be valued at their nominal value, where relevant at the exchange rate applicable at the moment of transfer/payment).
- A failure by Customer to comply with its obligations does not release Supplier from its obligations to deliver and execute the Performance in accordance with the Agreement.

Article 12. Changes

- Supplier is only entitled to claim compensation of the financial consequences of a change or a related postponement of the supply/delivery date or agreed milestones, if and insofar as such change, including its financial consequences and related postponement, has been agreed in writing.
- Supplier may only refuse implementation of a change requested by Customer if the implementation of such change:
 - leads to an unacceptable disruption of the execution of the Performance according to the standards of reasonableness and fairness, or
 - would compel Supplier to carry out work beyond its technical expertise or capacity, or
 - would put the safety of the project or people at risk.
- Within 5 calendar days after Customer has submitted a change request, Supplier shall submit a specification to Customer of the consequences of the proposed change. If Supplier fails to submit a specification to Customer of the additional costs and the consequences within this period, Supplier shall implement the Change without further modification of the Agreement.
- Customer may assign Supplier in writing to implement a change with the proviso - explicitly stated in the Order - that the consequences of the change will be agreed later, in which case Supplier shall execute the change before the parties have reached consensus regarding consequences.
- Any change proposal of Supplier must at least contain:
 - a description of the change and the manner in which Supplier intends to accomplish it;
 - clarity regarding the extent to which the change will lead to a change of the supply/delivery date and any agreed milestones;
 - clarity regarding the financial consequences.
- Customer may attach conditions to its approval of a change proposal of Supplier.
- Each party will bear its own cost of preparing, negotiating and entering into a Change.

Article 13. Force Majeure

- If Supplier is prevented or delayed from performing any of its obligations under the Agreement by force majeure, then it shall notify Customer in writing within one (1) day from the start of such prevention or delay, its likely duration and the obligations the performance of which is affected.
- On giving such notice, Supplier will be excused from such performance to the extent caused by the relevant force majeure event, for so long as that event continues and will be deemed not to be in breach of this agreement to the extent that such breach is caused by such force majeure event. Customer will not have to pay to the extent delivery is prevented by force majeure.
- In case of a permanent force majeure event, Supplier shall immediately notify Customer thereof and Customer may terminate the Agreement with immediate effect, without being liable to pay any damages or costs.
- If Supplier is still not able to comply with its obligations 2 weeks after the occurrence of the force majeure event, Customer will be entitled to terminate the Agreement with immediate effect, without being liable to pay any damages and/or costs.

Article 14. Liability and indemnity

- Supplier is liable for the damage suffered by Customer due to Supplier's failure to perform its obligations under the Agreement.

2. Supplier shall indemnify Customer against:
 - a) third-party claims for compensation of damage suffered in connection with a failure by Supplier to meet its obligations under the Agreement or a wrongful act (tort) on the part of Supplier; and
 - b) the consequences of Supplier or Supplier's personnel violating legal requirements.
3. Customer nor Supplier will be liable for any loss of future sales or business profits, loss of anticipated savings (except to the extent constituting the reasonable additional cost of having a third party provide what Supplier undertook to provide), or damage to reputation.
4. Where an indemnity is given, this shall include obligations to compensate for damage incurred in relation to the event for which the indemnity is given, including reasonable legal costs.

Article 15. Insurance

1. Supplier shall insure the Products until the Delivery of the Products in accordance with article 5.
2. Supplier shall, and shall ensure that all of its subcontractors shall, have in force and maintain with reputable insurance companies a policy to cover its liability as result of its performance. This insurance policy includes at least cover for general liability and products liability for an amount of € 5,000,000 per event and professional liability for an amount of € 2,500,000 per event.
3. At the request by Customer, Supplier shall produce to Customer reasonable evidence that Supplier has complied with and continues to comply with its obligations under this article. Supplier and its subcontractors shall provide evidence of such cover by providing current insurance certificates to Customer and maintaining them on a current basis during the term of the Agreement.
4. Supplier's obligations under this article will continue for the term of the Agreement and for a period of two years following the termination or expiration of the Agreement.

Article 16. Intellectual property

1. Unless explicitly agreed otherwise in the Agreement, the intellectual property rights in respect of the Products specifically created or developed for or on request of Customer and Services performed under or in connection with the Agreement, all data of or pertaining to Customer, all other software owned or licensed by Customer and all other computer systems of or used by Customer are exclusively vested in Customer. To the extent possible, Supplier assigns to Customer all intellectual property rights related thereto in advance.
2. To the extent allowed, Supplier explicitly waives any moral rights it may have in the Products and Services.
3. Supplier shall indemnify and keep Customer indemnified from and against all claims alleging that Customer's use or possession of the Products or the Services infringes the intellectual property rights of a third party, except to the extent that any such claims are directly caused by:
 - a) a breach by Customer of the terms of the Agreement;
 - b) any modification not made by or on behalf of Supplier; or
 - c) a use of the relevant Products or Services for a purpose not intended by the Agreement.

Article 17. Data and privacy

1. Except where agreed otherwise in writing with Supplier, Customer shall be entitled, without any further restrictions, to save, process, and (re)use all information obtained by Customer in the context of the Agreement.
2. If Supplier receives personal data from Customer, Supplier shall inform Customer thereof immediately. If Customer and Supplier share personal data with each other during the execution of the Agreement, they shall enter into a data protection agreement. Supplier shall not export or make accessible personal data from Customer to or from outside the European Union.
3. Upon Customer's request, Supplier shall inform Customer in writing of the manner in which Supplier meets the applicable privacy legislation.
4. Supplier shall take adequate technical and organisational measures for the protection of personal data received by Supplier from Customer.
5. Supplier guarantees that all data that it makes available to Customer have been obtained legitimately, have been legitimately made available to Customer, and that the data do not infringe any third-party rights. Supplier shall indemnify and keep Customer indemnified against all claims and (legal) actions by public authorities and/or individuals against Customer arising from breach by Supplier and/or its data processor of any third-party rights or obligations arising from applicable privacy legislation.

Article 18. Confidentiality

1. Supplier shall maintain confidentiality regarding all data, information and expertise obtained from Customer, whose confidential nature Supplier is - or ought to be - aware of.
2. Supplier guarantees that its personnel shall observe the same non-disclosure obligation.
3. Supplier shall impose all obligations under this article on its subcontractors and warrants that they will comply with these obligations.
4. Supplier shall, and shall procure that its subcontractors shall, only use Customer's name outside its organizations in connection with the provision of the Products and Services with the express prior written consent of Customer.

Article 19. Termination

1. Customer has the right to terminate the Agreement in whole or in part in the event of a failure by Supplier to perform its obligations under the Agreement, if, after notice of default by Customer, Supplier has not corrected the failure to perform repaired within the reasonable time limit set by Customer.
2. Customer may terminate the Agreement in whole or in part without requiring any notice of default:
 - a) if Supplier surpasses a firm date for the performance of its obligations;
 - b) in the event of (a petition for): (i) bankruptcy, (ii) suspension of payments, on a temporary basis or otherwise, (iii) (partial) liquidation or (iv) placement under legal restraint, of Supplier or the natural person or legal entity who acts as guarantor or has provided security for commitments of Supplier;
 - c) if Supplier transfers (relevant parts of) its company or the control thereof in whole or in part, or discontinues the business operations in whole or in part;
 - d) if a pre-judgment attachment or an attachment on court orders is made on property of Supplier;
3. In the event of termination, all claims of Customer and Customer's group companies shall immediately become fully due and payable.
4. Customer may terminate the Agreement at any time without observing any period of notice and without motivation, in which case Customer shall only pay a compensation to Supplier in proportion to the status of the Products and Services upon termination and to be determined based on the agreed charges, increased by reasonably incurred expenses to the extent not reasonably covered in the aforementioned amount.

Article 20. Safety

1. Customer and Supplier consider health and safety to be a priority. The parties put emphasis on constantly improving and maintaining their performances in the area of safety and health for a personnel involved in their activities.
2. Supplier shall comply with the existing legal obligations concerning the execution of the Performance with respect to working conditions and occupational health and safety.

Article 21. BAM Business Principles, BAM Code of Conduct and Guiding Principles on Business and Human Rights

1. Supplier guarantees that it and its subcontractors shall comply with the BAM Business Principles, the BAM Code of Conduct, as well as the Guiding Principles on Business and Human Rights of the United Nations. The BAM Business Principles and the BAM Code of Conduct can be found on <http://www.bam.com>.
2. Customer may carry out an audit on Supplier and its subcontractors in order to verify compliance with this article. Supplier shall cooperate with any audits, and shall see to it and ensure that its subcontractors shall cooperate as well.
3. Supplier shall impose this article on its subcontractors with the obligation to subsequently impose this article on their subcontractors.

Article 22. Prohibition of assignment / outsourcing

1. Without the prior written consent of Customer, Supplier shall not and cannot assign, pledge or otherwise transfer any claim of Supplier under the Agreement to a third party. With respect to the claims referred to in the previous sentence, transferability as referred to in Section 3:83 (2) of the Dutch Civil Code is precluded, which exception shall have a property-law effect.
2. If Customer gives its written consent, the assignment, pledge or transfer shall not refer to the amounts that Customer is entitled to pay into the account of the subcontractors of Supplier.
3. Without the prior written consent of Customer, it is prohibited for Supplier to assign the Performance in whole or in part to a third party, or to make use of (hired-in) personnel made available by third parties.
4. If Customer gives its consent for assigning the Performance to a third party in whole or in part, Supplier shall enter into a written agreement with such third party in which the conditions of the Agreement shall be passed on to its subcontractor on a one-to-one basis. Customer may attach the condition to its consent that Supplier shall establish an undisclosed pledge for the benefit of Customer on the rights of Supplier arising from the agreement with such third party.

Article 23. Dispute resolution and applicable law

1. All disputes arising between the parties in connection with or following the Agreement or agreements that might be a consequence thereof and cannot be settled amicably shall be submitted for settlement to the competent courts in Amsterdam.
2. While awaiting a decision on the dispute, Supplier shall at Customer's request continue performance under the Agreement according to directions of Customer, unless decided otherwise by the competent court in Amsterdam (by way of interim relief measure / express proceedings).
3. The Agreement is governed by Dutch law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

Article 24. Final provisions

1. The provisions of these conditions shall not affect the rights of Customer pursuant to the law.
2. Headings above the articles have only been inserted for convenience of reference of these conditions and shall not serve as a means of interpretation.
3. Provisions from the Agreement and these conditions which by their nature purport to remain in force after termination of the Agreement as well shall remain applicable after termination of the Agreement.

CHAPTER II. SERVICES

Article 25. Scope of services

1. Supplier shall provide all services and obligations as described in the Agreement (the "Services"), and to the extent not already described there:
 - a) all activities that are considered part of or incidental to those services and which are of a nature and type that would ordinarily be performed by suppliers performing services similar to the Services as part of or in connection with such services;
 - b) all activities that are reasonably necessary for the proper performance and provision of those services.
2. Supplier shall provide the Services in the most cost efficient manner consistent with the level of quality and performance required under the Agreement.

Article 26. Adherence to specifications and Service Levels

1. Supplier shall perform the Services at service levels which meet or exceed the Service Levels and in accordance with good industry practice. Where time for performance has not been specified, Supplier shall perform the Services in a timely manner.
2. Supplier shall adequately report on the performance of the Services against the Service Levels.
3. If Supplier fails to perform any of the Services in accordance with the applicable Service Levels or otherwise in accordance with the Agreement then, without prejudice to any other rights or remedies Customer may have under the agreement or otherwise:
 - a) Customer may require Supplier, by way of written notice and at Supplier's own expense to the extent the failure is attributable to Supplier, to remedy any default or to re-perform any non-conforming Service within a reasonable time specified in the notice and to take all measures reasonably necessary for that purpose, such as developing and implementing workaround plans and allocating additional resources;
 - b) in relation to a failure to comply with Service Levels or upon Customer's request, Supplier shall perform a root cause analysis and inform Customer of the results thereof and the measures to be taken to prevent similar failures within ten (10) Business Days after the end of the month in which the relevant Service Level was not reached or the after the request was made; and
 - c) within one (1) month after the end of the month in which the relevant Service Level was not reached, Supplier shall implement all measures reasonably necessary and otherwise all agreed measures to prevent similar Service Level failures. These measures will be at Supplier's cost to the extent such failure is attributable to Supplier.

Article 27. Security

1. Supplier is responsible for the information security aspects of the Services. Supplier shall in relation to the Services:
 - a) comply with generally accepted security standards and provide its Services in accordance with good industry practice regarding security standards and shall from time to time provide Customer with suggestions as to how Customer can improve information security aspects related to its receipt of the Services;
 - b) ensure that only such persons as required for the performance of its obligations under the agreement shall have access to data of Customer and shall require these persons to protect and maintain the confidentiality and the security thereof;
 - c) implement and operate monitoring and reporting procedures in accordance with generally accepted and international security standards. Supplier shall in any event promptly inform Customer of all known or suspected breaches of security relevant to Customer. Supplier shall inform Customer as quickly as possible about any such (suspected) breach and in any event within four hours after becoming aware of it.

Article 28. Personnel

1. Supplier shall at all times ensure that it engages a sufficient number of appropriately trained and qualified personnel, to perform the Services in accordance with the Agreement.
2. Supplier shall be solely responsible for the supervision, daily direction and control of the persons employed through Supplier:
 - a) Supplier shall be responsible for payment of all compensation and other benefits, employer taxes relating to those persons and the withholding and paying of any income tax and for making any other deductions or contributions as required by law for them (including workers' compensation and disability);
 - b) Supplier shall indemnify Customer for any amounts payable by Customer as a result of Supplier's failure to comply with subclause a).
 - c) persons employed through Supplier will not be deemed to be employees of Customer. Supplier shall indemnify Customer and keep Customer indemnified against all damage incurred arising out of or relating to the employment or termination of employment of any person who was or is employed through Supplier in providing the Services or any part of the Services.
3. If a member of Supplier's personnel qualifies as a self-employed without staff (independent contractor), Supplier shall, if Dutch laws and regulations are applicable to the contract with such self-employed without staff, enter into an agreement with such independent contractor in accordance with a model agreement approved by Customer, and submit a copy of the signed agreement to Customer. It is the responsibility of Supplier that the independent contractor shall carry out the work in accordance with the Agreement.

Article 29. Loss of Customer data

1. If the security, confidentiality or integrity of Customer data or the physical, technical, administrative or organizational safeguards put in place by Supplier that relate to the protection

of the security, confidentiality, or integrity of Customer data, have been compromised or are suspected to be compromised, Supplier shall, as applicable:

- a) notify Customer as soon as practicable but no later than twenty-four (24) hours of becoming aware thereof;
- b) cooperate with Customer in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Customer;
- c) in the case of personal data, at BAM's sole election,
 - notify the affected individuals who comprise the personal data as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or,
 - reimburse Customer for any costs in notifying the affected individuals;
- d) perform or take any other actions required to comply with applicable law as a result of the occurrence;
- e) indemnify, defend, and hold harmless Customer for any and all claims, including reasonable legal costs and expenses;
- f) be responsible for recreating lost Customer data in the manner requested by Customer without charge to Customer; and
- g) provide to Customer a detailed plan within ten (10) days of the occurrence describing the measures Supplier will undertake to prevent a future occurrence.

Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Supplier's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Supplier has taken to protect the affected individual; and what steps the affected individual can take to protect himself or herself.

CHAPTER III. SOFTWARE

Article 30. Provision of Software

1. Supplier shall provide the Software to Customer. To the extent the Software contains any third party software, Supplier has procured a license for Customer under terms at least identical to the terms of the license granted to Customer under the Agreement for the Software.
2. Supplier warrants (on a strict liability basis) that it has authority to grant Customer such license for such third party Software. Supplier shall indemnify and keep Customer indemnified against all claims from the proprietors of such third party Software.

Article 31. Tailormade Software

1. Supplier shall transfer the intellectual property rights to the tailormade Software in accordance with article 16.

Article 32. Standard Software

1. Supplier shall license the Software to Customer
2. Supplier or the third party licensor will retain all intellectual property rights in the Software (including any new releases, versions and updates to the Software).
3. Supplier grants Customer and its affiliates a non-exclusive, perpetual, worldwide and irrevocable license to use the Software. The license provides for the use by subcontractors and end-users.
4. The license provides for the right to use all new versions, releases and updates of the Software released by or on behalf of Supplier during the warranty period, the initial service term and any renewal periods,
5. All software that Supplier makes available to Customer will be deemed to be within scope of the Software license granted and paid for. Any installation of any non-licensed parts of the Software is only relevant if a separate option is deliberately elected (as opposed to disabled) as part of the installation process.
6. In the event that certain options, packs or third party software that require a separate license are installed or executed automatically upon installation, update or use of the licensed Software, such options, packs and third party software shall not be subject to any separate license fees or terms and conditions unless Customer has deliberately activated the installation or execution of such options, packs or third party software.
7. No additional licenses are required for test, acceptance, backup and disaster recovery environments. If the Software is used in a virtualised environment, the required number of licenses will be based on actually used virtual resources rather than on the characteristics of the physical environment on which the virtualised environment is running. Software installed on decommissioned or otherwise effectively unused systems will not count towards any applicable licensing metrics.
8. Customer is entitled to purchase additional licenses for the Software against the fees and taking into account the discounts as set forth in the Agreement.

Article 33. Documentation

1. Supplier shall deliver Documentation for the Software and if the Agreement includes Services, the Services, which accurately and completely describes the functions and features of the Software and the Services, including all subsequent revisions thereto. The Documentation shall be understandable by a typical end user and shall provide them with sufficient instruction such that an end user can become self-reliant with respect to access and use of the Software and the Services.
2. Changes to any Documentation and new or additional documentation relating to the Software or the Services will automatically become part of the Documentation. Such changes to, new or additional Documentation may expand the rights granted to Customer under the Agreement and provide for new and/or additional functionality. In no event may such changes to, new or additional Documentation limit any rights granted to Customer or limit obligations on Supplier and such changes to, new or additional Documentation cannot remove functionality or in any other way adversely affect Customer.
3. Customer will have the right to make any number of additional copies of the Documentation at no additional charge.

Article 34. Warranty period

1. The warranty period for any Software is 60 days after delivery.

Article 35. Software Integration

1. Supplier shall ensure that the Software, the Services and the Deliverables shall remain compatible, with the services, networks, systems, hardware, software and other resources of Customer.
2. Further, Supplier shall as part of the Services ensure that the Software and none of the Services or other items provided to Customer by Supplier shall adversely affect any computer systems of or used by Customer.

Article 36. Technology and Software Improvements

1. Supplier shall solve all errors in the Software with an impact on Customer's business within the timeframe set out in the Agreement.
2. Supplier will from time to time make available new versions, releases and updates to the Software to solve defects and/or errors, keep the Software and up-to-date with market developments or otherwise improve (the operation or functionality of) the Software. Each such version, releases and update is a Deliverable.
3. New versions, releases or updates will contain and continue to contain at least the functionality required by Customer and will operate and continue to operate in accordance with the agreed specifications and will contain and continue to contain all features and specifications which reasonably can be expected by Customer from the Software.
4. Any new version, releases or update will provide Customer with at least the same functionality of the version or releases of the Software previously used by Customer and will otherwise not negatively impact Customer's use of the Software nor require Customer to make substantial costs to continue the use thereof.

5. Supplier shall assure that all Customisations will continue to work and be available for use at no further charge in any newer version, releases or update.
6. Customer is not obliged to move to a new version or releases when made available and is entitled to continue using the version or releases it uses. Supplier will continue to provide the Services set forth in the Agreement for such version or releases against the terms of the Agreement.

Article 37. Acceptance of deliverables, versions, releases and updates

1. Deliverables will be subject to an acceptance test if this is specified for such Deliverable in the Agreement. No such Deliverable will be deemed accepted until such tests have been successfully completed in accordance with the agreed criteria.

CHAPTER IV. CLOUD SERVICES

Article 38. Usage rights

1. Supplier grants to Customer a non-exclusive, universal right during the term of the Agreement (and during any extension term) to access and use and permit any subcontractor and end-user to use the Services (including its implementation and configuration) and all Documentation.
2. All of the features and functions made available by Supplier as part of the actual access right provided shall be deemed to be within scope of the use right granted and paid for.

Article 39. Documentation

3. Article 32 applies equally in the context of cloud services.

Article 40. Implementation Services and Services Integration

1. If the implementation is part of the of the scope of services of the Agreement, Supplier shall provide the implementation of Services and the Customisations in accordance with and ultimately on the dates and within the periods set out in the Agreement.
2. The parties shall jointly identify the risks to the successful completion of the implementation of Services in an implementation plan.
3. Supplier shall ensure that the Services and the Deliverables shall remain compatible with the services, networks, systems, hardware, software and other computer systems of or used by Customer.
4. Supplier shall ensure that none of the Services or other items provided to Customer by Supplier shall adversely affect the services, networks, systems, hardware, software and other resources of Customer.

Article 41. Technology and Service Improvements

1. Supplier shall solve all errors in the Services (including Customisations) with an impact on Customer's business as soon as reasonably possible.
2. Supplier will from time to time make available new versions, releases and updates to the Services to solve defects and/or errors, keep the Services and up-to-date with market developments or otherwise improve (the operation or functionality of) the Services.
3. Supplier will inform Customer timely on the change and release calendar with respect to the Services.
4. Any new version, release or update will provide Customer with at least the same functionality of the Version or Release of the Services previously used by Customer and will otherwise not negatively impact Customer's use of the Services nor require Customer to make substantial costs to continue the use thereof.

Article 42. Business continuity

1. Supplier shall have in place facilities and procedures (including but not limited to contingency and disaster recovery) adequate to ensure the continued business processes of Customer in case of disasters, the System or on the premises of Supplier or its subcontractors engaged in performing the Services.
2. As a part of the Services, Supplier is responsible for maintaining a backup of Customer Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Supplier shall maintain a contemporaneous backup of Customer Data that can be recovered within four (4) hours at any point in time.
3. Additionally, Supplier shall store a backup of Customer data in an off-site "hardened" facility no less than daily.
4. On first request of Customer Supplier shall return or all Customer Data to Customer or delete all Customer Data.

Article 43. Service Delivery Locations

1. A change of service delivery location, or transfer of Services between service delivery locations requires the prior consent of Customer which consent may be conditional, but shall not be unreasonably withheld or delayed. A change in Service Delivery Location shall be at Supplier's costs.

Article 44. Security

1. In addition to article 27 Supplier shall use up-to-date anti-virus software in compliance with good industry practice in order to avoid that malware is introduced into the supported Software. If Supplier becomes aware that it may have allowed malware to be introduced in systems or software used by Customer, Supplier shall inform Customer thereof and assist Customer in reducing the effect of the Malware and implementing any mitigating measures and restoring any lost data.

Article 45. Audits

1. Supplier shall permit, and shall procure that its subcontractors shall permit, Customer access to Supplier's and its subcontractors' facilities, personnel and information to perform an audit of Supplier's and its subcontractors' records, the system and the service delivery locations to conduct an audit to Supplier's compliance with its obligations under the Agreement.
2. Customer shall provide Supplier with a copy of the audit report without delay.
3. Supplier shall immediately direct all enquiries from any governmental authority relating to the Agreement to Customer. In answering to any enquiry or request relating to Customer, Supplier shall act in the best interest of Customer, dispute the necessity of providing information or access where reasonable and not give more access or information than required.
4. At the request of Customer, Supplier shall, and shall procure that each subcontractor shall, permit any governmental authority access to Supplier's and the subcontractors' premises, equipment and facilities for the purposes of conducting an audit. Supplier shall, and shall procure that each subcontractor shall, provide (the representatives of) such governmental authority with such cooperation and access to premises, equipment, facilities, information and personnel as is necessary for the purposes of conducting the audit and permit (the representatives of) such governmental authority to take copies of such records as are necessary for that purpose.
5. Supplier shall, and shall ensure that each subcontractor shall, procure that the governmental authority has access to information from and to the premises, equipment and facilities of Supplier's and the subcontractors' external auditor for the purposes of conducting the audit.
6. Supplier shall retain a complete audit trail and records and supporting documentation sufficient to enable Customer and any governmental authority to fully perform audits.