



PWN ICT & AI PURCHASING CONDITIONS 2025

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PWN ICT PURCHASING CONDITIONS

I GENERAL

Article 1. Definitions

In these conditions, the following Terms are used with an initial capital letter. These terms shall have the following meanings:

- 1.1 *Adapt/Adapting*: modifying the Software.
- 1.2 *Acceptance*: the acceptance by PWN as referred to in Article 5 of these conditions.
- 1.3 *Acceptance Test*: a test of a Product or service under conditions as experienced during use in the intended production environment.
- 1.4 *General (Purchasing) Conditions*: these general conditions for the purchase of ICT (Information and Communication Technology) supplies and services, also referred to as the 'PWN ICT & AI Purchasing Conditions', which apply to and form part of the Agreement.
- 1.5 *Source Code*: the text of the Software underlying the Object Code and written in a commonly used programming language, with the accompanying technical Documentation.
- 1.6 *Annex*: an appendix to the Agreement which, after being initialled by both Parties, forms part of the Agreement.
- 1.7 *Services*: the activities (deliveries and/or services) to be performed by the Contractor for the benefit of PWN on the basis of the Agreement.
- 1.8 *Documentation*: the manuals or other user and/or maintenance instructions belonging to the Product, the Equipment, the system or the Result, in the Dutch language.
- 1.9 *Escrow*: the deposit of (a copy of) the current Source Code with an independent third party so that PWN may, upon the occurrence of one or more conditions specified in the Escrow agreement, use this code (or have it used) for correcting errors and otherwise maintaining and managing the Standard Software, including the resolution of bug fixes and security issues (security updates).
- 1.10 *Functional Design / Basic Design*: the design in which functional and non-functional specifications and the requirements set by PWN are laid down with regard to the Result to be achieved.
- 1.11 *Implementation*: the configuration of Software and the technical installation of the Software or other Software so that the Software operates in accordance with the agreed specifications.
- 1.12 *Information Carriers*: tangible items on which data, information and/or Software manufactured and/or developed for the benefit of PWN, or otherwise subject to PWN's (ownership) rights in the broadest sense, have been recorded.
- 1.13 *Installation Copy*: a data carrier containing the Standard Software for which the Right of Use is granted.
- 1.14 *Inspection*: the inspection of the Product / Equipment for visibly observable defects and non-conformities, carried out at PWN's request on the Contractor's premises prior to delivery.
- 1.15 *Licence*: the (non-exclusive) right of PWN to use (Standard) Software for which the intellectual property rights are held by a party other than PWN.

- 1.16 *Custom Software*: the Software to be developed and adapted by the Contractor for the benefit of PWN, including amendments and additions to the Standard Software, with accompanying Documentation and materials.
- 1.17 *New Version*: a modified version (including major and minor changes, bug fixes and security updates) of the Software as a result of innovative and/or preventive maintenance.
- 1.18 *Object Code*: the software instructions that can be 'read' by the computer.
- 1.19 *Contractor*: the counterparty of PWN.
- 1.20 *Agreement*: Agreement between PWN and the Contractor to which these PWN ICT & AI Purchasing Conditions have been declared applicable.
- 1.21 *Party / Parties*: PWN and the Contractor individually or jointly, depending on the context.
- 1.22 *Product*: the Hardware and/or Software to be delivered by the Contractor to PWN under the Agreement. The Hardware and Software may consist, among other things, of a combination of machines, systems and/or (electronic) components including the most recent version of System Software on which or in conjunction with which the Software must be used, or which must be implemented by the Contractor.
- 1.23 *Software*: all Standard Software and Custom Software with accompanying New Versions, Improved Versions, Documentation and materials.
- 1.24 *PWN*: N.V. PWN Waterleidingbedrijf Noord-Holland.
- 1.25 *System Software*: programs that are supplied by the computer manufacturer with the equipment that enable efficient use of the equipment.
- 1.26 *Technical Design*: the translation of the Functional Design / Basic Design into technical specifications.
- 1.27 *Improved Version*: a modified version of the Software as a result of preventive and/or corrective maintenance.
- 1.28 *Result*: the tangible and/or intangible products, in the broadest sense of the word, arising from an Agreement.
- 1.29 *Written/In Writing*: this also includes by email, Electronic Data Interchange (EDI) or via any other (electronic) medium, insofar as this is expressly stipulated or evident from the context.
- 1.30 *SLA (Service Level Agreement)*: a technical and detailed specification of the Services to be provided under an Agreement, as well as, for each specified component of these Services, the requirements that specific component must meet in particular.
- 1.31 *Rights Holder*: the party holding the intellectual property right to the Standard Software.
- 1.32 *Working Day*: calendar days excluding weekends and public holidays within the meaning of Article 3(1) and (2) of the Dutch General Extension of Time Limits Act, on which the agreed Services are performed. For PWN, 5 May is considered a public holiday.

Article 2. Application

- 2.1 Amendments or supplements to the Agreement or deviations from (parts of) the Purchasing Conditions are binding only insofar as they have been expressly agreed between the Parties In Writing.
- 2.2 If in the performance of the Agreement, use is made of drawings, specifications, instructions provided or approved by PWN, including but not limited to the announcement or specification of a contract, as well as inspection regulations and the like, these form part of the Agreement.
- 2.3 The applicability of any general terms and conditions used by the Contractor is hereby expressly rejected.
- 2.4 In the event of conflict between the Dutch text of these Purchasing Conditions and translations thereof, the Dutch text shall prevail at all times.
- 2.5 All documents to be submitted by the Parties in the context of the Agreement must be in the Dutch language.

II PERFORMANCE OF THE AGREEMENT

Article 3. Delivery and transfer of ownership

- 3.1 Unless agreed otherwise In Writing, delivery of the Product by the Contractor shall take place on the agreed delivery date or dates, within the agreed delivery period(s) or at the agreed time, and at the delivery address and location specified by PWN. The Contractor is responsible for all costs and risks associated with the transport of the Product, including the payment of import duties and the responsibility for completing the associated formalities (DDP).
- 3.2 Unless otherwise determined, the agreed delivery date(s) or period(s) are deemed to be strict deadlines.
- 3.3 Without prejudice to the provisions of paragraph 2, if the Contractor exceeds the agreed delivery date(s) or period(s) other than due to force majeure, the Contractor will owe an immediately due and payable penalty of 0.1% of the price of the relevant Product for each day during which this failure continues, up to a maximum of 10%. If delivery becomes permanently impossible other than due to force majeure, the full 10% penalty of the price of the relevant Product will become immediately payable.
- 3.4 The penalty referred to in paragraph 3 accrues to PWN without prejudice to all other rights or claims, including: (a) the claim for performance of the obligation to deliver the Product (insofar as performance has not become permanently impossible); (b) the right to compensation.
- 3.5 If an agreed delivery period threatens to be exceeded, the Contractor shall notify PWN of this immediately In Writing. This is without prejudice to the provisions of paragraph 2.
- 3.6 Early delivery (delivery earlier than the agreed delivery date(s) or periods) does not lead to any change in the agreed time of payment.
- 3.7 PWN is entitled to postpone delivery unless this would impose a disproportionate burden on the Contractor. The Contractor is obliged to store the Product, at no additional cost, for PWN until the time of postponed delivery, unless this would impose a disproportionate burden on the Contractor, in which case the Parties will enter into consultations to reach a settlement that is reasonable and acceptable to both Parties. The provisions of paragraphs 2 up to and including 6 apply mutatis mutandis to delivery postponed by PWN, it being understood that default by the Contractor, without prior notice of default, only occurs after the postponed delivery date(s) or period(s) has/have been exceeded.
- 3.8 The ownership of the items delivered to PWN under the Agreement passes to PWN upon acceptance.
- 3.9 If the items must still be used by the Contractor for the (further) delivery or deliveries under the Agreement, the risk of damage and/or loss relating to those items will remain with the Contractor until the Acceptance Test. In the event of damage and/or loss, PWN will be entitled to free replacement of the lost or damaged items.

Article 4. Warranty

4.1 The Contractor warrants:

1. that the Services to be performed by or on behalf of the Contractor will be executed in a competent manner. This also means that the personnel and any third party or auxiliary person engaged by the Contractor in the performance of the Agreement shall disturb PWN's operations as little as possible and shall respect PWN's house rules and act in accordance with them;
2. that the Services to be performed by or on behalf of the Contractor meet the requirements laid down in the Agreement;
3. the quality and expertise of the personnel tasked by or on behalf of the Contractor with the performance of its obligations under the Agreement;
4. that the delivered Product complies with the Agreement, is free from defects and is suitable for the purpose for which the Product is intended. The Product does not comply with the Agreement if it does not possess the characteristics that PWN could reasonably expect based on the Agreement;
5. that, insofar as PWN has not stipulated any further requirements regarding goods and/or Services, such goods and/or Services will in any case be of good quality and at least meet the usual requirements of soundness and efficiency, as well as all statutory requirements and customary industry regulations regarding quality, safety, health and the environment;
6. that the delivered Product is free from any special charge or restriction which PWN has not expressly accepted In Writing. The Contractor indemnifies PWN against any claim in this regard;
7. that Standard Software does not contain any technical provisions, functions or other foreign elements that may, at any time, whether temporarily or otherwise, impede the Agreed use. If the Contractor is not the rights holder of the Standard Software, it warrants that it has been authorised by the Rights Holder to grant Rights of Use to third parties on the Rights Holder's behalf. The Contractor shall provide PWN with a copy of that authorisation upon request.
8. that, in the event of development and/or installation of Software and/or computer systems and/or networks and/or other systems, the Contractor will apply the agreed methodology strictly and in full, unless expressly deviated from this condition by the Parties In Writing;
9. that the delivered items will be provided with detailed user manuals and functional, management and technical Documentation enabling PWN to use and maintain the delivered items (or have them used and maintained) at the same level as the Contractor itself is able to, and that the Contractor will also provide PWN with the Source Code for all Software specifically developed for PWN;
10. that all Source Codes delivered by the Contractor to PWN are of such quality that, with the aid of these Source Codes, the Object Code delivered by the Contractor to PWN can be generated in the usual manner and that these enable PWN to maintain the delivered Software;
11. that when carrying out work on PWN's (computer) systems, the Contractor will ensure the safeguarding of data and/or information stored on those systems to prevent loss and/or damage;
12. that in the event of maintenance of systems, the Contractor will keep PWN informed In Writing of all changes made to the systems, of whatever nature. Where possible, PWN will be notified of this maintenance in advance by the Contractor In Writing. The Contractor will also maintain a log of all changes referred to in this provision, recording

- at least* i) a brief description of the change, ii) the date of implementation, and iii) the start time of the (change) activities;
13. that all goods and Services to be delivered to PWN under the Agreement will fully comply with all applicable (government) regulations in force in the Netherlands;
 14. that any new and/or modified version(s) of Software delivered by the Contractor to PWN will, in accordance with what has been agreed, be compatible with both higher and lower versions;
 15. that in the event of the delivery of Software, the Contractor will train the agreed number of PWN employees in its use for the purpose of the acceptance procedure, before the acceptance procedure as described in Article 5 of these conditions takes place;
 16. that if requested by PWN to include an SLA with its quotation, the SLA will meet all quality requirements generally applicable and those specifically requested by PWN and will include a proposal for discounts in cases where the agreed Service Level is not achieved;
 17. that unless the Parties have agreed otherwise, the Contractor will, for a period of at least 120 months after delivery, be able to supply spare parts for the delivered goods and/or Services to PWN.

Article 5. Inspection, testing and acceptance

- 5.1 All Products to be delivered by the Contractor to PWN, including assembly or installation thereof, together with (partial) designs and any supporting Documentation underlying them, and any Products and/or Services arising from them, may first be subjected to an Inspection, if PWN so wishes. Inspection by or on behalf of PWN may take place on the Contractor's premises prior to delivery.
- 5.2 A prior Inspection / Acceptance Test by or on behalf of PWN does not constitute recognition that the delivered items comply with the warranties referred to in Article 4.
- 5.3 If the delivered item does not comply with the warranty set out in Article 4, the Contractor must, within a reasonable period, take all necessary measures and carry out all necessary work and provide alternatives that ensure that the delivered item does comply with the Agreement. If the Contractor fails to perform this obligation, PWN will have the right – without prejudice to any other rights accruing to PWN – to take all necessary measures (or have them taken) and carry out all necessary work (or have it carried out) at the Contractor's expense to ensure that the delivered item does comply with the Agreement.
- 5.4 PWN is entitled to test the results of the delivered Services (or have them tested). For this purpose, PWN will appoint one or more officials authorised to carry out the testing on its behalf. The testing will be carried out within a jointly agreed reasonable period.
- 5.5 The provisions of the previous paragraph will only be implemented if the Parties have agreed clear, measurable and objective acceptance criteria.
- 5.6 If PWN assesses the test results as inadequate, the Services will not be accepted at the first Acceptance Test and a second Acceptance Test will take place. PWN will then give the Contractor the opportunity to comply with the provisions of the Agreement within a reasonable period to be determined by PWN, unless performance of the Agreement has already become permanently impossible.
- 5.7 If, during the second Acceptance Test, shortcomings are again identified by PWN, PWN will, without further notice of default, have the right to terminate the relevant Agreement in whole or in part with immediate effect, without prejudice to the other rights accruing to PWN, unless this is disproportionate and a third Acceptance Test is deemed proportionate by PWN, given the circumstances of the case.

- 5.8 Acceptance by PWN of the Results of the delivered Services and Products shall be provided to the Contractor In Writing.

Article 6. Monitoring, Assurance reports and Certifications

- 6.1 Based on the nature of the Agreement, PWN prescribes information security requirements which must be observed by the Contractor at all times. The Contractor bears the responsibility for fully and correctly passing on the aforementioned information security requirements to all its subcontractors.
- 6.2 PWN has the right to regularly monitor, assess and audit the Contractor's services where there is cause to do so, in order to ensure compliance with the information security requirements. Such situations may arise when the Contractor fails to adhere to the agreed service performance levels, or in the event of a serious security incident with significant impact on processes within PWN or on PWN's reputation.
- 6.3 PWN has the right, within the framework of its information security policy, to request an annual assurance report from the Contractor. The assurance report provided by the Contractor shall cover the services delivered during the relevant calendar year on the basis of NOREA guideline ISAE3000 or 3402 type II, or as otherwise stipulated in the SLA belonging to the Agreement.

Article 7. Replacement of persons tasked with the performance of the Services

- 7.1 The Contractor may not temporarily or permanently replace persons tasked with the performance of the Agreement without PWN's prior Written consent. PWN shall not withhold such consent on unreasonable grounds and may attach conditions to the consent. The rates applicable to the original staff may not be increased in the event of replacement.
- 7.2 If PWN requests replacement of persons tasked with the performance of the Services because PWN deems this necessary or desirable for the proper performance of the Agreement, the Contractor shall comply. A rate no higher than the rate specified in the Agreement for the person being replaced shall be charged.
- 7.3 When replacing persons tasked with the performance of the Agreement, the Contractor shall provide persons whose expertise, training and experience are at least equivalent to those of the persons being replaced.

Article 8. Use of items belonging to the Parties and Services of third parties

- 8.1 When performing the Agreement, the Contractor may use items owned by PWN, including materials and components, models, specifications, drawings, software and Information Carriers, which are given on loan to the Contractor for that purpose. Conditions may be attached to such loans for use.
- 8.2 When performing the Agreement, the Contractor may use the Services of third parties only with PWN's prior Written consent. PWN shall not withhold such consent on unreasonable grounds. PWN may attach conditions to the consent. Consent granted by PWN does not affect the Contractor's responsibility and liability for the performance of its obligations under the Agreement and its obligations as an employer under tax and social security legislation. If consent has been granted, the Contractor remains fully responsible for meeting PWN's information security requirements regarding all information and systems of or on behalf of PWN that are managed by the Contractor or third parties engaged by the Contractor. The same information security requirements and conditions applicable to the Contractor also apply to those parts of the services that are executed by third parties.
- 8.3 The same requirements and conditions applicable to the Contractor also apply to those parts

- of the services that are executed by third parties.
- 8.4 For as long as the Contractor keeps items belonging to PWN in its possession, the risk of damage, destruction or theft shall be borne by the Contractor.
- 8.5 For as long as the Contractor keeps items belonging to PWN in its possession, the Contractor is obliged to store those items as recognisable property of PWN.
- 8.6 The ownership of Information Carriers made available by the Contractor to PWN will rest with the Contractor, unless the Contractor is required under the Agreement to transfer the ownership of its Information Carriers to PWN by granting of possession. Until the time of transfer to PWN, the Contractor shall ensure adequate insurance coverage of the Information Carriers.

Article 9. Nature and scope of the Right of Use

- 9.1. Subject to the Conditions, the Contractor grants PWN a perpetual and irrevocable Right of Use to the Standard Software as well as to New Versions. The Right of Use does not entail any transfer by the Contractor to PWN of patent rights, copyrights or trademark rights in the relevant Standard Software.
- 9.2. The Right of Use shall in any event include, without PWN owing any additional fee for this:
- a. the right to use all functionalities of the Standard Software accessible to PWN, including those that are not specified in the Documentation;
 - b. the right to make, store, regularly test and maintain 'hot standby' copies of the Standard Software for use in the event of a calamity;
 - c. the right to use the Standard Software for testing and development purposes;
 - d. the right to use the Standard Software without any restriction or limitation as regards place, equipment, duration or otherwise, including use by third parties for the benefit of PWN.
- 9.3 PWN may make and put into use copies of the Standard Software as often as PWN considers this necessary for its business operations. If PWN does so and for that reason owes an additional payment to the Contractor, PWN will promptly notify the Contractor. PWN shall not remove any proprietary or copyright notices when reproducing Standard Software.
- 9.4. Until the moment of Acceptance of the Standard Software, PWN obtains from the Contractor a non-exclusive right to use it for installation and testing purposes.
- 9.5. If the Contractor only remedies Defects in the Standard Software by issuing Patches or Improved Versions, PWN will be entitled, during the warranty period of Article 12.3, to receive and use them free of charge, even if PWN has not agreed any Maintenance with the Contractor.

Article 10. Provision of an Installation Copy

- 10.1. Where possible, the Contractor will provide PWN with an Installation Copy, or will enable PWN to make one itself. The price thereof is included in the Fee.
- 10.2. If PWN is entitled to receive New Versions, the provisions of Article 45.1 will also apply to them.
- 10.3. If the Installation Copy has been lost or has become damaged to such an extent that the Agreed use is no longer possible, the Contractor will, at PWN's request, promptly provide PWN with a new Installation Copy of the originally supplied version as well as of the Improved and New Versions thereof that have been put into use by PWN, or will enable PWN to make these itself. In doing so, the Contractor may, insofar as applicable, only claim reimbursement of the cost price of the materials of the Installation Copy, including any Improved and New Versions.

Article 11. Conversion into other Rights of Use

- 11.1. If at any time the Contractor wants to convert the Right of Use granted to PWN into another right of use in respect of the Standard Software, it will first enter into consultations with PWN on this and on the exchange ratio to be applied. No adverse consequences of any kind whatsoever shall be attached to such conversion for PWN.
- 11.2. If during the consultations referred to in Article 46.1, the Parties do not reach agreement, PWN may continue to exercise its Right of Use in full.

Article 12. Escrow

- 12.1. PWN may at any time claim the option of putting in place an Escrow arrangement, even if this was not initially agreed.
- 12.2. Escrow shall cover all non-public information that PWN reasonably requires for error correction, maintenance and management of the Standard Software to ensure that PWN can continue to make the Agreed use thereof. Escrow shall comply with what is customary in that regard on the Dutch market at the time of its conclusion.
- 12.3. If Escrow forms part of the Agreement, the Contractor shall provide PWN with evidence showing that the Escrow complies with what has been stipulated in the Agreement in that respect, or shall promptly arrange such Escrow facility.
- 12.4. If Escrow does not form part of the Agreement, PWN will also subsequently have the right to require that such an arrangement is entered into and/or PWN may at any time accede to an Escrow agreement. The reasonable costs associated therewith shall be borne by PWN.

III RELATIONSHIP BETWEEN THE PARTIES AND GUIDANCE

Article 13. Progress reporting

- 13.1 The Contractor shall report to PWN on the progress of the work as often as specified and in the manner as specified in the Agreement or as PWN deems necessary.

Article 14. Contact persons

- 14.1 Each Party shall appoint a contact person who will maintain contact regarding the performance of the Agreement. The Parties shall inform each other In Writing of the person they have appointed contact person.
- 14.2 Contact persons may validly represent their Party, unless otherwise provided in the Agreement.
- 14.3 Contact persons may only represent and bind the Parties insofar as the performance of the Agreement is concerned. They are not authorised to amend the Agreement.
- 14.4 Without prejudice to the provisions of Article 38, the Parties shall have an internal escalation procedure in place or shall ensure that such a procedure is established.

Article 15. Manner of giving notice

- 15.1 Notices by the Parties on the basis of the Agreement or the Conditions shall be given In Writing.
- 15.2 Unless confirmed In Writing, oral statements, promises or arrangements do not have any legal effect.

Article 16. Confidentiality

- 16.1 The Contractor shall not refer to the Agreement in publications or advertising and shall not use PWN's name as a reference except with PWN's prior written consent, which shall not be withheld by PWN on unreasonable grounds.
- 16.2 The Contractor shall not in any way (further) disclose any data and knowledge provided by or otherwise disclosed or made known to PWN, the confidential nature of which it knows or can reasonably suspect, except where a statutory provision or court decision obliges the Contractor to disclose such information.
- 16.3 The Contractor shall require all persons engaged by it in the performance of the Agreement to comply with the confidentiality obligation referred to in paragraph 2 and shall ensure that these persons are made aware of and comply with that obligation.
- 16.4 The Contractor shall make all data (written documents, computer files, etc.) which it holds in connection with the performance of the Agreement available to PWN within 10 Working Days after completion of the relevant work.
- 16.5 PWN may terminate the Agreement or impose a penalty for breach of confidentiality under the terms of the Agreement. Payment of that immediately due and payable penalty will not affect the Contractor's obligation to compensate the damage resulting from the breach.

Article 17. Information security and access to locations and data

- 17.1 The Contractor shall implement appropriate technical and organisational measures to protect data against loss or any form of unlawful processing. These information security measures shall take account of the costs of implementation and the state of the art, in view of the risks posed by the processing and the nature of the data to be protected. This obligation shall also apply during the statutory retention period applicable to the data.
- 17.2 The Contractor shall instruct Personnel involved in the performance of the work, insofar as such work is performed at PWN, to observe PWN's security procedures, house rules and code of conduct as indicated by PWN, in accordance with the first paragraph of this article. PWN shall inform the Contractor about these procedures and rules in good time before commencement of the work. In addition, the Contractor accepts the measures set out in, or based on, PWN's Information Security Policy and will apply these to the Services to be performed and to the Products to be supplied/used under the Agreement.
The Contractor shall also ensure that access to confidential and/or secret information is permitted only to persons for whom such access is necessary in the context of the Agreement, and that such access can always be traced back to the individual.
- 17.3 The Contractor must, immediately on a request from PWN, be able to submit VOG certificates (certificates of good conduct) for its Personnel deployed in the performance of the work. The Contractor declares that, prior to deployment, it will ensure that this is arranged in good time and also that the application form for the VOG certificates clearly states that the work 'concerns planned and unplanned work and/or services to be performed for N.V. PWN Waterleidingbedrijf Noord-Holland, being a vital company in a vital sector' (section B2 of the application form for Certificates of Good Conduct for Natural Persons). This certificate must also be issued for personnel of third parties whom the Contractor will deploy for the performance of the work. The Contractor remains responsible for timely application for, obtaining and providing the required VOG certificates for its own Personnel and for third parties deployed by it or on its behalf, and guarantees that these certificates remain valid throughout the performance of the work
- 17.4 PWN may subject the Contractor's Personnel to a security screening in accordance with the rules customarily applied by PWN. The Contractor shall render its full cooperation in this screening. On the basis of the outcome of such a security screening, PWN may, without stating reasons, refuse to allow deployment of the staff member concerned in the performance of the Agreement.
- 17.5 The Counterparty shall notify PWN's contact person in good time of the arrival of its Personnel at a PWN location. The Counterparty shall ensure that its Personnel can, at PWN's request, identify themselves and demonstrate that they are working for or on behalf of the counterparty. PWN may at any time refuse any person access to a physical location, to the IT network and/or to data.
- 17.6 If a person who belongs or belonged to the Counterparty's Personnel and in that capacity visits PWN's locations is, for whatever reason, no longer working or will no longer be working for the Counterparty, the Counterparty shall notify PWN's contact person thereof without delay.

Article 18. Information security and access to data

- 18.1 Remote working shall take place by agreement between the Parties. Permission will be granted by PWN – In Writing – only for obtaining secure remote access to, and carrying out agreed modifications and/or maintenance work on, a specific PWN system designated by PWN.
- 18.2 By agreeing to remote working and access to secured systems, data and software owned or managed by PWN, the Contractor declares that the information necessarily obtained will never be used for purposes other than the agreed service provision for PWN, in accordance with the requirements of good workmanship and professional conduct.
- 18.3 The Contractor shall perform work solely for or related to the activities agreed between the Parties, unless explicitly agreed otherwise.
- 18.4 The Contractor shall only have access to data in accordance with the standards and norms approved by PWN in its Information Security Policy.
- 18.5 The Contractor shall take all appropriate technical and organisational measures to secure the data and keep them secure against unlawful access, loss or any form of negligent, incompetent or unauthorised use and shall comply with the requirements of the AI Act (Regulation (EU) 2024/1689).
- 18.6 Furthermore, taking into account the state of the art and the costs of implementation, the Contractor shall guarantee an appropriate level of security in view of the risks posed by the processing and the nature of the data to be protected. These measures shall in any event cover the management of identities, authentications and authorisations, including issuing, monitoring and revoking them. At least once every year, authorisations shall be reviewed for correctness and validity, and any inaccuracies identified shall be remedied. The measures shall also be aimed at preventing unnecessary collection and further processing of data. The proper functioning of the chosen security measures as referred to in this article is the responsibility of the Contractor.
- 18.7 Employees (including temporary staff) of the Contractor and its subcontractors are not permitted to attempt to gain unauthorised access to PWN's networks and/or systems. Breach of this requirement may result in temporary or permanent refusal of logical or physical access to PWN systems for the employee concerned, or even suspension or termination of the contract with the Contractor.
- 18.8 If the employment relationship or deployment of an employee or engaged worker who has logical or physical access to PWN locations or systems changes or is terminated, the Contractor will be obliged to inform PWN at least five (5) Working Days in advance, to enable PWN to adjust or revoke physical and/or logical access rights. In cases of suspension, leave of absence with full pay or summary dismissal, the Contractor shall inform PWN immediately.
- 18.9 If PWN has reason to reasonably doubt the (quality of the) security measures taken by the Contractor as referred to in this article, PWN will have the right to refuse the Contractor access to a physical location, the IT network or data immediately, in the interests of security, and to initiate an investigation (or have one initiated) into them. The Contractor shall in such cases render all reasonably required cooperation in the said investigation.

IV FINANCIAL PROVISIONS

Article 19. Prices and rates

- 19.1 PWN shall not reimburse any costs for issuing quotations.
- 19.2 Quotations shall be drawn up in the Dutch language, unless the Parties agree otherwise.
- 19.3 All agreed prices and rates are stated in euros and are exclusive of turnover tax.
- 19.4 PWN shall reimburse the Contractor for the costs actually incurred and hours actually worked by the Contractor in the performance of the Agreement, unless agreed otherwise in the Agreement.
- 19.5 Indexation shall take place in the manner specified in the Agreement.

Article 20. Additional/Less work

- 20.1 If, due to additional wishes or changed insights of PWN or due to changes in statutory regulations relevant to the performance to be delivered, the activities to be performed by the Contractor under the Agreement are demonstrably increased or expanded, this constitutes additional work that is eligible for reimbursement. Additional work does not include supplementary work or changed insights that the Contractor should reasonably have foreseen upon concluding the Agreement. If a Party believes that additional work is involved, it shall notify the other Party as soon as possible.
- 20.2 The Contractor shall not commence additional work until it has received a Written order from PWN. To obtain an order, the Contractor shall issue a Written quotation specifying the scope of the anticipated additional work and the associated duration and costs. The provisions of the Agreement, including rates and any discounts, apply to the additional work to be performed by the Contractor, insofar as they are not amended by the more detailed Written order. The Contractor may not impose any further or more stringent conditions in its quotation than those accepted by PWN.
- 20.3 If, due to changed insights of PWN or due to changes in statutory regulations relevant to the performance to be delivered, the activities to be performed by the Contractor under the Agreement are demonstrably mitigated or reduced, this constitutes less work that is eligible for settlement. If a Party believes that there is less work, it shall notify the other Party In Writing as soon as possible. If a fixed price has been agreed, the Parties will jointly determine the amount of the reduced work to be settled against the price payable.

Article 21. Payment and verification

- 21.1 PWN shall pay the amounts it owes under the Agreement to the Contractor no later than 30 days after receipt and approval of the relevant invoice. The prices are fixed and stated in euros exclusive of VAT. The prices agreed for the assignment include all costs to be incurred by the counterparty, including but not limited to the Contractor's travel and accommodation costs.
- 21.2 Invoices, with statement of the order number, will be sent to the designated invoice address at the same time as, or immediately after, the delivery of the goods and services, fully itemised by quantity and type and in accordance with PWN's instructions.
- 21.3 To guarantee timely payment of the invoice by PWN, the Contractor must include at least the following on each invoice:
 - the name and residential/business address of the Contractor and of PWN (a PO box number alone is insufficient);
 - the Contractor's VAT identification number;
 - the invoice date;

- the (sequential) invoice number indicating whether it is a partial or final invoice;
 - the purchase order number (reference assignment);
 - the quantity and nature of the goods delivered or the scope and nature of the services performed. If personnel is hired in for performance of the assignment, a specification of the hours list approved by PWN shall be submitted with the invoice;
 - the date on which the goods or services were delivered or the period to which the invoice relates;
 - the amount for the goods/materials (with statement of the unit price excluding VAT), the wage component and – if the VAT reverse-charge mechanism does not apply – the VAT included in the invoiced amount;
 - unless exempt from VAT, the VAT rate applied and VAT amount, with, where applicable, a breakdown of the total invoice amount showing which part is subject to the lower VAT rate and which part to the higher VAT rate;
 - if the VAT reverse-charge mechanism applies: PWN's VAT identification number (VAT NL00.942.4945.B.01), the indication 'VAT reverse-charged' and the VAT rate applicable under the reverse-charge mechanism, with, where applicable, a breakdown showing which part of the invoice is subject to the lower VAT rate and which part to the higher VAT rate.
- 21.4 Payment shall be made with deduction of any credit limitation, within 30 calendar days of receipt of the invoice, provided the goods have been received or the services have been delivered and PWN has raised no objection on reasonable grounds to the manner of performance of the Agreement or the invoice submitted. Payment of the invoice amount does not in any way constitute a waiver of any right.
- 21.5 PWN may at any time set off claims of the Contractor against PWN with claims PWN has against the Contractor on any grounds whatsoever.
- 21.6 PWN may suspend payment of an invoice or a part thereof regarding which no agreement exists between the Parties. PWN will exercise this power only if PWN has reasonable doubt as to the accuracy of the invoice concerned.
- 21.7 A payment term exceeded by PWN or non-payment of an invoice on grounds of suspected substantive inaccuracy or in the event of defective performance shall not entitle the Contractor to claim interest, suspend or terminate its work.

Article 22. Advance payment

- 22.1 If it has been agreed that PWN will make one or more payments prior to delivery of the Product in performance of the Agreement, PWN may require that, before such payment(s), the Contractor provides PWN with an 'on-demand' bank guarantee issued by a credit institution for the amount(s) to be paid. PWN shall bear no costs in connection with such guarantee. If due to a failure attributable to the Contractor, the Product conforming to the Agreement is not delivered within the agreed period at the agreed address, the Contractor will owe statutory interest on the advance payment for as long as the failure continues.
- 22.2 The 'on-demand' bank guarantee shall be issued by a credit institution accepted by PWN.

V FAILURE TO PERFORM AN OBLIGATION, TERMINATION

Article 23. Failure to perform an obligation

- 23.1 If either Party fails to perform one or more of its obligations under the Agreement, the other Party may give notice of default. However, the defaulting Party will be immediately in default if performance of the relevant obligations has already become permanently impossible within the agreed period for reasons other than force majeure. Notice of default shall be given In Writing, with the defaulting Party being granted a reasonable period for the performance of its obligations. This period is a strict deadline. If performance does not take place within this period, the defaulting Party will be in default.
- 23.2 The notice of default referred to in the previous paragraph is not required if the period within which the agreed Services should have been performed or the Products should have been delivered has already been extended before its expiry. The extended period is a strict deadline. If the performance referred to in the previous paragraph has not taken place by the end of the extended period either, the defaulting Party will immediately be in default from that time.

Article 24. Liability

- 24.1 A Party is liable for the damage suffered or to be suffered by the other Party, its subordinates or third parties engaged by it, including auxiliary persons, caused by or in connection with the attributable failure by the other Party to perform its obligations under the Agreement.
- 24.2 A Party shall indemnify the other Party against all third-party claims in connection with damage arising from or in connection with the failure referred to in paragraph 1.
- 24.3 The damage to be compensated by a Party is capped at the amount to be paid out by the insurer, which will be no more than €2,500,000 per event. For professional liability, a maximum of €250,000 per year applies. If the insurer does not provide cover, the damage to be compensated will be capped at three times PWN's total annual contract value to the Contractor, with a maximum of €2,500,000 per year.
- 24.4 If the Contractor uses items owned by PWN for performing the Services, the Contractor will be liable for any damage caused to those items. If as a result of the presence of PWN's items with the Contractor for the performance of the Agreement, any damage is caused to the Contractor or to third parties, in whatever manner, such damage will be entirely for the account and risk of the Contractor. Where applicable, the Contractor will indemnify PWN against third-party claims.
- 24.5 All obligations concerning the Contractor's Personnel, including obligations under tax and social security legislation, will be borne by the Contractor. The Contractor shall indemnify PWN against any liability in this regard.
- 24.6 The Contractor will not be liable for the accuracy of the information and documents provided by PWN on the basis of which the Contractor performs the Agreement or assignment.

Article 25. Force majeure

- 25.1 In the event of temporary force majeure, the Contractor shall notify PWN In Writing, with statement of the cause of the force majeure, immediately after the circumstance constituting force majeure has occurred. PWN will then be entitled to choose between: a. granting the Contractor an extension to perform its obligations under the Agreement during a reasonable period of up to 4 weeks. If, upon expiry of this period, the Contractor is still unable to perform its obligations under the Agreement, PWN will be entitled to terminate the Agreement in whole or in part out of court with immediate effect, without being obliged to compensate the Contractor for any damage or costs.
- 25.2 In the event of permanent force majeure on the part of the Contractor, the Contractor will notify PWN immediately and PWN will be entitled to terminate the Agreement in whole or in part out of court with immediate effect, without being obliged to compensate the Contractor for any damage or costs.
- 25.3 Force majeure shall in any event not include: staff shortages, strikes, illness of personnel, shortage of raw materials, transport problems, default or non-performance of obligations by the Contractor's own contractors, disruptions in the Contractor's production, and liquidity or solvency problems on the part of the Contractor.

Article 26. Termination

- 26.1 Without prejudice to the provisions of the Agreement, either Party may terminate the Agreement in whole or in part out of court by registered letter, without being liable to pay compensation to the other Party, if the other Party is in default or if performance is permanently or temporarily impossible.
- 26.2 Either Party may, without any demand or notice of default and with immediate effect, terminate the Agreement out of court by registered letter, without being liable to pay compensation to the Contractor, if the other Party:
- a. applies for a (provisional) suspension of payments or is granted a (provisional) suspension of payments,
 - b. applies for its own bankruptcy or is declared bankrupt;
 - c. has its business wound up;
 - d. ceases its business;
 - e. has attachment levied on a substantial part of its assets;
 - f. must otherwise be deemed no longer able to perform its obligations under the Agreement,
 - g. enters into a merger or demerger;
 - h. is involved in bribery or conflict of interest as referred to in Article 20.
- 26.3 PWN will be entitled, without prejudice to its further rights, to terminate the Agreement in whole or in part, without notice of default or judicial intervention, by giving Written notice of termination, regardless of its right to claim compensation, in the following cases:
- a. if the Contractor transfers, liquidates or discontinues its business, in whole or in part, or if any licences required for its business operations are revoked;
 - b. if within the Contractor's organisation or that of its (sub)contractors there is discrimination, child labour or inadequate working conditions, or if goods supplied by the Contractor have not been produced in accordance with environmental regulations laid down by the European Union or the Dutch government;
 - c. if the Contractor fails to perform, or fails in the timely or proper performance, of one or more of its obligations under the Agreement, including in the event of non-attributable failure;

- d. if a judicial authority prohibits PWN from giving (further) effect to the Agreement.
- 26.4 If the Agreement has been terminated, the Contractor shall repay to PWN the payments already made to it by PWN, plus statutory interest on the amount paid from the day on which payment was made. If the Agreement has been terminated in part, the repayment obligation will exist only to the extent that the payments relate to the terminated part.

Article 27. Preservation of the right to demand performance

- 27.1 Failure by either Party to demand performance of any provision within a period specified in the Agreement does not affect that Party's right to demand performance at a later time, unless the Party concerned has expressly agreed to the non-performance In Writing.

VI MISCELLANEOUS

Article 28. Processing of personal data

28.1 If and insofar as personal data are processed (stored, amended, transmitted, etc.) in the performance of the assignment, the exchange and (further) processing thereof shall take place in accordance with the General Data Protection Regulation (hereinafter: GDPR).

PWN shall, in its capacity as 'controller', process the personal data while observing the following principles:

- i. PWN shall process the personal data in a manner that is lawful, fair and transparent in relation to the data subject (the Contractor's employee or self-employed professional to whom the personal data relate) ('lawfulness, fairness and transparency');
- ii. PWN shall collect the personal data for specified, explicit and legitimate purposes and shall not further process them in a manner incompatible with those purposes. With regard to this chapter, the purpose is compliance with the laws and regulations referred to in Articles 18 up to and including 20. In accordance with Article 89(1) GDPR, further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered incompatible with the initial purposes ('purpose limitation');
- iii. Personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- iv. PWN shall ensure that the personal data are accurate and, where necessary, kept up to date; all reasonable measures shall be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- v. PWN shall store the personal data in a form which permits identification of data subjects for no longer than necessary for the purposes for which the personal data are processed. Personal data may be stored by PWN for longer periods insofar as the personal data are processed solely for archiving in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) GDPR, subject to implementation of the appropriate technical and organisational measures required by the Regulation to safeguard the rights and freedoms of the data subject ('storage limitation');
- vi. PWN shall implement appropriate technical and organisational measures and process the personal data in such a manner that appropriate security is ensured, and that they are protected, inter alia, against unauthorised or unlawful processing and against accidental loss, destruction or damage ('integrity and confidentiality').

The Contractor retains its own responsibility under the GDPR for the personal data it provides to PWN in the context of its own obligations under the applicable laws and regulations, such as employment, tax, pension and social security laws and regulations.

Article 29. Intellectual property rights

- 29.1 All intellectual property rights that can or may be exercised – anywhere and at any time – in respect of the results of the Services performed by the Contractor for PWN shall be vested in PWN. These rights are transferred by the Contractor to PWN under the Agreement at the moment they arise, which transfer PWN hereby accepts in advance for that future moment.
- 29.2 Insofar as the results referred to in paragraph 1 are created using pre-existing intellectual property rights that do not belong to PWN, the Contractor grants PWN a non-exclusive right of use of unlimited duration. In such case, the Contractor warrants that it is entitled to grant the aforementioned right of use.

- 29.3 Insofar as a further deed is required for the transfer of the rights referred to in paragraph 1, the Contractor hereby irrevocably authorises PWN to draw up such deed and to sign it on behalf of the Contractor, without prejudice to the Contractor's obligation to cooperate in the transfer of these rights immediately on a request from PWN, without being entitled to impose any conditions. Insofar as necessary, the Contractor hereby irrevocably authorises PWN to have the transfer of these intellectual property rights entered or copied in the relevant registers.
- 29.4 If there is a difference of opinion between the Parties concerning intellectual property rights in respect of the results of the Services performed and Products used, it will be assumed that such rights are vested in PWN, unless the contrary is proved.
- 29.5 The Contractor hereby waives, in respect of PWN, all moral rights to which the Contractor may be entitled within the meaning of the Dutch Copyright Act 1912, to the extent that the applicable regulations allow such waiver. The Contractor, being authorised to do so, also waives, on behalf of the Personnel engaged on its side, all moral rights to which such staff members may be entitled in respect of PWN, to the extent that the applicable regulations allow such waiver.
- 29.6 The Contractor may not, in any form whatsoever, make the results of the Services performed and the Products supplied available to third parties, nor provide any information about them to third parties, unless PWN has given its express Written consent. PWN may attach conditions to such consent.
- 29.7 The Contractor shall indemnify PWN against third-party claims relating to (alleged) infringement of intellectual property rights of such third parties, including similar claims concerning know-how, unlawful competition and the like. The Contractor undertakes, at its own expense, to take all measures that may contribute to preventing delay and to limiting the additional costs to be incurred and/or damage to be suffered as a result of such infringements.
- 29.8 Without prejudice to the foregoing, if third parties hold PWN liable for infringement of intellectual property rights, PWN may terminate the Agreement in whole or in part In Writing, out of court. PWN will not exercise its right to terminate the Agreement until after prior consultation with the Contractor.

Article 30. Licences

- 30.1 Licences required for the performance of the Services under the Agreement will remain the property of PWN at all times. Where possible, PWN will grant the Contractor sublicences for the performance of the Services and for the Products used. If no sublicense can be granted and the Contractor requires one or more Licences for the performance of the Services, the Contractor will ensure that it obtains such Licence(s) from the licensor(s).

Article 31. Documentation

- 31.1 The Contractor shall provide PWN with clear and sufficient Documentation on the characteristics and possible uses of the Product and the related Services.
- 31.2 PWN will be entitled to publish and reproduce the Documentation solely for the group of users envisaged in the Agreement.
- 31.3 The Contractor indemnifies PWN against third-party claims based on any copyright they may have in respect of the Documentation.

Article 32. Transfer of rights and obligations under the Agreement

- 32.1 Without the other Party's Written consent, a Party is not authorised to transfer the rights and obligations arising from the Agreement, or any part thereof, to third parties. Consent shall not be withheld without reasonable grounds. Conditions may be attached to such consent.

Article 33. Insurance

- 33.1 The Contractor has taken out and will maintain adequate insurance for business liability, including (product) liability for damage caused to persons or to property owned by PWN.
- 33.2 At PWN's request, the Contractor shall immediately submit a certified insurance certificate or a statement from the insurer concerning the existence of this insurance. The Contractor shall not terminate or amend the insurance contract without PWN's prior Written consent. The Contractor is not entitled to change the insured amount to PWN's detriment unless such prior Written consent has been obtained from PWN. The insurance premiums payable by the Contractor are deemed to be included in the agreed prices and rates.

Article 34. Bribery and conflict of interest

- 34.1 If it transpires that, for the purpose of entering into the Agreement with the Contractor, any advantage has been or is being offered or provided to subordinates or representatives of PWN, PWN will be entitled to terminate the Agreement out of court with immediate effect, without notice of default and without being liable to pay any compensation, in accordance with Article 20.
- 34.2 If it transpires that a subordinate of PWN, at the time the Agreement was concluded, holds a remunerated or unremunerated ancillary position with the Contractor without PWN having been informed of this before the Agreement was concluded, PWN will be entitled to terminate the Agreement out of court with immediate effect, without notice of default and without being liable to pay any compensation, in accordance with Article 20.

- 34.3 The counterparty declares and warrants that, in relation to the Agreement, neither the counterparty itself, nor any of its managers, representatives, subordinates and/or non-subordinates, nor any legal entities affiliated with the counterparty and their managers, representatives, subordinates or advisers, are or have been involved in consultations or arrangements with other enterprises concerning:
- a) pricing;
 - b) the manner of issuing quotations; and/or
 - c) division of work, in a manner that could conflict with the provisions of the Dutch Competition Act and/or EU competition rules, except insofar as this is necessary in connection with the performance of the Agreement by a consortium or through the use of one or more subcontractors.

Article 35. Void and annulled provisions

- 35.1 If one or more provisions of the Conditions or the Agreement prove to be void or are annulled by a court, the remaining provisions of the Conditions or the Agreement will remain in full force and effect. The Parties will consult on the void or annulled provisions in order to agree on a replacement arrangement. The replacement arrangement will not affect the purport of the Conditions or the Agreement.

Article 36. Follow-up assignment

The Contractor cannot derive any right from the Agreement to obtain a follow-up assignment.

Article 37. Continuing obligations

- 37.1 Obligations which by their nature are intended to continue after expiry of the Agreement will remain in effect thereafter. These obligations include in any event: warranty, failure to perform an obligation, liability, reversal, Documentation, assignment of insurance proceeds, confidentiality, and disputes and applicable law.

Article 38. Disputes and applicable law

- 38.1 Any dispute between the Parties relating to the Agreement will exclusively be submitted to the competent Dutch court in Haarlem.
- 38.2 Dutch law applies to the Agreement. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (the 'Vienna Sales Convention') are excluded.

For work in the context of maintenance of Software, the following additional provisions apply:

Article 39. Maintenance

- 39.1 If the types of maintenance are not defined otherwise by the Parties in the Agreement, the following definitions apply to the types of maintenance mentioned below:
- a. *Preventive maintenance*: maintaining the Software, meaning: taking appropriate measures and safeguards to ensure that the Software functions and continues to function in accordance with the specifications;
 - b. *Corrective maintenance*: tracing and repairing defects in the Software and Documentation after these have been reported by PWN;
 - c. *Innovative maintenance* (or: 'Modifications'): Adapting the Software to new technological developments and/or new statutory regulations and/or improvements or extensions of functionality.
- 39.2 The service levels (quality and level) of the maintenance are elaborated in the SLA.
- 39.3 The Contractor is not permitted to make functional changes to the Software unless PWN has given its prior Written consent thereto or has explicitly requested such changes.

Article 40. Defects and corrective maintenance

- 40.1 The SLA sets out the manner in which a defect is to be reported to the Contractor. If the SLA contains no provision in this respect, a defect shall be reported to the Contractor as soon as possible and in as much detail as possible, In Writing – preferably by email.
- 40.2 Unless the Parties have divided defects into other categories in the Agreement, the following defect categories will apply for the purposes of performing corrective maintenance:
- a. Priority group 1: the Software does not function at all or largely does not function and is no longer reasonably usable.
 - b. Priority group 2: the Software shows a serious loss of functionality, but in PWN's opinion can still be used.
 - c. Priority group 3: the Software shows annoying shortcomings, but can be used normally. PWN will decide in which priority group a defect falls.
- 40.3 The SLA specifies, per priority category, whether the Contractor has an obligation of best efforts or an obligation to achieve a result in respect of the period within which the Contractor must commence corrective maintenance and within which the defect must be remedied. The period commences at the time of the notification referred to in paragraph 1 of this article.
- 40.4 If corrective maintenance has started during the agreed hours, PWN will have the right to require that such maintenance be continued outside those hours if PWN is of the opinion that the nature of the defect gives cause to do so.
- 40.5 The SLA specifies how the Contractor is to notify PWN that the defect has been remedied, as well as how the Contractor will report on the defect and the remedying thereof.

- 40.6 Corrective maintenance also includes the implementation of temporary problem solutions. Program workarounds or problem-avoiding limitations will not be implemented by the Contractor until after Written consent or express oral consent from PWN, and when making such a request the Contractor will demonstrate that the defect cannot be remedied in any other way for the time being.

Article 41. Improved and New Versions

- 41.1 The Contractor shall ensure a consistent version policy. The basic principle is that Improved and New Versions become available in good time. To this end, the Contractor will regularly investigate the need to release such versions and will inform PWN as soon as possible of the outcome of its investigation.
- 41.2 Interim changes to the Software as a result of Corrective Maintenance will as far as possible form part of Improved and New Versions.
- 41.3 At PWN's request, the Contractor will provide PWN with a copy of a New Version free of charge for testing and evaluation purposes. PWN is not obliged to put New Versions into use.
- 41.4 If it has been agreed that the Contractor will install the Software, this obligation will also apply to any New Versions which PWN wants to put into use.
- 41.5 If the Contractor chooses to release other Software instead of a New Version and to discontinue maintenance of the older version, it will inform PWN of this in good time in advance, with statement of reasons, and will draw PWN's attention to the differences.
- 41.6 Maintenance of the Software in use at PWN. For a reasonable period, PWN may claim either full performance of the Maintenance Agreement or a Right of Use to that new Software under the conditions for a New Version laid down in the Agreement.
- 41.7 The Contractor is obliged to investigate sufficiently whether, following the Preventive and/or Corrective Maintenance it has carried out, there is reason to develop Improved Versions of the Software and make these available to PWN. PWN is not obliged to purchase these Improved Versions.
- 41.8 PWN will have the right, up to six weeks after successful delivery of the Improved Version, to notify the Contractor that it does not want to continue using the Improved Version.
- 41.9 The Contractor will ensure that all previous versions of the Software, counting from and including the version(s) placed under maintenance by PWN, are supported and maintained for a period of three years after the release of the Improved Version(s).
- 41.10 PWN will have the right to subject the Improved Version to an Acceptance Test.

Article 42. Adaptations

- 42.1 The Contractor will, at PWN's request, Adapt the Equipment and/or the System Software.
- 42.2 These adaptations will be carried out on the basis of a pre-agreed action plan.

- 42.3 If systems and/or components are supplied under this Agreement, they must be provided with the latest security patches and updates approved by the Contractor. The Contractor warrants that all systems, software and electronic data it supplies are free from malware.

Article 43. Changes in the scope of maintenance

- 43.1 If Software, the maintenance of which fell within the scope of the Agreement at the time the Agreement was concluded, is no longer used by PWN, the scope of the Agreement will be deemed to have been adjusted accordingly, without the Contractor having any right to compensation as a result of this change.

For developments made to existing and newly to be implemented automation systems (for example hardware, firmware, system software and applications, including the housing cabinets), the following additional provisions apply:

Article 44. Standard Software

- 44.1 If the Contractor supplies Standard Software, or if it develops Custom Software on top of already existing Standard Software, the Contractor will ensure that the necessary Licences for the use of the Standard Software are obtained.
- 44.2 Under the Licence, PWN will in any event have the right to make a backup copy and to correct errors (or have them corrected), insofar as necessary in order to be able to use the (Standard) Software.

Article 45. Action plan for Custom Software

- 45.1 An action plan (or roadmap) will be drawn up for the development and Implementation of the Custom Software.
- 45.2 The action plan will in any event specify: the delivery date, the Implementation date, the phases in which the Custom Software is to be developed and/or implemented, as well as the (partial) results to be achieved in those phases, the execution of (interim) system tests, the execution of (interim) Acceptance Tests (FAT, SAT and IBS), and whether the Custom Software is to be developed and/or implemented on the basis of a Functional specification.
- 45.3 The Acceptance Test as referred to in Article 5 will be drawn up by PWN and carried out by or on behalf of PWN.
- 45.4 If the action plan is drawn up by the Contractor, it will be submitted to PWN for approval. PWN will at all times have the right, in the course of drawing up the action plan, to give instructions and to require that these instructions be included in the action plan.
- 45.5 Only after the action plan referred to in the previous paragraph has been approved by PWN In Writing will the Contractor commence further work. If PWN rejects the action plan, PWN will inform the Contractor In Writing and with statement of reasons on which points the action plan has been rejected. PWN will give the Contractor the opportunity to amend the action plan and to resubmit it to PWN within a period set by PWN. If the amended action plan is again rejected by PWN, PWN will have the right to terminate the Agreement out of court (possibly conditionally or partially) with immediate effect, without any demand or notice of default being required.

Article 46. Acceptance Test

- 46.1 Within a period specified in the action plan, PWN will subject the Software to one or – if the test does not lead to acceptance – more Acceptance Tests. The Parties will have a joint obligation to record an acceptance procedure in advance In Writing, which will in any event include:
- a. the specifications, approved by both Parties, against which the Result is to be tested;
 - b. arrangements for allocating the costs of remedial work if the Result proves not to meet the specifications;
 - c. the duration of the acceptance procedure.
- 46.2 Immediately after the Acceptance Test has taken place, PWN and the Contractor will draw up and sign an official report. The official report will record the defects shown by the Software, as well as the parts of the Software that have been approved or rejected by PWN.
- 46.3 Within the period specified in the action plan, the Contractor will remedy the defects recorded in the official report.
- 46.4 If PWN has not approved the Software at the first Acceptance Test, the Acceptance Test will be repeated no later than within a period specified in the action plan. The second official report will record whether the defects included in the first official report have been remedied and, in the event of rejection as described in paragraph 2 of this article, whether the Software has now been approved. The provisions of paragraphs 2 and 3 of this article apply to any defects not remedied.
- 46.5 If after the second Acceptance Test as described in paragraph 4 of this article the Software is again rejected by PWN, PWN will be entitled to terminate the Agreement immediately without any demand or notice of default being required. PWN will not exercise the right referred to in the first sentence of this paragraph if, in PWN's opinion, the Contractor makes it plausible that the rejected elements will be remedied within the short term.
- 46.6 If the situation referred to in paragraph 5 of this article arises, the Contractor will be liable for the damage suffered and to be suffered by PWN.
- 46.7 If all components of the Software have been approved by PWN, the date on which the final official report is drawn up and signed will be deemed the date of Acceptance.
- 46.8 PWN will be entitled to have the Software or the Acceptance Test examined by an independent expert before accepting or approving it. The Contractor will be obliged to cooperate

PWN AI PURCHASING CONDITIONS

Article 1. Purpose, scope and relationship with ICT Conditions

- 1.1 These AI Conditions apply where the Contractor supplies, develops, implements, hosts, manages or maintains an AI system or AI application (collectively: 'AI system') for PWN.
- 1.2 The AI Conditions are supplementary to the PWN ICT Purchasing Conditions and the underlying (framework) agreement. The ICT Conditions remain fully applicable. In the event of inconsistency, the more specific provision shall prevail.
- 1.3 The purpose of these AI Conditions is to ensure the safe, lawful, transparent and proportionate use of AI, in accordance with applicable laws and regulations, including the EU Artificial Intelligence Act ('EU AI Act')^[1] and the GDPR.

Article 2. Definitions

In addition to the definitions in the ICT Conditions, the following terms have the meanings set out below:

- a) **AI system:** software that uses one or more AI techniques to generate outputs (such as predictions, classifications, recommendations, decisions, content or code) for a given purpose.
- b) **GPAI:** General-purpose AI, including foundation/base models and services that can be deployed in multiple domains.
- c) **High-risk AI systems (HRAIS):** AI systems that fall under the high-risk categories of the EU AI Act or have been designated as such by means of a conformity assessment.
- d) **Unacceptable risk:** AI practices that are prohibited under the EU AI Act.
- e) **Provider:** a party that places an AI system on the market or puts it into service under its own name or brand.
- f) **Deployer:** a party that puts an AI system into service or uses it (PWN is in principle the deployer).
- g) **Technical documentation:** documentation in accordance with, where applicable, Annex IV to the EU AI Act.
- h) **AI subject to transparency obligations:** AI that is subject to specific transparency requirements (such as chatbots/synthetic media).
- i) **Serious incident:** an event or near-incident involving a (likely) significant risk to health, safety or fundamental rights.
- j) **Major release:** a new main version or far-reaching change that may materially affect performance, risks, data flows or integration architecture.

Article 3. Risk classification and admissibility

- 3.1 Before delivery/implementation, the Contractor shall carry out a risk classification (HRAIS / GPAI / subject to transparency obligations / other) and provide PWN with a written justification.
- 3.2 AI involving an unacceptable risk is not permitted within PWN.
- 3.3 High-risk AI is permissible provided the Contractor demonstrates that all applicable requirements have been fully met (including conformity assessment, technical documentation, user instructions and any registrations).
- 3.4 Changes in purpose, context, data, model version or integration that may affect the

classification or risks shall be reported without delay and re-assessed.

Article 4. Division of roles and compliance

- 4.1 Where the Contractor acts as provider, it shall, before placing on the market/putting into service, ensure that all required declarations/registrations, quality and governance measures, logging and user instructions in accordance with laws and regulations are in place.
- 4.2 Where PWN is (also) deployer, the Contractor shall provide in good time all information, tooling and support that PWN reasonably requires to comply with deployer obligations (including log export, risk-mitigating settings, warnings and usage restrictions).
- 4.3 For GPAI, the Contractor shall provide appropriate transparency information (such as a model card/technical datasheet, a summary of training data sources and policies on copyright and synthetic content), taking into account the protection of trade secrets.
- 4.4 Proportionality is the guiding principle: the severity of measures shall match the risk profile and the role(s) of the Parties.

Article 5. Transparency and documentation

- 5.1 HRAIS: before acceptance, PWN shall receive at least: (i) the classification memo and user instructions, (ii) the applicable technical documentation, (iii) the declaration of conformity, and (iv) any evidence of mandatory registration.
- 5.2 GPAI: PWN shall receive at least a model card/technical datasheet, a summary of training data sources (not full datasets or identifiable personal data) and – where relevant – policies on copyright and labelling/detection of synthetic content.
- 5.3 AI subject to transparency obligations (including chatbots/synthetic media): the Contractor shall provide implementation instructions for clear user information/labelling and, where possible, detection/signalling.
- 5.4 The Contractor may apply editorial protection for trade secrets and security-sensitive details; PWN may engage an independent third party subject to an NDA for confidential verification.

Article 6. Data, privacy and data use

- 6.1 Without prejudice to the privacy and security provisions of the ICT Conditions and applicable legislation, the following shall apply:
 - a) The Contractor will use PWN data (including prompts, outputs and logs) solely for the performance of the Agreement and will not use these data for training or fine-tuning models for third parties without PWN's prior Written consent.
 - b) Processing of personal data in training or fine-tuning is only permitted if it is lawful (legal basis, purpose limitation, minimal dataset, appropriate safeguards, DPIA where required).
 - c) At PWN's request, the Contractor shall specify data sources, data flows, storage locations and any sub-processors; data minimisation and appropriate security are mandatory.
 - d) The Contractor shall facilitate a machine-readable export of prompts, outputs, logs and configurations that PWN requires for compliance, audit or exit.
 - e) Reuse of data provided by PWN for other customers is only permitted with prior Written consent and under conditions that prevent misuse, traceability and breaches of confidentiality.

Article 7. Human oversight, usage restrictions and failsafes

- 7.1 The Contractor shall provide clear user instructions for human oversight, including required competences, escalation paths, known risks/failure modes/biases, and prohibited uses.
- 7.2 Where appropriate, failsafes shall be provided (human-in-the-loop/override/fallback).

- 7.3 PWN shall use the AI system in accordance with the instructions and shall ensure appropriate expertise among users.

Article 8. Acceptance requirements (AI deliverables)

- 8.1 The following AI deliverables shall – where applicable – form part of delivery/acceptance:
- a) risk classification memo and user instructions;
 - b) HRAIS documentation and, where required, declaration of conformity/registration certificate;
 - c) for GPAI: model card/technical datasheet, summary of training data sources and policies on copyright/labelling;
 - d) transparency implementation for chatbots/synthetic media;
 - e) DPIA and – where required – FRIA with a positive decision to put into use;
 - f) incident and monitoring plan, including KPIs/quality and bias metrics and log export options.
- 8.2 Material incompleteness of the applicable AI deliverables entitles PWN to refuse acceptance.

Article 9. Monitoring, logging, changes and serious incidents

- 9.1 The Contractor shall maintain a monitoring and incident register and provide PWN with access/reports on request.
- 9.2 Serious incidents or material shortcomings (including in relation to security, unlawful discrimination or substantial loss of quality) shall be reported by the Contractor without delay, including impact analysis, temporary measures and a remediation plan.
- 9.3 Major releases or changes that may affect classification, performance, bias profile, data flows or security shall be announced at least 30 days prior to rollout, unless urgency/security reasonably makes this impossible (in which case they shall be reported as soon as possible after rollout, with an explanation).
- 9.4 Relevant logs shall be adequately retained; PWN may request an export for verification, audit or incident analysis.

Article 10. DPIA and FRIA

- 10.1 A DPIA is required where the GDPR so requires; the Contractor shall provide all information, test access and measures needed for this.
- 10.2 An FRIA is required where PWN (as a public-law organisation or provider of a public service) deploys a high-risk AI system or where this otherwise follows from laws or regulations.
- 10.3 The Contractor shall cooperate fully and in good time in any DPIA/FRIA (information, demonstrations, test reports, mitigations).

Article 11. Registrations and disclosure

- 11.1 Where legally required, the provider shall register HRAIS in the designated EU database before placing on the market/putting into service and provide the corresponding data to PWN.
- 11.2 PWN shall publish the use of AI systems in public registers where this is required by law or desired as a matter of policy. The Contractor shall provide the necessary descriptions and metadata for this purpose.
- 11.3 Any statutory notifications to competent authorities (for example, serious incidents) shall be made by the party responsible for doing so; the Parties shall inform each other in good time.

Article 12. Audit and assurance

- 12.1 PWN shall have the right to audit AI systems and related processes itself or have such audit carried out by an independent third party, with due observance of reasonable frequency, prior notice and confidentiality.
- 12.2 AI-specific cooperation in audits shall include: access to relevant documentation (including model cards/technical datasheets and – where applicable – technical documentation), API and log access, test facilities and available assurance reports/certifications.
- 12.3 Provision of source code is not required, unless the Parties expressly agree otherwise (for example via escrow or secure code review by an independent third party), with protection of trade secrets.
- 12.4 If material non-compliance is established, the Contractor shall implement corrective measures in good time within a reasonable period to be determined by PWN.

Article 13. Maintenance, performance and SLA (AI-specific)

- 13.1 In addition to the agreed service levels, the following shall apply as a minimum:
 - a) Critical security incident (active exploit/data breach or serious risk): mitigation shall start immediately; structural fix within 48 hours.
 - b) High (serious loss of function/disruption of a core process): mitigation within 1 working day; structural fix by agreement, aiming for within 5 working days.
 - c) Bias/quality/drift: within a reasonable period, an improvement plan with causes, mitigations, metrics and implementation schedule; interim reporting on progress and effect.
- 13.2 The Contractor shall maintain consistent version control; New/Improved Versions shall remain compatible or be delivered with a migration plan; changes that increase risks require prior coordination.

Article 14. Termination, suspension and exit

- 14.1 Without prejudice to termination rights under the agreement and the ICT Conditions, PWN may terminate or suspend the Agreement in whole or in part if:
 - a) the AI system (after re-assessment) is classified as AI involving an unacceptable risk;
 - b) legally required conformity/registration is lacking or ceases to apply;
 - c) repeated serious incidents or material non-compliance occur and the Contractor does not remedy these in a timely and adequate manner.
- 14.2 Upon termination, the Contractor shall provide exit assistance: transfer of configurations, prompts/outputs/logs, integration artefacts and relevant documentation, in a commonly used machine-readable format, within a reasonable period.
- 14.3 After termination, the Contractor shall delete PWN data from the AI system and derived training sets, except for statutory retention obligations, and shall provide a deletion/destruction certificate. Reuse of PWN data or parameters trained on such data for third parties is not permitted without prior Written consent.
- 14.4 Any escrow arrangements and continuity measures will remain in full force and effect.

Article 15. Intellectual property, licences and use of output

- 15.1 The arrangements on intellectual property, documentation and licences in the ICT Conditions and the (framework) agreement remain the guiding principle.
- 15.2 Insofar as AI outputs are created on the instructions of and at the expense of PWN, PWN will obtain the right to use these for its business operations, including use by third parties engaged by PWN for the performance of PWN's activities, in accordance with the underlying licence and intellectual property arrangements.

- 15.3 The Contractor shall not assert any rights against PWN that unreasonably restrict the use of AI outputs generated by or for PWN.

Article 16. Insurance and liability (AI-specific)

- 16.1 The general arrangements on insurance and liability in the ICT Conditions remain applicable.
- 16.2 To the extent reasonable given the nature of the AI system, the Contractor shall maintain appropriate insurance (including in any event business/professional liability and, where relevant, cyber risks) providing cover for damage arising from the supply and use of the AI system. At PWN's request, the Contractor shall provide evidence of such cover.

Article 17. Changes in laws and regulations; standards and codes

- 17.1 The Parties shall follow relevant changes in the EU AI Act and related regulations/standards (including future harmonised standards and Codes of Practice).
- 17.2 If changes make additional measures necessary, the Parties shall agree on implementation and any allocation of costs/impact within reason and through proper consultation. The Contractor shall proactively inform PWN of the steps and timelines required.

Article 18. High-impact and low-impact applications (proportionality)

- 18.1 High-impact: water utility context: AI applications shall be classified as high-impact where they (directly or indirectly) constitute or control safety components within PWN's critical infrastructure, or where they can materially affect the security of drinking water supply, water quality or compliance with statutory standards. This also includes AI applications that result in HR decisions or customer decisions with material impact. For these applications, in addition to these AI Conditions and the ICT Conditions, additional safeguards may be required that match the risk profile (including appropriate human oversight/override, controlled changes, enhanced monitoring and proportionate documentation).
- 18.2 Low-impact: AI applications shall be classified as low-impact where they are not linked to critical infrastructure and cannot have a material impact on security of supply, water quality, safety or the rights of data subjects. For these applications, the basic requirements of these AI Conditions shall suffice with a proportionate application of transparency, documentation and monitoring.
- 18.3 Re-assessment: In the event of a change in context or integration (for example, connection with critical processes), PWN may reclassify the application as 'high-impact'. The Contractor shall cooperate in this and put the additional safeguards applicable to 'high-impact' applications in place in advance.

Article 19. Entry into force and transition

- 19.1 These AI Conditions apply from the commencement date of the (framework) agreement or, if later, from the moment an AI system is brought under the agreement.
- 19.2 Where statutory obligations enter into force in phases, the Parties shall follow the timetable laid down by law; the Contractor shall ensure timely compliance and report periodically on progress.

^[1] (Regulation (EU) 2024/1689)