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# General Terms and Conditions of Purchase of Services Only

## Short Form

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## 1. BASIS OF CONTRACT

- 1.1. These terms and Conditions below ("**Conditions**") apply to the agreement ("**Contract**") between Bell-TS Netherlands B.V. or its Group Company ("**Customer**") and the Supplier for the sale and purchase of services (or any part of them) ("**Services**") set out in the Customer's order ("**Order**"). Once the Order is issued by the Customer the Contract is formed between the Customer and the Supplier. These Conditions shall apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate within its quotation issued by the Supplier in response to a request for quotation relating to the purchase and supply of the deliverables ("**Quotation**"), or which are implied by trade, custom, practice or course of dealing.
- 1.2. "**Group Company**" means any undertaking which from time to time is a parent undertaking of Bell-TS Netherlands B.V. or a subsidiary of Bell-TS Netherlands B.V. or of any such parent undertaking (the terms parent undertaking and subsidiary being interpreted in accordance with Article 2:24a sub 1 of the Dutch Civil Code (Burgerlijk Wetboek)).

## 2. WARRANTIES

- 2.1. The Supplier warrants, represents and undertakes to the Customer that:
- 2.1.1. the supply of the Services and their use for their intended purpose shall not infringe the intellectual property rights of any third party;
- 2.1.2. it will comply with all relevant anti-bribery legislation ("Anti-Corruption Laws") and anti-slavery legislation ("Anti-slavery Laws");
- 2.1.3. it shall pass on to the Customer the benefit of any warranties and guarantees given with the Services by any subcontractor or third party; and
- 2.1.4. it gives the warranties more specifically set out in the Order;
- 2.1.5. the Services will:
- 2.1.5.1. comply with all laws and regulations relating to the Services at the time of delivery and obligations of that Services shall be performed with all due skill, care and diligence and so as to meet the requirements in the Order;
- 2.1.5.2. be of satisfactory quality within the meaning of the Supply of Goods and Services Act 1982 (as amended);
- 2.1.5.3. if the purpose for which they are required is indicated in the Order, either expressly or by implication, be fit for that purpose and shall be performed with all due skill, care and diligence and so as to meet any requirements of the Customer;
- 2.1.5.4. comply with all laws, legislation and government regulations applicable to a party's rights and obligations set out in this Contract from time to time ("Applicable Laws") relating to such Services
- 2.2. If, during the period of ninety (90) days from the date of performance (unless specified otherwise in the Order) ("**Warranty Period**") the Services do not comply with the warranties in Condition 2.1, then without prejudice to any other rights and remedies of the Customer arising under the Contract, the Supplier shall, either (i) promptly

remedy the breach at the Supplier's own cost; (ii) re-perform the Services to comply with the Contract; or (iii) provide a refund to the Customer for the price of the non-compliant Services.

- 2.3. The Supplier gives the warranties more specifically set out in the Quotation.

## 3. PERFORMANCE OF THE CONTRACT

- 3.1. If the Services have not been performed accordance with the Order, then, without limiting any other right or remedy the Customer may have, the Customer may: (a) refuse to take any subsequent attempted re-performance of the Services; or, (b) terminate the Contract with immediate effect without any liability to the Customer.
- 3.2. The Supplier shall comply with the Customer policies (including but not limited to the Customer charter) as made known to the Supplier by the Customer from time to time, to the extent not inconsistent with the Contract.
- 3.3. The Supplier shall co-operate with any regulatory authority as required from time to time.
- 3.4. The Supplier shall procure that the Services are carried out in accordance with any performance dates in the Contract or if none then within a reasonable time or as mutually agreed by the Parties in writing from time to time.
- 3.5. The Services shall be delivered on the delivery date in accordance with an Order or if there is no date specified, delivery of the Deliverables shall be within a reasonable time.
- 3.6. The Supplier shall perform the Services and its obligations and use Supplier personnel who have the requisite level of skill, expertise and experience in order to deliver the Services in accordance with a given Order.
- 3.7. The Customer may terminate all or part of the Contract at any time by giving written notice via email to the Supplier. If the Supplier has not commenced work on the Services, then such termination shall be without liability on the part of the Customer. If the Supplier has incurred reasonable costs which cannot be otherwise avoided, the Customer will be given the option to pay such reasonable costs or continue with the Contract.

## 4. PRICE AND PAYMENT

- 4.1. The Customer shall pay all undisputed invoices within sixty (60) days from the receipt of the invoice unless expressly stated otherwise in the Order.
- 4.2. The Customer shall only be liable to pay any amounts in addition to the price if expressly stated in the Order or agreed to in writing between the Parties.
- 4.3. The Supplier may invoice the Customer for the Services in accordance with the payment dates referred to in the Order if the Services have been performed in accordance with the Contract and the Customer has notified the Supplier promptly by issuing a goods receipt note.
- 4.4. Any extra cost may only be payable by the Customer if the Customer has requested such extra services to be provided at an extra cost in writing. If, in the Supplier's opinion, the Contract extra costs will affect the agreed delivery period for the Services, the Supplier will indicate this to the Customer in writing. The Parties must then consult with each other as soon as possible about, if appropriate, shifting the delivery period and the consequences which this shift will have for the penalty if timely delivery does not occur.

4.5 The Supplier shall not be entitled to invoice the Customer later than ninety (90) days following receipt of a goods receipt note from the Customer and the Customer shall not be obliged to pay the Supplier for such Services after such ninety (90) days has elapsed. For the avoidance of doubt, this Condition shall not apply where any delay has been caused by the Customer's failure to provide the goods receipt note.

4.6 In the event that withholding tax or deduction is required to be paid by Customer under Applicable Laws, Customer shall pay the charges net of the withholding or deduction to the Supplier.

4.7 The Customer may cancel an Order at any time but shall be liable for reasonable costs and expenses incurred by the Supplier as a result of such cancellation provided that the Supplier uses best endeavours to avoid or minimise such costs and expenses.

## 5. CUSTOMER LOCATION, ASSETS AND RESOURCES

5.1. Except where the parties agree in writing that any activity or the grant of any right of access or use is to be provided by the Customer or its end customer, the Supplier shall be wholly responsible for providing personnel, assets, facilities, software and other materials and resources that are required to enable it to provide the Services and comply with its other obligations under the Contract.

5.2. If Supplier personnel are granted access (whether directly or remotely) to, or permission to use any Customer Assets then the Supplier shall ensure that access to customer location, including any computer system, network, software or hardware owned or operated by or on behalf of the Customer or end customer ("**Customer Systems**") and any other assets owned by, or in the possession or control of the Customer or its Customer end customer (collectively, "**Customer Assets**") is only sought by, granted to and, used by members of the Suppliers personnel who require access and use for the proper performance of their duties under the Contract and that such Supplier personnel (and the Supplier) only use Customer Assets to the extent strictly necessary for such performance;

5.3. Supplier shall, and shall ensure that the Supplier personnel shall, comply with all security, audit, health and safety, usage, maintenance and other procedures and requirements applicable to Customer Assets in question as are made known to the Supplier or Supplier personnel by the Customer or end customer.

5.4. In respect of any premises owned, occupied or used by any Customer or Customer end customer (collectively, "**Customer Location**"):

(a) the Customers and/or its end customer shall be entitled to refuse to admit, and to require the Supplier to remove, any person employed or engaged by the Supplier whose presence would, in the reasonable opinion of the Customer or their end customer, be prejudicial to the performance of the Contract; and

(b) the Customer and/or its end customer shall inform the Supplier, or member(s) of the Supplier personnel accessing the Customer Location of any relevant health and safety matters and/or policies with which the Supplier, Supplier personnel must comply while on the Customer Location;

5.5. The Supplier shall, and shall ensure that the Supplier personnel shall, not remove any Customer Assets which constitute personal (as opposed to real) property from Customer Location without the Customer's or end customer's prior written consent or permit or assert any lien over, sell, offer for sale, assign, mortgage, encumbrance, pledge, sub-let or lend out any of Customer Assets.

5.6. The Supplier shall take reasonable and proper care of Customer Assets in its possession or control, be responsible for any loss of, or damage to, such Customer Assets caused by the Supplier or Supplier personnel, provided that the Supplier shall not be liable for fair wear and tear of any Customer Asset resulting from its normal and proper use in connection with the provision of the

Services, and deliver them back to the relevant Customer or end customer on demand; and

5.7. all property of the Supplier located on Customers or their end customer Location shall remain at the sole risk and responsibility of the Supplier.

## 6. CONFIDENTIALITY

6.1. The Supplier shall:

6.1.1 protect all information, disclosed by the disclosing party, or its employees, officers, advisers, agents or representatives ("**Representatives**"), pursuant to the Contract, including but not limited to, financial, end customer information, business or technical or other data and all other confidential information (whether written, oral, visual or in electronic form or in magnetic or other media) ("**Confidential Information**") and, in doing so, must use no less than the equivalent degree of care that such party applies to its own Confidential Information which shall in no case be less than a reasonable standard of care;

6.1.2 have internal systems to ensure that Confidential Information is stored and handled in such a way as to prevent unauthorised disclosure; and

6.1.3 procure that its personnel and any third parties do not; disseminate, copy, employ, exploit, adapt, modify or in any other manner whatsoever utilise the Confidential Information other than strictly for the provision of the Services and for the avoidance of doubt, will be liable for all acts and/or omissions of its personnel and any third parties.

6.2 The obligations contained in Conditions 6.1.1 to 6.1.3 shall not apply to any Confidential Information which:

(a) is lawfully in the possession of the Supplier prior to receipt from the disclosing party, as reasonably evidenced in writing;

(b) is or becomes publicly known, other than as a consequence of a breach of the Contract;

(c) can be reasonably evidenced by written records that it has been developed independently by the Supplier without access to, use of, or incorporation of the Confidential Information;

(d) is required to be disclosed by a court of competent jurisdiction or operation of law, provided the Supplier, where reasonably practicable, provides notice to the Customer of such disclosure; or

(e) is received from a third party without breach of any other relevant confidentiality obligations.

6.3 The Supplier shall not disclose to any third party the terms upon which it has performed its Services to the Customer or authorised users, without the Customer's prior written consent unless required to do so by law.

## 7. CHANGE CONTROL PROCEDURE

7.1 Either party may request a change to the Services or Statement of Work ("SOW") by submitting such request to the other party in writing identifying clearly the change required and the reasons for it. The Supplier shall either in the request or response to a request, identify the impact of the requested change on the Services, the price and the milestones. The Customer shall have ten (10) Working Days from receipt of either the request or the response to the request (as applicable) to approve or reject the requested change. If accepted the Services and/or SOW shall be deemed amended with effect from the date of acceptance. If not accepted or rejected then the SOW shall remain unchanged and the performance of the Contract continue in accordance with the existing Services and/or SOW. Neither party shall unreasonably reject or refuse to accept a requested change and any issues arising with regard to a requested change shall be escalated.

## 8. DATA PROTECTION

8.1 For the purpose of this Condition 8, "Controller", "Personal Data" and "Process" shall have the meanings given to them in The Data Protection Act 2018 unless and until: (a) the General Data Protection

Regulation (Regulation (EU) 2016/679) (“GDPR”) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (b) any successor legislation to the GDPR or the Data Protection Act 2018 (“Data Protection Legislation”).

8.2 The Parties each acknowledge and agree that they may need to Process Personal Data (in their respective capacities as Controllers) in order to (as appropriate): (a) administer and provide the Services; (b) request and receive the Services; (c) compile, dispatch and manage the payment of invoices relating to the Services; (d) manage the Contract and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Services; and (f) comply with their respective regulatory obligations.

8.3 Each party shall Process Personal Data for the purposes set out in Condition 8.2 in accordance with their respective privacy policies. The Parties acknowledge that they may be required to share Personal Data with their affiliates, group companies and other relevant parties, within or outside of the country of origin, in order to carry out the activities listed in Condition 8.2, and in doing so each party will ensure that the sharing and use of this Personal Data complies with DPA.

8.4 Where the Supplier is Processing end customer Personal Data, the Customer will require the Supplier to agree to a Data Protection Agreement with the end customer directly, a copy of which will be provided by the Customer.

## 9. CUSTOMER MATERIAL

9.1 The Supplier shall not and shall procure that the subcontractor does not store, copy, disclose, or use material which is made available or supplied by the Buyer to the Customer or its End User (“**Customer Materials**”) except as necessary for the performance by the Seller of its obligations under the Contract or as otherwise expressly authorised in writing by the Buyer.

9.2 The Supplier shall take all precautions necessary to preserve the integrity of Buyer Materials and to prevent any corruption, destruction or loss of data relating to the Buyer or their customers which is processed, stored, generated, or capable of access by, or which otherwise comes into the possession of, the Seller or any subcontractor.

## 10. INSURANCE

10.1 The Supplier agrees to take out and maintain insurance in respect of employer’s liability, public liability and professional liability as is commercially prudent and reasonable with a reputable insurance company and such insurance of a sufficient value and in respect of the types of insurance that it is reasonable for the Customer to require of a supplier supplying Services similar to those of the Supplier under this Contract to maintain, as well as any other insurance required by law from time to time. The Supplier shall provide the Customer with a copy of such insurance certificates upon reasonable request in order to verify the extent and level of insurance cover taken out by the Supplier and the payment of the relevant premiums.

## 11. IPR INDEMNITY

11.1 The Supplier shall indemnify and hold the Customer harmless from and against any and all liability or damage (including reasonable and verifiable costs and expenses) suffered or incurred by the Customer and arising from any action, claim or proceedings brought against the Customer by a third party alleging that the proper possession or use of the Software by the Customer infringes such third party’s IPR (“**Claim**”) provided that: (i) the Supplier is given prompt written notice of such Claim; (ii) is given information, reasonable assistance, and exclusive authority to defend or settle the Claim; (iii) that the Customer complies with all reasonable instructions of the Supplier with regard to the continuing use of the relevant Deliverable; and (iv) that Customer does not prejudice the Supplier’s defence or settlement of the Claim.

## 12. LIMITATION OF LIABILITY

- 12.1. Neither party excludes or limits its liability to the other for:
- 12.1.1. personal injury or death caused by its negligence;
  - 12.1.2. any matter for which, under Applicable Laws, a party cannot exclude or limit or attempt to exclude or limit its liability;
  - 12.1.3. breach of Condition 6 (Confidentiality), Condition 8 (Data Protection) and, Condition 26 (Intellectual Property Rights); and
  - 12.1.4. fraud or fraudulent misrepresentation.
- 12.2. Subject to 12.1, neither party shall have any liability to the other party for any indirect, special or consequential loss, loss of profits, loss of revenue, loss of savings, damage to reputation or goodwill or loss of data.
- 12.3. Subject to Condition 12.1 and 12.2, each party’s total liability to the other whether for breach of contract, tort, breach of statutory duty or otherwise shall not exceed:
- 12.3.1. £10,000,000 (ten million) per claim for liability resulting from negligence;
  - 12.3.2. £10,000,000 (ten million) per claim for all liability arising from defects in the supplied products;
  - 12.3.3. for all other liability, 150% of the total charges paid or payable by the Customer to the Supplier under the Contract.

## 13. ANTI-BRIBERY, CORRUPTION AND FACILITATION OF TAX EVASION

- 13.1. The Supplier shall and shall procure that persons associated with it or other persons who are performing services in connection with this Contract shall:
- 13.1.1. comply with all applicable laws statutes, regulations, and codes relating to anti-bribery and anti-corruption, Bribery Act 2010 and Criminal Finances Act 2017 (**Relevant Requirements**);
  - 13.1.2. not engage in any activity, practice or conduct which would constitute an offence under the following sections:
    - 13.1.2.1. a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
    - 13.1.2.2. a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017; or
    - 13.1.2.3. 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK.
  - 13.1.3. have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 and to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier) and to ensure compliance with **Error! Bookmark not defined.** 13.1.2;
  - 13.1.4. notify Customer (in writing) if it becomes aware of any breach of clause 13.1.1. or clause 13.1.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of this Contract;
  - 13.1.5. immediately notify Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this agreement);
  - 13.1.6. if requested, provide Customer with any reasonable assistance, at the Customer reasonable cost, to Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with Relevant Requirements.
  - 13.1.7. within [NUMBER] months of the date of this Contract, and annually thereafter, certify to Customer in writing signed by an officer of the Supplier, compliance with this clause 13 by the Supplier and all persons associated with it under clause 13.2. The Supplier shall provide

- such supporting evidence of compliance as Customer may reasonably request.
- 13.2. The Supplier shall ensure that any person associated with the Supplier who is performing services in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 13 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Customer for any breach by such persons of any of the Relevant Terms.
- 13.3. Any breach of this clause 13 shall be deemed a material breach and a Party shall terminate under clause 15.
- 14. ANTI-SLAVERY**
- 14.1. The Supplier undertakes, warrants and represents that:
- 14.1.1. neither the Supplier nor any of its officers, employees, agents, sub-contractors have: (a) committed an offence under any Applicable Laws relating to the prevention of slavery ("**Anti-slavery Laws**"); or (b) been notified that it is subject to an investigation relating to an alleged offence or prosecution under Anti-slavery Laws; or (c) been made aware of any circumstances within its supply chain that could give rise to an investigation relating to an offence or prosecution under Anti-slavery Laws;
- 14.1.2. it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents have breached or potentially breached any of the Supplier's obligations under this Condition 14.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.
- 14.2. Any breach of Condition 14.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract with immediate effect.
- 14.3. The Supplier shall seek to impose upon its sub-contractors (or any third party within its supply chain) similar provisions to those in this Condition 14.
- 15. TERMINATION**
- 15.1. Either party may by written notice terminate the Contract if the other party is in material breach of any Condition(s) of the Contract, which is either:-
- 15.1.1. not capable of remedy; or
- 15.1.2. being capable of remedy, has not been remedied within thirty (30) days after written notice from the other party requiring it to do so.
- 15.2. For this purpose a number of breaches (whether of the same or different obligations and regardless of whether those breaches are remedied) may collectively constitute a material breach to which Condition 15.1.1 or 15.1.2 applies whether or not each breach on its own would be considered a material breach.
- 15.3. Either party may terminate the Contract at any time with immediate effect if:-
- 15.3.1. a resolution is passed, or an order is made for the winding up (or equivalent order in the relevant jurisdiction) of the other party, otherwise than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction;
- 15.3.2. the other party becomes subject to an administration order; a liquidator, receiver or administrative receiver or similar is appointed over any of its property or assets;
- 15.3.3. the other party enters into an arrangement or composition with its creditors, ceases or threatens to cease to carry on business, becomes insolvent or ceases to be able to pay its debts as they fall due;
- 15.3.4. the other Party commits a breach under Condition 13 (Anti-Bribery Laws) and 14 (Anti-Slavery Laws); or
- 15.3.5. a Force Majeure Event (defined in Condition 21.1) continues for a period of forty-five (60) days.
- 15.4. If the Contract is terminated:
- 15.4.1. the Contract shall continue in force to the extent necessary to give effect to those of its provisions which expressly or by implication have effect after termination; and
- 15.4.2. the rights of either party accrued on or prior to termination shall remain unaffected.
- 15.5. The Supplier shall promptly notify the Customer and in any event within five days of becoming aware of a breach of the supplier charter. If such breach is of a material obligation of the supplier charter and creates a material risk for the Customer (acting reasonably) or materially affects the Supplier's performance of the Contract, the Customer may terminate the Contract.
- 15.6. Upon early termination of the Contract in accordance with its terms by either party, where the Customer has paid the Supplier the price for Services that have not been supplied at the date of termination, the Supplier shall, upon demand, either repay such price to the Customer or deliver the Services to the Customer.
- 16. AUDIT AND INSPECTION**
- 16.1. The Supplier shall permit the auditors to conduct audits of the Supplier during the term of the Contract (and for six years after the expiry or termination of the Contract). The right of audit includes a right for the auditor to enter any of the Supplier premises to inspect and take copies of such books and records and to interview members of the Supplier personnel once per annum.
- 16.2. The purpose of any audit carried out under this Condition 14 shall be to: provide the auditor with assurance as to the Supplier's compliance with the Contract; to enable the Customer to investigate any complaints or queries or to provide information required by a Regulatory Authority or any Customers of the Customer Group relating to the Services or the conduct of the Supplier, the Supplier personnel; and to investigate any suspicion of fraud or wrongful practice on the part of the Supplier, the Supplier personnel.
- 16.3. The Supplier shall cooperate with the auditor and will provide or procure such access and assistance as the auditor requires in order to enable the auditor to fully exercise the rights set out in Condition 16.1. Except where the audit is undertaken in respect of suspected fraud or breach or by a Regulatory Authority which stipulates that no notice should be given, the Customer shall provide at least three (3) Working Days' written notice of the audit; shall conduct the audit (or procure it is conducted) within normal business hours (means the hours of 9:00 am to 5:30pm GMT); and shall use reasonable endeavours to avoid any disruption to the business of the Supplier.
- 17. ASSIGNMENT AND SUB-CONTRACTING**
- 17.1. The Supplier shall not assign, transfer or sub-contract its rights or obligations under the Contract without the Customer's prior written consent. Any such consent shall not relieve the Supplier of its obligations under the Contract.
- 18. NOTICES**
- 18.1. Where the Contract requires notice to be given by one party to the other such notice shall be in writing and shall be delivered by hand, e-mail, courier, first class post or special delivery post to the following:
- 18.1.1. in the case of delivery to the Customer, to the CFO or General Counsel at New Hampshire Court, St. Paul's Road, Portsmouth, PO5 4AQ;
- 18.1.2. in the case of e-mail, to an email address previously used by the receiving Party for the purposes of issuing or receiving Orders and which the sender has reasonable grounds to believe is in use, if a non-automated confirmation of receipt is not received with 24 hours of sending then another method of delivery shall also be used but this shall not affect the deemed receipt of the e-mail;
- 18.1.3. in the case of delivery to the Supplier to a Director at the Supplier's registered office address; and
- 18.2. Notices will be deemed to have been duly served if delivered by hand or courier at the time of delivery; if by e-mail at the time of

sending; if delivered by first class post or special delivery post 48 hours after being posted, provided that where in the case of delivery by hand, courier or e-mail such delivery occurs either after 4.00 pm on a weekday other than a public holiday ("**Working Day**"), or on a day other than a Working Day, service will be deemed to occur at 9.00 am on the next Working Day;

- 18.3. in the case of communications relating to the Contract which do not relate to matters where the Contract requires notice to be given, communications may take place by email between the parties using then current e mail addresses usually used between the parties.

#### 19. SEVERABILITY

- 19.1. If any Condition(s) under the Contract are deemed or found to be invalid or unenforceable by a court of competent jurisdiction, such provisions shall be deemed omitted, all other provisions shall remain in full force and effect.

#### 20. THIRD PARTY RIGHTS

- 20.1. Save for the Indemnified Persons, a person who is not a party to the Contract may not enforce any of the provisions in it.

#### 21. FORCE MAJEURE

- 21.1. Neither party shall be liable for the failure to perform its obligations under the Contract, if such failure results from any event which is beyond such party's reasonable control, which prevents or delays the performance of its obligations under this Contract ("**Force Majeure Event**").
- 21.2. Each party shall use all reasonable endeavours to limit the effects of any Force Majeure Event and a Party which relies upon a Force Majeure Event to excuse performance may only do so if it has taken reasonable steps to mitigate the effects upon it of the Force Majeure Event and continues to perform the obligations that are not affected.
- 21.3. Each party agrees to give notice forthwith to the other upon becoming aware of a Force Majeure Event, such notice to contain details of the circumstances giving rise to the Force Majeure Event.

#### 22. VARIATION AND WAIVER

- 22.1. No variation of this Contract shall be effective unless it is in writing and signed by the parties.
- 22.2. A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 22.3. A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy under this Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

#### 23. ENTIRE AGREEMENT

- 23.1. The Contract contains all the terms which the Customer and the Supplier have agreed in relation to the supply of the Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Services. The Supplier's standard terms and Conditions referred to in any correspondence or Quotation form shall not apply to the Contract. The Supplier acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by or on behalf of the Customer which is not set out in the Contract and agrees that it shall have no claim in respect of the same. Nothing in the Contract will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

#### 24. NO PARTNERSHIP, JOINT VENTURE, AGENCY OR EMPLOYMENT

- 24.1. Nothing contained in the Contract, and no action taken by the parties pursuant to the Contract, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has,

nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.

#### 25. PUBLICITY

- 25.1 The Supplier shall not: (a) make any public announcement or issue any public circular (including a media or press release) relating to the Contract or its subject matter without the prior written approval of the Customer; or (b) use the name or logos of the Customer and member of its group of companies or of its customers, as a reference or in any advertising or promotional materials without the Customer's prior written consent (on every occasion), which may be withdrawn at any time if it is given.

#### 26. INTELLECTUAL PROPERTY RIGHTS (IPR)

- 26.1 Any intellectual property rights includes but is not limited to; patents, designs and trade marks (whether registered or unregistered), copyright, database rights and know how (collectively, "**IPR**").
- 26.2 All title, right and interest in the product and/or Services including materials developed for the Customer or end customer in the performance of the Services which are procured, prepared, developed and/or delivered by the Supplier or Supplier personnel for the Customer and/or end customer (hereinafter known as "**Bespoke Deliverables**") together with the IPR therein shall, upon payment by the Customer for the Services in respect of which the Bespoke Deliverables were created, vest in the Customer and/or its end customer as stated on the Order. The Supplier undertakes to sign such documentation and take such action (if any) as may be reasonably requested by the Customer to vest any IPR in the Bespoke Deliverables in the Customer and/or its end customer.
- 26.3 Subject to payment of the price, the IPR in the Bespoke Deliverables shall, at the Commencement Date or (if later) on creation of the rights, vest in the Customer. To the extent that it is able to do so, the Supplier assigns (by way of present and, where appropriate, future assignment) all such IPR with full title guarantee to the Customer.
- 26.4 The Supplier shall, at its cost, reasonably procure that the Supplier personnel, providing Bespoke Deliverables, contract with it on terms which ensure that any IPR arising out of or relating to the Bespoke Deliverables and work done by that person shall vest in, or otherwise be assigned absolutely and with full title guarantee (by way of present and, where appropriate, future assignment) to the Customer and/or end customer in support of the Supplier's obligations of this Condition 26. For the avoidance of doubt, the Customer shall be responsible for the costs involved in registering any IPR or any on-going costs associated with such IPR.

- 26.5 Each Party and/or its licensors retains any rights that they may have in any pre-existing materials, including any and all code, data or material (including but not limited to documents, information, plans, specifications, drawings, diagrams, images, software) which is not created as a consequence of the performance of the Services ("**Pre-Existing Materials**"). Nothing in the Contract or use of the other Party's IPR shall be construed as a transfer or grant of any interest in such rights save that where any such Pre-Existing Materials are included in the Bespoke Deliverables, unless expressly stated otherwise in the Order the Supplier hereby grants (or shall procure the grant of) a perpetual, non-terminable, sub-licensable, fully assignable, royalty-free licence to the Customer or its end customer to possess, use, copy or amend to the extent necessary to enjoy the benefits of the Pre-Existing Materials as part of the Bespoke Deliverables and so as not to limit the Customer or end customer's use of the Bespoke Deliverables as an absolute owner.

#### 27. NON-SOLICITATION

- 27.1 In relation to each Contract, neither party shall, without the prior written consent of the other party, for the duration of any Order and for a period of twelve (12) months after the performance of the Order, solicit or entice away from the other party or employ or attempt to employ any person who is, or has been, engaged as an employee of the other party.
- 27.2 Nothing in the Contract shall limit the right of either party to employ any person who has approached it in response to any public advertisement.

**28. JURISDICTION AND GOVERNING LAW**

28.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed at all times in accordance with Dutch Law and the Parties submit to the exclusive jurisdiction of the courts of The Netherlands. The Vienna Sales Convention (CISG) will expressly not apply.