

## **General terms and conditions of cards PLM Solutions B.V.**

These general terms and conditions are available for inspection at the office of cards PLM Solutions B.V. and can be accessed via this link:

<https://www.cardsplmsolutions.com/nl/algemeen-e-voorwaarden/>

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### **ARTICLE 1 DEFINITIONS**

In these general terms and conditions, the following definitions apply:

1. Cards PLM Solutions B.V.: the organisation and User of these general terms and conditions, established and operating at Maas 22 A in Best and registered in the trade register of the Chamber of Commerce under number 171155224, hereinafter referred to as: "User". The terms "we" or "our" refer to the User.
2. Other Party: the natural and/or legal person on whose behalf the User provides its services and/or products.
3. Parties: User and Other Party.
4. Agreement: one or more agreements concluded between the User and the Other Party and/or amendments and additions thereto.
5. Hardware: all moveable property sold by the User, not being software.
6. Software: all software developed by the User within the framework of the agreement and made available to the Other Party, including all related goods.

### **ARTICLE 2 APPLICABILITY**

1. These general terms and conditions shall apply to all offers, quotations and agreements under which the User provides goods and/or services of any nature and under any denomination to the Other Party.
2. The applicability of the Other Party's general terms and conditions is expressly rejected.
3. The general terms and conditions applied by the Other Party shall not apply, unless the parties have explicitly deviated from them by reference to these general terms and conditions. In the event of contradiction between the agreements made between the

parties, that which is stipulated in these general terms and conditions shall apply.

4. If and insofar as the User makes products and/or services of third parties available to the Other Party or grants access thereto, the (licence or sales) terms and conditions of the third parties in question shall apply to the relationship between the User and the Other Party with the exception of the provisions in these general terms and conditions that deviate from them, provided that the User informs the Other Party of the applicability of the (licence or sales) terms and conditions of those third parties and that the Other Party is given a reasonable opportunity to acquaint itself with those terms and conditions. Contrary to the foregoing, the Other Party shall not be entitled to invoke the User's failure to fulfil the aforementioned obligation if the Other Party is a party referred to in Section 6:235 (1) or (3) of the Dutch Civil Code.
5. If any provision of these general terms and conditions is null and void or is annulled, the other provisions of these general terms and conditions shall remain in full force. User and the Other Party shall in that case enter into consultation with a view to agreeing on new provisions to replace the null and void or annulled provisions with the same scope as much as possible.

### **ARTICLE 3 THE OFFER**

1. All offers made by the User, in whatever form, shall be free of obligation, unless explicitly stated otherwise.
2. Any estimates, plans or other documents accompanying an offer shall remain the property of the User at all times and must be returned postage paid to the User on demand. They may not be reproduced or made available for inspection by third parties without the consent of the User.
3. If an agreement is offered on the basis of subsequent calculation, the prices offered in advance shall serve only as a guide; the actual costs incurred by the User shall be passed on.
4. User shall reserve the right to refuse orders without giving reasons, or to demand cash on delivery or payment in advance. All web (orders) shall be paid in advance before delivery takes place.
5. The Other Party guarantees the correctness and completeness of the requirements and

specifications for the presentation and other details on which the User bases its offer.

#### **ARTICLE 4      FORMATION OF THE AGREEMENT**

1. Subject to the provisions hereinafter, an agreement with the User shall only be concluded after they have accepted or confirmed an assignment in writing, whereby the date of acceptance or confirmation shall be decisive. The order confirmation shall be deemed to reflect the agreement accurately and fully unless the Other Party lodges an immediate written protest against it.
2. If User has made an offer to the Other Party in advance, the agreement shall be concluded at the moment of receipt of the Other Party's order.
3. With regard to transactions for which, due to their nature and scope, no offer or order confirmation is sent, the invoice shall be deemed to reflect the agreement correctly and in full, unless an objection is made within three working days of the invoice date.
4. Each agreement is entered into on our part under the suspensive condition that the Other Party - exclusively at our discretion - appears to be sufficiently creditworthy for the financial performance of the agreement.
5. At or after entering into the agreement, before (further) performance, the User is entitled to demand security from the Other Party that both payment and other obligations will be met.

#### **ARTICLE 5      IMPLEMENTATION OF THE AGREEMENT**

1. User shall start executing the agreement after the agreement has been concluded. The Other Party shall be under the obligation to provide the User in good time with all information and documents necessary for the proper execution of the agreement.
2. User shall determine the manner in which and by which persons the agreement shall be carried out. In this respect, the User shall be entitled to engage third parties for the execution of the agreement, without notifying the Other Party, to purchase goods from third parties, to purchase services from third parties and to have the agreement carried out in full or in part by third parties and to charge the related costs, as specified in the offer, to the

Other Party. These general terms and conditions shall also apply in favour of third parties engaged by the User.

3. The User does not guarantee that the software it has developed will work without interruptions or errors.
4. The Other Party is aware that the internet is not always a completely reliable facility for the transmission of information and that breakdowns, delays and errors may occur at any time.
5. If goods to be delivered in the Netherlands are to be used outside the Netherlands, the User shall not be responsible for the fact that these goods do not meet the technical requirements, standards and/or regulations imposed by laws or regulations of the country where the use is to take place. This shall also apply if the use abroad was mentioned when the agreement was concluded.
6. All technical requirements set by the Other Party for the goods to be delivered and which deviate from the requirements that normally apply in the Netherlands must be explicitly reported by the Other Party at the time of concluding the purchase agreement.

#### **ARTICLE 6      AMENDMENT OF THE AGREEMENT**

1. Modifications and deviations from these general terms and conditions and/or the agreement shall only be valid if they have been agreed in writing between the parties.
2. Any additional costs relating to the amendments and/or supplements made shall be borne by the initiator of the amendments and/or supplements.
3. If parties agree that the agreement is amended or supplemented, this may affect the time of completion of its execution. User shall inform the Other Party of this as soon as possible.
4. In the event that parties are unable to agree on any changes or additions, the parties shall remain bound by the original agreement.

#### **ARTICLE 7      PRICES AND PAYMENT**

1. All prices shall be exclusive of turnover tax (VAT) and any other goods or service-specific levies imposed by the government, including: import duties, costs of any packaging, loading and unloading, transport and insurance.

2. All prices are in euros and the Other Party must pay in euros. Any changes in the exchange rate up to the moment of receipt of payment will be passed on to the Other Party.
3. In the event of an increase in one or more of the cost factors, the User shall be entitled to increase the order price accordingly; all this with due observance of any relevant statutory provisions, on the understanding that any future price increases known to the User must be stated by the User on the order confirmation.
4. User shall be entitled to change the (hourly) rates. The hourly rates shall change annually on the 1<sup>st</sup> of January and shall be charged to the Other Party.
5. An increase in the (hourly) rates due to an increase in the (return) tax shall not give the Other Party the right to dissolve the agreement. Changes in taxes and levies shall be passed on in all cases and shall not be a reason for the Other Party to dissolve the agreement.
6. If the Other Party, according to the agreement, consists of several natural persons and/or legal entities, each of these (legal) entities shall be severally liable to the User for the fulfilment of the agreement.
7. The amounts owed shall be paid by the Other Party within 14 days of the invoice date in accordance with the payment conditions agreed upon or stated on the invoice. Depending on the order, the Other Party may ask the User to agree on a different payment term.
8. The Other Party shall not be entitled to suspend any payment or to set off amounts owed.
9. All payments made by the Other Party shall primarily serve to pay any interest and collection costs incurred by the User and subsequently to pay the oldest outstanding invoices. If the Other Party has issued a direct debit authorisation for the payment of invoices and a collected amount is reversed, the Other Party shall be obliged to pay the invoice amount concerned to the User immediately in another manner.
10. If the Other Party fails to pay the amounts owed or fails to do so in time, it shall owe statutory interest on the outstanding amount for trade agreements, without a reminder or

notice of default being required. If the Other Party continues to fail to pay the claim after a demand or notice of default, the User shall be entitled to hand over the claim and the Other Party shall owe extrajudicial collection costs in addition to the interest.

11. In addition to payment of the extrajudicial costs, the Other Party shall owe all actual costs of legal and procedural assistance that exceed the liquidation rate.

## **ARTICLE 8 CANCELLATION**

1. Unless otherwise agreed in writing and the User has not yet started to carry out the work agreed upon and the Other Party wishes to cancel all or part of the agreement, it shall be obliged to pay the User 30% of the total price agreed upon plus VAT as cancellation costs, without prejudice to the right to pay the surplus should the actual costs incurred be higher. Furthermore, the Other Party is obliged to compensate the costs arising from any commitments which the User has reasonably entered into with third parties for the fulfilment of the agreement. At the request of the Other Party, the User shall provide proof of the costs incurred.
2. The aforementioned regulation of costs shall not affect the possible legal liability of the Other Party for damage resulting from the cancellation. This damage may include, but is not limited to, the costs of hiring third parties or the costs of hours already worked.
3. Cancellation of the agreement in respect of which work has commenced, unless otherwise agreed in writing, is only possible on payment of the total agreed price.

## **ARTICLE 9 HARDWARE**

1. User shall sell the hardware according to the nature and number as agreed in writing.
2. We do not guarantee that upon delivery the hardware is or will be suitable for the actual and/or intended use of the Other Party, unless the purposes for use have been clearly specified in writing without reservation.
3. User's sales obligation shall not include assembly and installation materials, software, consumables, batteries, stamps, ink (cartridges), toner articles, cables and accessories. The parties may make alternative written agreements in this respect.
4. User does not guarantee that the assembly,

installation and operating instructions accompanying the hardware are free of errors and that the hardware has the properties stated in these instructions.

#### **ARTICLE 10 DELIVERY OF HARDWARE**

1. The time of delivery shall be the time at which the User informs the Other Party that the hardware purchased is ready for transport (from the warehouse).
2. From the moment of delivery, the hardware shall be at the Other Party's risk.
3. The parties may agree that the User shall deliver the hardware to a place to be designated by the Other Party. The costs of, among other things, transport, insurance, hoisting and hiring of temporary facilities are not included in the purchase price and shall be charged to the Other Party. The risk of storage, loading, transport and unloading, among other things, rests on the Other Party in that case, including fault/negligence on the part of the carrier.
4. Indication of the delivery period is always approximate, unless explicitly agreed otherwise in writing. The delivery time shall commence as soon as all necessary information and/or security to be provided in advance by or on behalf of the Other Party is in the User's possession and/or as soon as any agreed advance payment has been received by the User.
5. Any specific wishes of the Other Party regarding transport shall only be carried out if the Other Party has declared to bear the additional costs thereof. The additional costs charged by the User shall be settled after the goods are returned in undamaged condition.
6. If the Other Party has not given the User any further instructions, the manner of transport, shipment, packaging and the like shall be determined by the User with due care.
8. User shall be entitled to deliver in parts (partial deliveries), which can be invoiced separately.
9. If, in the opinion of the Other Party, the goods are not delivered on time, the User must be given notice of default in writing before being in default, whereby the User must be given a reasonable time to deliver the goods after all. Delivery within this further period shall be deemed to constitute full compliance with

the original delivery obligation under the agreement. If this further term is exceeded, the Other Party has the right to dissolve the agreement, in part or otherwise. The Other Party shall not be entitled to compensation from the User.

10. If the goods are not immediately taken possession of after delivery by the Other Party, the goods shall be stored at the expense and risk of the Other Party. Furthermore, the User is entitled to sell the goods after the User has summoned the Other Party by registered letter or writ to take delivery and pay for the goods within 48 hours, and the Other Party fails to take delivery and pay for the goods, all this at the expense and for the account of the Other Party and without being liable for any resulting loss for the Other Party.

#### **ARTICLE 11 INSPECTION DUTY**

1. The Other Party shall be obliged to inspect the goods delivered and - where relevant - the packaging immediately upon delivery for any shortfalls and/or visible damage, or to carry out this inspection after notification from us that the goods are at its disposal.
2. Any shortfalls and/or damage to the goods delivered and/or their packaging which are present at the time of delivery shall be stated by the Other Party on the delivery note, the invoice and/or the transport documents, failing which the Other Party shall be deemed to have approved what has been delivered. In that case complaints in this respect shall no longer be dealt with.

#### **ARTICLE 12 SOFTWARE**

1. All software supplied shall remain the property of the supplier and/or the property of the User.
2. User shall make the agreed software available to the Other Party for use during the term of the agreement on the basis of a user licence. The right to use the software will be non-exclusive, non-transferable, non-pledgeable and cannot be sublicensed.
3. The Other Party will be permitted to make copies of the software exclusively for its own use, subject to the condition that the software supplied by the User is copied without any modifications and is maintained as such. The Other Party will inform the User forthwith if the software is copied, specifying the number of

copies and the technical specifications.

4. If all or part of the User's software has come into the possession of third parties through the actions or omissions of the Other Party, the Other Party will be liable to forfeit an immediately payable penalty equal to five times the contract sum for the software supplied, without prejudice to its right to full damages, including loss of profit.

### **ARTICLE 13 LICENCES**

1. The User shall deliver the aforementioned software to the Other Party solely on the basis of a licence agreement. By supplying the software, the Other Party shall acquire the non-exclusive, non-transferable, non-pledgeable and non-sub-licensable right to use this software for the agreed period. The right of use will only commence after the Other Party has signed and provided us with the "software registration card" and the licence agreement.

2. The right of use is limited to the Other Party's normal business or professional practice, for use on a computer system in accordance with the terms of the licence agreement and any maintenance agreement.

3. If the software producer issues new updates and/or new releases, these may be offered to the Other Party by the User against payment.

4. The right of use shall also include the documentation made available to the Other Party.

5. Unless otherwise agreed in writing, the Other Party is prohibited from:

- a. sell, rent or lend to third parties all or part of the software, including documentation, or any copy of the software or documentation;
- b. to execute, transmit or store the software without the prior written consent of the software producer;
- c. reproduce the software and/or documentation for its own practice, study or use;
- d. convert or adapt the software or make any changes to it;
- e. amend and/or remove any indications appearing in/on the software and documentation concerning the authorship or confidential nature of the software or any reference to the software producer and/or us;
- f. make the software public in any other way and/or reproduce it, including modifications;
- g. install the software on more than one device

or use it on a network;

h. maintaining the software or having it maintained by third parties;

i. provide training with the software on behalf of third parties;

j. transferring the software to a third party.

If the Other Party requires information in order to make the software work with or compatible with other software, the User shall request the software producer to provide this information and to indicate the associated financial and other conditions.

10. User will not be obliged to maintain the software and/or provide support to users and/or administrators of the software. If, contrary to the foregoing, the User is asked to provide maintenance and/or support for the software, the User may require the Other Party to enter into a separate agreement for that purpose.

11. The User will be entitled at all times to inspect the software delivered by the User, or to have it inspected, for any unauthorised use of it. If requested, the Other Party shall immediately cooperate in an investigation to be carried out by or on behalf of the User regarding compliance with the agreed operating limitations. The Other Party will grant access to its premises and systems on first demand. The User shall treat as confidential all confidential corporate information it obtains from or at the Other Party in the context of the investigation, insofar as this information does not relate to the use of the software itself.

12. The Other Party is obliged/able to purchase software maintenance services for an initial period of one year or for another period if we so permit. Thereafter, the maintenance services will be extended automatically by one (1) calendar year each time, unless the Other Party cancels the agreement with us in writing at least 30 days before the end of the calendar year. If the Other Party purchases other software licences during the period of validity of this agreement, we may adjust the annual maintenance period and distribute the annual maintenance fees proportionately, so that they coincide with the original maintenance period and invoicing period.

#### **ARTICLE 14 SUPPORT AND HELPDESK**

1. Unless otherwise agreed in writing, all support and helpdesk services shall be charged in accordance with the applicable rate which is indexed annually on the 1<sup>st</sup> of January.
2. Pursuant to agreements for the provision of some services, the User shall perform consultancy work. The minimum duration of a consultancy assignment is two hours.
3. In the event of consultancy assignments at the Other Party's location, travel time will be charged; no costs will be incurred within a radius of 30km around the User's office. Outside a radius of 30km, EUR 150 per day will be charged.

#### **ARTICLE 15 INSTALLATION**

1. Software supplied can be installed at the Other Party's home/business address and maintenance or repair work can be carried out on hardware and/or software on the instructions and at the expense of the Other Party.
2. Work will be carried out during normal working hours. The Other Party is obliged to ensure that the work can be carried out at the agreed time and without interruption.
3. The installation work is deemed to have been delivered:
  - a. when we have verbally notified the Other Party of the completion of the work and the Other Party has approved the work, or;
  - b. at the end of 8 days after we have notified the Other Party in writing that the work is finished and they have failed to take delivery of the work within the agreed period.

#### **ARTICLE 16 EDUCATION, COURSES AND TRAINING**

1. Parties may agree that the User shall provide education, courses or other training for the Other Party. A registration for a training course must be made in writing and shall be binding upon confirmation by the User.
2. The education, courses or other training and suchlike will only take place if there is sufficient participation, this to be assessed by the User. No later than 2 weeks prior to the planned date, the User shall inform the Other Party of the cancellation, with a simultaneous refund of any payments already made.
3. If the payments owed have not been

received by the User in time for the date of the education, course or training, the User shall be entitled to exclude the participant concerned, without prejudice to our right to full payment.

4. The Other Party shall at all times be permitted to replace participants, provided that the User is informed of this in writing and in good time, stating the personal details of the replacement participants.
5. Cancellations must always be made in writing. In the event of cancellation within 5 working days prior to commencement of the education, course or training or following a request to do so, the Other Party shall owe the User the full course fee. In the event of cancellation within 2 weeks prior to commencement, the Other Party shall owe the User 50% of the course fee and in the event of cancellation within 3 weeks, 20%. In the event of cancellation more than 3 weeks prior to commencement of the education, course or training the Other Party shall only owe the administration costs incurred amounting to 5% of the price of the education, course or training.
6. User is not liable for possible errors and/or viruses in software, on the diskettes or other data carriers made available to the participants.

#### **ARTICLE 17 WORK CARRIED OUT FOR THE PURPOSE OF THE AGREEMENT**

1. In order to execute the agreement concluded between the parties, the User can make qualified personnel available for a certain period of time at an agreed hourly rate and at a location to be determined by the Other Party.
2. The parties shall agree on a separate agreement in which all agreements between them shall be laid down in accordance with the following:

If the Other Party wishes to extend the agreement with due observance of the above, it must give written notice of this 1 month before the expiry of the period referred to in Article 1.
3. Renewal under the same conditions shall only take place if the User has agreed to such renewal in writing prior to the expiry of the period referred to in Article 1.
4. User shall guarantee that the personnel made available is sufficiently qualified in

relation to the nature and quality of the work to be done.

5. User undertakes to ensure that the staff made available is available at the location and for the period agreed with the Other Party, except for occasional absence due to urgent reasons, such as at our discretion.

6. The personnel made available shall carry out the work agreed upon under the direction and authority of the User.

7. If the Other Party instructs the personnel made available by the User to carry out work other than that for which they were hired, this shall take place entirely at the expense and risk of the Other Party.

8. If there is reason to do so, such as in the joint assessment of both parties, the User may replace one or more members of the staff provided with other employee(s) acceptable to the Other Party.

9. The Other Party shall always provide all cooperation and information which the User deems necessary or useful to be able to carry out the assigned work. The Other Party shall also provide access to the room and equipment we need to adequately carry out the agreed assignment during the agreed working hours.

10. User shall take all measures to ensure the confidentiality of all data and information made available by or on behalf of the Other Party. We shall not disclose such data and information to third parties without the written consent of the Other Party.

11. The Other Party shall provide the staff made available:

- with a suitable workplace which meets all statutory requirements;
- grant all powers and cooperation required by the staff for the proper performance of their duties;
- to the extent necessary for the proper performance of his duties, to grant access to all sites, buildings, books and documents.

12. The Other Party shall be obliged to set up and maintain the premises, equipment and tools in which or with which it has the work performed in such a manner and also to take such measures and provide such instructions for the work as are reasonably necessary to prevent the personnel made available from suffering damage in the performance of their

work.

13. The Other Party shall be liable vis-à-vis the User for and consequently obliged to compensate the damage suffered by the assigned personnel in the performance of their work, unless the Other Party can demonstrate that it has fulfilled the obligations referred to in paragraph 12 of this article and/or that the damage is to a significant extent the result of intent or deliberate recklessness on the part of the assigned personnel.

14. User shall not accept any liability for the quality of the results of the work that has been carried out under the Other Party's supervision and management.

## **ARTICLE 18 INTELLECTUAL PROPERTY**

1. All intellectual and industrial property rights to software, websites, databases, equipment or other materials such as analyses, designs, documentation, reports, offers, as well as preparatory materials in respect thereof, developed or made available pursuant to the agreement, shall be held exclusively by the User, our licensors or our suppliers. The Other Party only acquires the rights of use that are explicitly granted by these terms and conditions and the law. Any other or further right of the Other Party to reproduce software, websites, data files or other materials is excluded. A right of use to which the Other Party is entitled is non-exclusive, non-transferable, non-pledgeable and non-sublicensable.

2. If, contrary to the previous paragraph, User is prepared to undertake to transfer an intellectual or industrial property right, such an undertaking may only be made in writing and explicitly. If it is explicitly agreed in writing that rights of intellectual or industrial property with regard to software, websites, data files, equipment or other materials specifically developed for the Other Party, shall be transferred to the Other Party, this shall not affect the right of the User to apply and exploit the components, general principles, ideas, designs, documentation, works, programming languages and the like underlying the development, without any restriction, for other purposes, either for itself or for third parties. Nor shall a transfer of intellectual or industrial property rights affect the User's right to

undertake developments for itself or third parties which are similar to those done for the Other Party.

3. By entering into an agreement, the Other Party declares that it will at all times refrain from any use of the intellectual or industrial property rights referred to above, unless such use has been permitted by the User in writing.

4. The Other Party shall not be allowed to remove or change any designation concerning the confidential nature or intellectual property rights from the software, websites, databases, equipment or materials.

5. The Other Party guarantees that the use of information provided by it or otherwise, will never be in violation of statutory regulations or the protected rights of third parties. The Other Party shall fully indemnify the User against all direct and indirect consequences of claims which third parties might assert against the User on account of the breach of the aforementioned guarantee.

#### **ARTICLE 19 FORCE MAJEURE**

1. Neither party shall be obliged to fulfil any obligation, including any statutory and/or agreed guarantee obligation, if it is prevented from doing so as a result of force majeure. The party that considers that it is or will be in a situation of force majeure shall notify the Other Party of this immediately.

2. Force majeure on the part of the User shall include: force majeure on the part of suppliers to User; failure to properly fulfil obligations by suppliers prescribed to the User by the Other Party; defective goods, equipment, software or materials belonging to third parties, the use of which has been prescribed to User by the Other Party; government measures; power failure; failure of internet, data network or telecommunications facilities; (cyber)crime or (cyber)vandalism; war or terrorism; general transport problems; government measures and import and export restrictions.

3. If the Other Party is unable to comply with the agreement as a result of force majeure, it shall be obliged to compensate the User for the actual costs incurred in connection with the impeded compliance, both in the company of the User and the Other Party and in the company of third parties involved in the agreement.

4. If the situation of force majeure on the part

of the User has lasted for longer than 2 months, the parties shall be entitled to dissolve the agreement.

#### **ARTICLE 20 LIABILITY**

1. The total liability of the User on account of a culpable shortcoming in the fulfilment of the agreement shall be limited to compensation of direct damage up to the amount of the price stipulated in the agreement (exclusive of VAT). If the agreement is primarily a continuing performance contract with a duration of more than one year, the price stipulated for the agreement shall be set at the total of the fees (exclusive of VAT) stipulated for one year. In no event, however, shall the total compensation for direct loss exceed EUR 100.000 (one hundred thousand euros). Direct damage is exclusively understood to mean:

a. reasonable costs which the Other Party would have to incur to have our performance conform to the agreement; however, this alternative damage will not be compensated if the agreement is dissolved by or at the suit of the Other Party;

b. reasonable costs incurred by the Other Party to keep its old system(s) and related facilities operational for an extended period because we did not deliver on a final delivery date that was binding for the Other Party, minus any savings resulting from the delayed delivery;

c. reasonable costs incurred to establish the cause and scope of the damage, to the extent that such establishment relates to direct damage within the meaning of these terms and conditions;

d. reasonable costs incurred to prevent or limit damage, insofar as the Other Party demonstrates that these costs have resulted in limiting direct damage within the meaning of these terms and conditions.

2. User's liability for damage resulting from death or physical injury or for material damage to property shall never exceed EUR 500.000 (five hundred thousand euros) in total.

3. User shall not be liable for indirect damage, consequential damage, loss of profit, lost savings, loss of goodwill, damage due to business stagnation, damage resulting from claims by customers of the Other Party, mutilation or loss of data, damage relating to

the use of goods, materials or software of third parties prescribed by the User for the Other Party, damage relating to the engagement of suppliers prescribed by the Other Party for the User and all other forms of damage than those mentioned in paragraphs 1 and 2 of this article, for whatever reason.

4. The limitations referred to in the previous paragraphs of this article shall cease to apply if and in so far as the damage is the result of intentional act or omission or gross negligence on the part of the User.

5. User's liability on account of attributable shortcoming in the fulfilment of an agreement shall in all cases only arise if the Other Party gives the User notice of default forthwith and in writing, whereby a reasonable period of time to remedy the shortcoming shall be given and the User continues to fail attributable in the fulfilment of its obligations even after said period. The notice of default must give as full and detailed a description as possible of the shortcoming, so that the User is in a position to respond adequately.

6. Unless fulfilment by the User is permanently impossible, the User's liability on account of an attributable shortcoming in the fulfilment of the agreement shall only arise if the Other Party gives the User notice of default in writing forthwith. The occurrence of any right to compensation shall always be conditional upon the Other Party reporting the damage in writing to the User as soon as possible after it has arisen. Any claim for compensation against the User shall lapse by the mere lapse of 24 months after the claim arose.

7. The Other Party shall indemnify the User against all third-party claims for product liability as a result of a defect in a product or system delivered by the Other Party to a third party that partly consisted of hardware, software or other materials supplied by us, except if and insofar as the Other Party proves that the damage was caused by that hardware, software or other materials.

8. The provisions of this article shall also apply in favour of all legal and natural persons whose services the User uses to execute the agreement.

#### **ARTICLE 21 COMPLAINT PROCEDURE**

1. We shall only deal with complaints that have reached us directly, in writing, within 14 days

of delivery of the services in question, stating precisely the nature and grounds of the complaint, insofar as it concerns external defects or defects that are easily perceptible in use.

2. Complaints about other shortcomings must, on pain of forfeiting any claim against the User, be made within 14 days of their becoming apparent.

3. Complaints about invoices must also be submitted in writing, within 14 days of the invoice date.

4. After the expiry of the aforementioned terms, the Other Party shall be deemed to have approved the goods supplied or the invoice, respectively. In that case, complaints will no longer be dealt with by us.

5. If the complaint is found to be well-founded by the User, User will only be obliged to still deliver the performance agreed upon or to amend the invoice.

6. Only if and insofar as the complaint is found to be well-founded shall this suspend the Other Party's payment obligation in so far as this payment obligation relates to the complaint up to the time at which the complaint is settled.

7. Goods delivered may only be returned with the prior written consent of the User, under conditions to be determined by the User.

#### **ARTICLE 22 WARRANTY**

1. With due observance of the restrictions contained in this Agreement, the User shall provide a warranty on the products and/or services supplied by it for a period to be agreed upon.

2. In the event of a claim under the warranty, the User shall either redeliver the good/part in question free of charge, or repair it free of charge, or credit client in full or in part for the invoice value of the good/part in question, all this at the User's discretion. User shall make every effort to repair the fault falling under the guarantee within a reasonable period. Repair and/or redelivery as referred to here shall take place exclusively within the Netherlands.

3. The warranty period shall never exceed 6 (six) months.

4. User shall not give a longer warranty on goods and/or services obtained from third parties than this third party gives to the User.

5. The warranty will lapse if the Other Party

and/or third parties engaged by it make inexpert use of the delivered goods.

6. The warranty shall also lapse if the Other Party and/or third parties engaged by it perform work or make changes to the delivered goods.

7. If the User replaces parts in order to comply with its warranty obligation, the replaced parts will become the property of the User.

8. If the Other Party does not, not sufficiently, or not in a timely manner fulfil any obligation arising from the agreement concluded between the parties, then the User shall not be obliged to provide a warranty as long as this situation persists.

### **ARTICLE 23 CONFIDENTIALITY**

1. User shall ensure that the persons processing personal data under its responsibility have a duty of confidentiality.

2. User shall be entitled to provide personal data to third parties, if and in so far as the provision of such data is necessary due to a court ruling, a statutory regulation, on the basis of an authorised order given by a government body or for the proper performance of the agreement.

### **ARTICLE 24 RETENTION OF TITLE**

1. If the agreement (also) provides for the delivery of an item, ownership thereof shall not pass to the Other Party until the latter has paid all amounts owed to the User pursuant to or in connection with agreements for the delivery of goods or the provision of services in connection therewith.

2. As long as the retention of title applies to goods delivered by the User, the Other Party shall store these goods and assign them in such a way that they are clearly recognisable as goods belonging to the User. The Other Party is not entitled to pledge or encumber in any other way the goods falling under the retention of title.

3. The Other Party shall be obliged to insure the goods delivered under retention of title and to keep them insured against fire, explosion and water damage as well as against theft and to provide us with the policy of this insurance on first demand.

4. User shall at all times be entitled to remove the goods delivered subject to retention of title from the Other Party or its holders, if the Other

Party does not (fully) fulfil its obligations towards the User. The Other Party shall provide all necessary cooperation and access on our first demand.

5. The Other Party may sell on or use the goods in the context of its normal business activities, but they may not be pledged nor may they serve as security for a claim by a third party. In case of resale of not (fully) paid goods, the Other Party is obliged to make the same retention of title as mentioned in these terms and conditions.

6. As security for correct payment of all our claims, on any account whatsoever, the User shall also acquire - as soon as the claim arises - a non-possessory pledge on all those goods in which the goods supplied by the User are processed or of which they form part. The order signed by the Other Party and our subsequent written acceptance shall serve as a private deed as referred to in the Act.

7. If third parties levy attachment on the goods delivered subject to retention of title or wish to establish or assert a right to them, the Other Party shall be obliged to inform the User accordingly with immediate effect.

8. User shall be entitled to establish a lien on the delivered goods on first demand, if the Other Party fails to fulfil its obligation to pay the full amount of the purchase price with any additional costs.

### **ARTICLE 25 DISSOLUTION AND TERMINATION**

1. Each of the parties shall only be authorised to dissolve the agreement on account of an attributable failure in the fulfilment of the agreement if the Other Party, in all cases after having received a written notice of default which is as detailed as possible and in which a reasonable period is given to remedy the failure, attributable fails to fulfil essential obligations arising from the agreement.

2. Payment obligations of the Other Party and all obligations to cooperate and/or supply information by the Other Party or by a third party engaged by the Other Party, as well as the following situations, shall be considered as essential obligations under the agreement.

3. In the event the Other Party:

a. is declared bankrupt, cedes its assets, is placed under guardianship, submits a request for suspension of payment, or if all or part of its

assets are seized;

b. dies, the decisive control over the business of the Other Party changes directly or indirectly or is dissolved;

c. does not fulfil any obligation resting on it by virtue of the law or these terms and conditions;

d. fails to pay an invoice amount or a part thereof within the stipulated period;

e. proceeds to discontinue or transfer its business or an important part thereof, including the contribution of its business to a company to be incorporated or already existing, or proceeds to change the objects of its business;

the mere occurrence of one of the aforementioned circumstances shall entitle the User either to dissolve the agreement, or to demand immediate and full payment of any amount owed by the Other Party on the basis of the services provided by the User, without any warning or notice of default being required, all this without prejudice to our right to compensation for costs, loss and interest.

4. If, at the time of dissolution, the Other Party has already received performances for the execution of the agreement, these performances and the related payment obligations shall not be subject to cancellation, unless the Other Party proves that the User is in default with respect to the essential part of those performances. Amounts the Other Party has invoiced before the dissolution in connection with what it has already properly performed or delivered to execute this agreement shall remain due and payable forthwith with due observance of the provisions of the previous sentence.

5. If an agreement which, by its nature and content, does not end in completion, has been entered into for an indefinite period of time, it may be terminated by either party in writing after proper consultation and with a statement of reasons. If no notice period has been agreed between the parties, a reasonable notice period shall be observed. The User shall never be liable for any compensation due to termination.

6. The Other Party shall not be entitled to terminate a commission contract entered into for a definite period of time or a contract terminated by completion.

7. The User shall never be obliged to refund

funds already received or to pay damages on account of the termination referred to in this paragraph. In the event that the Other Party is irrevocably declared bankrupt, the Other Party's right to use the software, websites and the like provided to it and also the right of the Other Party to access and/or use the services of the User shall terminate without this requiring any act of notice on the part of the User. Unless otherwise agreed in writing, payment must be made in cash without discount or settlement, or by transfer to a bank or giro account designated by the User within 14 days of the invoice date. The value date indicated on our bank/giro statements is decisive and is therefore regarded as the day of payment.

## **ARTICLE 26 APPLICABLE LAW AND DISPUTES**

1. The version of the general terms and conditions as applicable at the time of the conclusion of the agreement shall always apply, unless the Other Party has accepted the validity of a revised version of the general terms and conditions after the agreement has been concluded.

2. Parties will only appeal to the court after they have done their utmost to settle a dispute in mutual consultation.

3. All our offers, quotations and agreements and the execution thereof shall be governed exclusively by Dutch law.

4. All disputes, including those which are only considered as such by one party, resulting from or related to the agreement to which these terms and conditions apply or the terms and conditions themselves and their interpretation or execution, both of factual and legal nature, shall be settled by the competent court in the district of Oost-Brabant in The Netherlands.