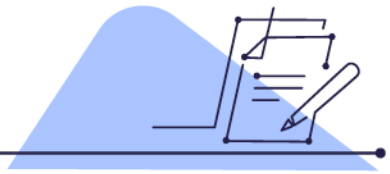
NLdigital Terms 2025



The NLdigital Terms 2025 – the standard terms for the digital sector - have been deposited by NLdigital at the District Court Midden-Nederland, location Utrecht. In the event of disputes concerning the interpretation of the English version of the NLdigital Terms, the Dutch text takes precedence.

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Chapter 1. General provisions

This chapter always applies, regardless of the type of product or service that supplier delivers. This chapter provides for the overarching topics such as the applicability of these NLdigital Terms, applicable law, competent court, the duration of the agreement, intellectual property, confidentiality and liability.

Article 1 Applicability NLdigital Terms

1.1 These NLdigital Terms 2025 (hereinafter also to be referred to as: NLdigital Terms) apply to all offers and agreements wherein supplier delivers to client.

1.2 Client and supplier make arrangements about the reciprocal performances, including about price and payment and about what is included in the price or not. Everything in these NLdigital Terms applies only in the event that parties have not made any explicit written arrangements to the contrary.

1.3 Client's purchase or other terms do not apply and are explicitly excluded.

1.4 If supplier makes products or services of a third party supplier available to client, the licensing or sales terms of this third party supplier apply to the relationship between supplier and client, if these licensing or sales terms have been declared applicable by supplier and client has been given a reasonable opportunity to take note hereof. In that case, provisions in these NLdigital Terms that deviate from those other terms do not apply. A client as referred to in Article 6:235(1) or (3) of the Netherlands Civil Code cannot invoke a failure on the part of supplier to meet the aforementioned obligation.

1.5 If, for any reason whatsoever, the terms of a third party supplier do not or no longer apply between client and supplier, these NLdigital Terms apply in full.

1.6 If a part of these NLdigital Terms is null and void or is annulled, the remainder of these NLdigital Terms remain fully applicable and effective. In that case, supplier and client will, in consultation with each other, try as to arrange for new similar provisions that will replace the provisions that are null and void or that have been annulled.

Article 2 Offers

2.1 All of supplier's offers and other forms of communication are without obligation, unless supplier indicates otherwise in writing. Client guarantees the correctness and completeness of the information provided, with the exception of obvious typing errors, by or on behalf of client to supplier and on which information supplier has based its offer.

Article 3 Price and payment

3.1 All prices are in euros, exclusive of turnover tax (VAT) and exclusive of other product or service-specific levies imposed by authorities.

3.2 Client cannot derive any rights from any budget issued by supplier. A budget communicated by client is considered a fixed or alternative price arrangement only if this has been explicitly agreed by parties in writing.

3.3 If client consists of several legal or natural persons, each of these persons is jointly and severally liable to supplier for the performance of the agreement.

3.4 Where the activities performed by supplier and the sums due by client for these activities are concerned, the information in supplier's administration provides full evidence, without prejudice to client's right to provide evidence to the contrary.

3.5 In the event client is under a periodic payment obligation, supplier may adjust the applicable prices and rates, in writing and in accordance with the index or any other criterion included in the agreement, within the period specified in the agreement. If the agreement does not explicitly provide for the possibility to adjust the prices or rates, supplier may adjust the applicable prices and rates in writing with due observance of a period of at least three months, and no more than once a year. If, in the latter case, client does not want to accept the price adjustment, client may terminate the agreement by serving notice of termination (*opzeggen*) in writing, within thirty days following the notification of the adjustment and effective from the date on which the new prices and/or rates would take effect. Price increases by third parties may be charged onto client.

3.6 In their agreement parties lay down the date or dates on which supplier invoices the fee for the activities agreed on with client. Any sums due are paid by client in accordance with the payment terms agreed on or as stated in the invoice. Client may not suspend any payments or set off any of the sums due.

3.7 If client fails to pay the sums due or does not pay these on time, client must pay the statutory interest for commercial agreements on any outstanding sum, without a reminder or notice of default being required. If client fails to pay the sum due even after a reminder or notice of default, supplier can pass on the claim for collection and client is obliged to pay, within reason and in addition to the total sum due at that time, all judicial and extrajudicial costs, including all costs charged by external experts – all of which is without prejudice to any of supplier's statutory and contractual rights.

Article 4 Duration of the agreement

4.1 If the agreement between parties is a continuing performance contract, the term agreed on by parties applies. If parties have not agreed on a specific term, a one year term applies.

4.2 Unless provided otherwise by law, the duration of the agreement for a definite period of time is automatically extended, each time by the period of time originally agreed on, up to a maximum of one year, unless client or supplier terminates the agreement by serving written notice of termination (*opzeggen*), ultimately three months prior to the end of the term.

Article 5 Confidentiality

5.1 Client and supplier ensure that secrecy is observed with respect to all data received from each other and of which they know or should reasonably know these are confidential. This does not apply if this confidential information must be provided to a third party in the following cases:

a. pursuant to compliance with a judicial decision, a statutory requirement, an order by an authority
b. for reports to relevant authorities
c. for the proper performance of the agreement.

The party that receives the confidential data may use these only for the purpose for which these have been provided. Data are in any case confidential if either party has clearly designated them as such. If data may be provided to a third party on the basis of the agreement, client ensures that this third party is also bound to confidentiality.

5.2 Supplier makes sure that the persons processing personal data for client under their responsibility have a duty of confidentiality.

5.3 Client acknowledges that the content of the products and services, including the software, made available by supplier is always confidential in nature. These contain trade secrets of supplier and their suppliers or of the producers of the products and services.

Article 6 Retention of title, reservation of rights, suspension and transfer of risk

6.1 All goods delivered to client remain the property of supplier until client has paid all sums due by client to supplier under the agreement to supplier in full. If client acts as a reseller, it may sell and deliver all goods that are subject to the supplier's retention of title but only insofar as this is customary within their normal business operations.

6.2 The property-law consequences of the retention of title with respect to any goods destined for export are governed by the laws of the state of destination if the relevant laws contain provisions that are more favourable to supplier.

6.3 Where applicable, rights are granted or transferred to client subject to the condition that client has paid all sums that they must pay pursuant to the agreement.

6.4 Until the moment that client has paid all sums that they must pay, supplier may retain all goods, data, documents or software they received or created in the context of the agreement, even if they actually hand these over or transfer them, or suspend their service provision.

6.5 The risk of loss, theft, misappropriation or damage of goods, data, security measures, documents or software created, delivered or used in the context of the agreement passes to client as soon as these are under the actual control of client or a person acting on their behalf.

Article 7 Intellectual property

7.1 All intellectual property rights to everything that is developed or made available to client under the agreement– such as software, websites, data files, databases, hardware, training materials, tests and examination materials, as well as other materials such as analyses, designs, documentation, reports, offers and preparatory materials for these materials, remain fully in the possession of supplier, their licensors or their suppliers. Client is solely granted the rights of use laid down in these NLdigital Terms, in the agreement entered into by parties in writing and in the applicable mandatory legal provisions. A right of use granted to client is non-exclusive, non-transferable, non-pledgeable *(niet-verpandbaar*) and non-sublicensable.

7.2 Client is not allowed to modify what has been provided to them, use this for AI training purposes or to apply scraping, mining or similar techniques.

7.3 If supplier is prepared to undertake to transfer an intellectual property right, they are only bound thereto if parties explicitly agreed to this in writing. If parties arrange in writing that an intellectual property right to software, websites, data files, hardware, know-how, or other works or materials is transferred to client, supplier retains the option and the right to:

a. use and/or exploit, either for themself or for third parties and without any restriction, the underlying parts (such as designs, algorithms, documentation, works, protocols or standards) for other purposes;
b. use and/or exploit, either for themself or for third parties, the general ideas, principles or programming languages that have been used for or employed as a basis to develop any work for other purposes.
c. continue developing, either for themself or for third parties, any works that are similar to or derived from any work that has been or is being developed for client.

7.4 Client is not allowed to remove, add or adjust any mentions about the confidential nature, copyrights, brands, trade names or other intellectual property rights pertaining to the services, software, websites, data files, hardware or other works or materials, or have any such mention removed, added or adjusted.

7.5 Supplier indemnifies client against any claim of a third party based on the allegation that software, websites, data files, hardware or other materials developed by supplier themself infringe an intellectual property right of that third party, provided always that client promptly informs supplier in writing about the existence and content of the claim and leaves the settlement of the claim, including any arrangements to be made in this context, entirely up to supplier. Client provides supplier with all the powers of attorney, information and assistance required to defend themself against such claims. This obligation to indemnity does not apply if the alleged infringement (i) is related to works or materials made available by client themself to supplier for use, modification, processing or maintenance or (ii) is related to modifications client has implemented or modifications client has had implemented in the software, websites, data files, hardware or other works and materials without supplier's written consent. If it is irrevocably established in court that software, websites, data files, hardware, works or other materials developed by supplier themself infringe any intellectual property right belonging to a third party, or, if supplier themself is of the opinion that it is probable that such an infringement will occur, supplier ensures, if possible, that client can continue to use, or use functional equivalents, of the initial works delivered. Other or further obligations to indemnity are excluded.

7.6 Client guarantees that no third parties' rights preclude making hardware, software, material intended for websites, data and/or other materials, designs and/or other works available to supplier or preclude the processing thereof. This also includes guaranteeing the relevant licences or permission. Client indemnifies supplier against any claim of a third party based on the allegation that making any of this available and/or that the use, maintenance, processing, installation or integration infringes a right of that third party.

7.7 Supplier is entitled to use client's trade mark, logo or name in their external communication.

Article 8 Performance of services

8.1 Supplier performs their services with care to the best of their ability, where applicable in accordance with the arrangements and procedures agreed on with client in writing. All services provided by supplier are performed on the basis of a best-efforts obligation unless and insofar as supplier has explicitly promised a result in the written agreement and the agreement describes that result in a sufficiently precise manner.

8.2 If client deviates from the supplier's advice or recommendations, or if client chooses to proceed with a wish or instruction despite supplier having indicated that this is unrealistic, unsuitable or technically unfeasible, supplier is not liable for any possible consequences, such as damage or extra work.

8.3 If parties have entered into the agreement with a view to it being performed by one specific person, supplier is nevertheless always entitled to replace this person by one or more other persons who have the same and/or similar qualifications.

8.4 Supplier is not obliged to follow client's instructions when performing the services, more particularly not if these instructions change or add to the content or scope of the services agreed on. If supplier follows such instructions, however, they may charge their applicable rates for these activities.

8.5 At clients request, supplier endeavours to cooperate within a reasonable term with exit activities necessary for the transition to a third-party supplier or to client. Supplier may charge its applicable rates for these activities.

8.6 Supplier is not bound to perform data conversion, unless they explicitly agreed upon this with client in writing.

Article 9 Service Level Agreement

9.1 Any arrangements about a service level (Service Level Agreement) will be explicitly agreed on in writing only. Client will always inform supplier immediately of any circumstances that affect or may affect the service level and its availability.

9.2 If arrangements have been made about a service level, the availability of software, systems and related services is measured excluding any downtime announced in advance by supplier due to preventive, corrective or adaptive maintenance or other forms of service, as well as circumstances beyond supplier's control. Unless client provides evidence to the contrary, the availability measured by supplier is considered full proof.

Article 10 Obligation to provide information and render assistance

10.1 Parties acknowledge that, for the performance of their activities, supplier depends on proper and timely mutual cooperation and exchange of information with client. Client undertakes always to fully cooperate and provide information, within reason, and on time.

10.2 Client vouches for the correctness, completeness, quality, relevance and representativeness of the data, information, designs and specifications provided by or on client's behalf to supplier. If this information provided by client contains apparent inaccuracies, supplier will request client to provide further information.

10.3 Supplier is not obliged to warn client about risks that lie outside the scope of the agreement. If supplier nevertheless issues a warning or notification, this is done without obligation and without any obligation or liability arising for supplier.

10.4 For reasons of continuity, client designates a contact person or contact persons who act in that capacity for the time supplier performs their services. Client's contact persons have the relevant experience required, specific knowledge of the subject matter and a proper understanding of the objectives that client wishes to achieve.

10.5 Client bears the risk of selecting the goods and/or services to be provided by supplier. Client always exercises the utmost care to guarantee that the requirements set for supplier's performance are correct and complete. Measurements and data provided in drawings, images, catalogues, websites, offers, advertising material, standardisation sheets and the like are not binding on supplier unless supplier explicitly states otherwise.

10.6 If client deploys employees and/or auxiliary persons in the performance of the agreement, these employees and auxiliary persons must have the knowledge and experience required.

10.7 If supplier's employees perform activities at client's premises, client ensures the facilities required are available, such as a workspace with computer and network facilities, on time and free of charge. Supplier is not liable for damage suffered or costs incurred by transmission errors, malfunctions or the non-availability of these facilities unless client proves that intent or deliberate recklessness on the part of supplier's management caused this damage or these costs.

10.8 The client's workspace and facilities must meet all statutory requirements. Before the activities to be performed start, client informs the employees deployed by supplier about the company rules, information rules and security rules that apply in client's organisation or company. Client indemnifies supplier against claims of third parties, including supplier's employees, who, when performing the agreement, suffer damage caused by client's acts or omissions or by unsafe situations in client's organisation or company.

10.9 Client is responsible for the management, including checks of the settings and the use of the products or services provided by supplier, and the way in which the results of the products and services are implemented. Client is also responsible for appropriately instructing users and for the use of the products and services that users make.

10.10 Client themself is responsible for the hardware, infrastructure and auxiliary software on-premise or in the cloud and ensures that on the infrastructure under their management the required software and auxiliary software are installed, organised, configured, parameterized, tuned, any data is converted and uploaded, ensure back-ups and, where required, that the infrastructure, hardware, other software and auxiliary software and the operating environment used are adjusted and kept updated, and that the interoperability wanted by client is effected.

10.11 Supplier provides available user documentation in Dutch or English in a format that supplier determines. Client assesses the user documentation provided by supplier for suitability for their users and, if necessary, provide additional explanations.

Article 11 Project and steering groups

11.1 If both parties are participating in a project or steering group in which one or more of their employees have been appointed, the provision of information takes place in the manner agreed on for that project or steering group.

11.2 When a project or steering group in which both parties are participating make decisions, these are binding on supplier only if parties have agreed on these decisions in writing or, if parties have not made any written arrangements in this context, if supplier has accepted the relevant decision in writing. Supplier is not obliged to accept or implement a decision if, in their opinion, the decision cannot be reconciled with the content and/or proper performance of the agreement.

11.3 Client ensures that the persons that they have assigned to participate in a project or steering group are authorised to make decisions that are binding on client.

Article 12 Modifications and extra work

12.1 If, at client's request or after client's prior consent, supplier has performed activities or has delivered goods or services that are outside the scope of the agreed activities and/or delivery of goods or services, supplier may charge these activities or these goods or services to client on the basis of the agreed rates or, if parties have not agreed on any rates, on the basis of supplier's applicable rates. Supplier is not obliged to honour such request and may require that, to that purpose, a separate agreement be entered into in writing.

12.2 Client realises that adjustments result or may result in extra work or terms and delivery periods and/or dates and delivery dates being postponed. Any new terms and delivery periods and/or dates and delivery dates indicated by supplier replace the previous terms and delivery periods and/or dates and delivery dates.

12.3 Insofar as parties agreed on a fixed price, supplier will inform client, at client's request and in writing, about the financial consequences of the extra activities or additional delivery of goods or services referred to in this article.

Article 13 Terms

13.1 Supplier makes reasonable efforts to comply, to the greatest extent possible, with the terms and delivery periods and/or dates and delivery dates, whether or not these are deadlines and/or strict dates, that they have specified or that parties have agreed on. The interim dates and delivery dates specified by supplier or agreed on by parties always apply as target dates, do not bind supplier and are always indicative.

13.2 If a term or period of time is likely to be exceeded, supplier and client consult as to discuss the consequences of the term being exceeded in relation to further planning. In all cases – therefore, also if parties have agreed on deadlines and strict delivery periods or dates and delivery dates – supplier is in default only because of a term or period of time being exceeded after client has served supplier with a written notice of default and has set a reasonable period of time for supplier to remedy the failure to meet their obligations and this reasonable term has passed. The notice of default must describe supplier's breach to meet their obligations as comprehensively and in as much detail as possible so that supplier has the opportunity to respond adequately.

13.3 If parties have agreed that the activities to be performed under the agreement must be performed in phases, supplier is entitled to postpone the start of the activities for a next phase until client has approved the results of the preceding phase in writing.

13.4 Supplier is not bound by a date or delivery date or term or delivery period, whether or not these are deadlines and/or strict dates, if parties have agreed on an adjustment in the content or scope of the agreement (additional work, a change of specifications, etc.) or a change in approach with respect to the performance of the agreement, or if client fails to fulfil their obligations under the agreement or fails to do so on time or in full. If additional work is required during the performance of the agreement, this never constitutes a reason for client to give notice of termination of the agreement (*opzeggen*) or to terminate the agreement for breach (*ontbinden*).

Article 14 Termination of the agreement for breach or by serving notice of termination

14.1 Termination of the agreement for breach (*ontbinden*) due to an imputable failure to fulfil the agreement is exclusively possible if the other party, in all cases after a written notice of default that is as detailed as possible and sets a reasonable period for remedying the failure, fails to fulfil essential obligations under the agreement in an attributable manner. Payment obligations and all obligations to cooperate and/or provide information by client or a third party engaged by client are in all cases considered essential obligations under the agreement.

14.2 If, at the time of the termination for breach, client has already received goods or services in the performance of the agreement, this performance and the relevant payment obligations cannot be undone unless client proves that supplier is in default with respect to the essential part of that performance. With due regard to the provisions of the preceding sentence, sums invoiced by supplier prior to the termination for breach in connection with what has already been properly performed or delivered in the performance of the agreement remain due in full and become immediately payable at the time of the termination for breach.

14.3 Either party may terminate an agreement which, due to its nature and content, is not discharged by performance and which parties have entered into for an indefinite period of time, following consultation between parties, by serving written notice of termination to the other party (*opzeggen*), stating reasons for the termination. If parties have not agreed on a notice period, a reasonable period must be observed when notice of termination is served. Supplier is not obliged to pay any compensation because of this termination.

14.4 Client is not entitled to terminate (*opzeggen*) an agreement for services that parties have entered into for a definite period of time before the end of the term; client is not entitled either to terminate (*opzeggen*) an agreement that ends by completion before it has been completed.

14.5 Either party may terminate (*opzeggen*) the agreement in writing, in whole or in part, without notice of default being required and with immediate effect, if at least one of the following circumstances arises: (i) the other party is granted a suspension of payments, whether or not provisional,(ii) a petition for bankruptcy is filed against the other party, or(iii) the company of the other party is liquidated or dissolved other than for restructuring purposes or for a merger of companies. Supplier may also terminate (*opzeggen*) the agreement, in whole or in part, without notice of default being required and with immediate effect, if a direct or indirect change occurs in the decisive control of client's company, but will not do so on unreasonable grounds. Supplier is never obliged to repay any sum of money already received or pay any sum of money in compensation because of termination as referred to in this section.

14.6 If client is irrevocably bankrupted, their right to use the provided intellectual property rights to the products and services, such as the use of software, other user rights, and the client's rights to access and/or use the services, ends without supplier being required to cancel these rights.

Article 15 Supplier's liability

15.1 Supplier's total liability for an imputable failure in the performance of the agreement or arising from any other legal basis, explicitly including each and every failure to meet a guarantee or indemnification obligation agreed on with client, is limited to the compensation of damages as described in more detail in this article.

15.2 Direct damage is limited to a maximum of the price stipulated for the agreement in question (excluding VAT). If the agreement is mainly a continuing performance contract with a duration of more than one year, the price stipulated for the agreement is set at the total sum of the payments (excluding VAT) stipulated for one year. In no event does supplier's total liability for any direct damage, on any legal basis, exceeds EUR 500,000 (five hundred thousand euros).

15.3 Supplier's total liability for any damage arising from death or bodily injury or arising from material damage to goods is limited to the amount of EUR 1,750,000 (one million seven hundred and fifty thousand euros).

15.4 Liability for indirect damage, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of client's clients, loss arising from the use of goods, materials or software of third parties prescribed by client to supplier and any damage and loss arising from contracting suppliers client has recommended to supplier is excluded.

15.5 The exclusions and limitations of supplier's liability described in articles 15.2 up to and including 15.4 are without any prejudice to the other exclusions and limitations of supplier's liability described in these NLdigital Terms.

15.6 The exclusions and limitations referred to in articles 15.2 up to and including 15.5 cease to apply if and insofar as intent or deliberate recklessness caused the damage on the part of supplier's management.

15.7 Unless performance by supplier is permanently impossible, supplier is exclusively liable for an imputable failure in the performance of an agreement if client promptly serves supplier with a written notice of default, granting supplier a reasonable period of time to remedy the breach, and supplier still imputably fails to meet their obligations after that reasonable term has passed. The notice of default must describe supplier's failure as comprehensively and in as much detail as possible so that supplier has the opportunity to respond adequately.

15.8 The right to compensation of damages exclusively arises if client reports the damage to supplier in writing as soon as possible after the damage has occurred. Any claim for compensation of damages filed against supplier lapses by the mere expiry of a period of twenty-four months following the inception of the claim unless client has instituted a legal action for damages prior to the expiry of this term.

15.9 Client indemnifies supplier against any and all claims of third parties arising from product liability because of a defect in a product or system that client delivered to a third party and that consisted in part of hardware, software or other materials delivered by supplier, unless and insofar as client is able to prove that the hardware, software or other materials referred to caused the loss.

15.10 All limitations and exclusions of liability referred to in these NLdigital Terms also apply in favour of all natural persons and legal persons that supplier and supplier's suppliers contracts or deploy for the performance of the agreement.

Article 16 Force Majeure

16.1 Neither party is obliged to meet any obligation, including any statutory and/or agreed guarantee obligation, if they are prevented from doing so by circumstances beyond their control (*overmacht*). Circumstances beyond supplier's control include, among other things: (i) circumstances beyond the control of supplier's suppliers, (ii) the failure by supplier to properly meet obligations that supplier contracted on client's instructions, (iii) defects in goods, hardware, software or materials of third parties that supplier uses on client's instructions, (iv) measures by public authorities, including import and trade restrictions, (v) fire, power failures, (vi) failures of the digital infrastructure and telecommunications facilities, (vii) strikes or a pandemic, (viii) crime or cyber crime, vandalism or cyber vandalism, war or terrorism and (ix) general transport problems.

16.2 If a force majeure situation lasts for more than sixty days, either party has the right to terminate the agreement, in writing, for breach (*ontbinden*). In such event, all that has already been performed under the agreement must be paid for on a proportional basis, without anything else being due by either party to the other party.

Article 17 Transfer of rights and obligations

17.1 Client is not entitled to sell, transfer or pledge (*verpanden*) their rights and obligations under an agreement to a third party without the prior supplier's consent.

17.2 Supplier is entitled to sell, transfer or pledge (*verpanden*) any claims they have to payment of any sums due to a third party.

Article 18 Applicable law and disputes

18.1 The agreements between supplier and client are governed by the laws of the Netherlands. Applicability of the Vienna Convention 1980 (The United Nations Convention on Contracts for the International Sale of Goods (CISG)) is excluded.

18.2 Any disputes between parties are resolved by arbitration in accordance with the Arbitration Regulations of the Foundation for the Settlement of Automation Disputes (*Stichting Geschillenoplossing Automatisering* – SGOA – (www.sgoa.eu). This without prejudice to either party's right to request preliminary relief in preliminary relief proceedings or arbitral preliminary relief proceedings and to attach property before judgment. Arbitration proceedings take place in Amsterdam, or in any other place designated in the Arbitration Regulations.

18.3 If a dispute is within the jurisdiction of the cantonal section of the Netherlands District Court (*rechtbank, sector kanton*), either party may choose, notwithstanding the provisions of article 18.2, to bring the case as a cantonal court case before the competent district court in the Netherlands. This option expires if arbitration proceedings concerning the dispute have earlier been instituted under article 18.2. If, with due observance of the provisions of this article 18.3, the case has been brought before the competent district court to be heard and decided, the cantonal judge of that district court is competent to hear the case and to decide on it.

18.4 Either party is entitled to institute ICT mediation proceedings in accordance with the ICT Mediation Regulations of the Foundation for the Settlement of Automation Disputes (*Stichting Geschillenoplossing Automatisering* – SGOA – (www.sgoa.eu). The other party is then in a legally enforceable manner obliged to actively participate in these ICT mediation proceedings. Active participation at least implies attending one joint meeting of mediators and parties to give this extrajudicial form of dispute resolution a chance of success. After this first joint meeting of mediators and parties, either party is entitled to terminate the ICT mediation proceedings at any time. The provisions of this section do not exclude either party, if this party deems doing so necessary, from starting preliminary relief proceedings or arbitral preliminary relief proceedings nor do they prevent either party from attaching property before judgment.

Chapter 2. Compliance

This chapter always applies, irrespective of the type of product or service delivered by supplier and, among other things, further elaborates on supplier's obligations if they are bound to abide by particular compliance rules pursuant to laws and regulations, such as the General Data Protection Regulation 2016/679 (GDPR), Network and Information Security Directive 2 2022/2555 (NIS2), Digital Operational Resilience Act 2022/2554 (DORA), Cyber Resilience Act 2024/2847 (CRA), Artificial Intelligence Act 2024/1689 (AI Act), Data Act 2023/2854 (Data Act), Digital Services Act 2022/2065 (DSA), and Terrorist Content Online Regulation 2021/784 (TCOR).

Article 19 User requirements for products and services

19.1 Client uses all products and services only in accordance with the purpose intended by supplier or manufacturer. Supplier is not liable for damage as a result of any other use, even if the latter was foreseeable.

19.2 If upon entering an agreement, client wishes a particular certification, supplier may suffice with alternative certification to which materially similar requirements are set.

19.3 Before starting to use a product or service, client will check whether this use complies with the legislation applicable to them and is provided with the correct documentation, such as technical and user information, declarations of conformity or certifications, including CE markings.

19.4 In view of the large amount of general and sector-specific legislation, supplier cannot guarantee that a product or service complies or will continue to comply with all laws and regulations with which client must comply when using the product or service. Supplier does not guarantee that the product or service will be adjusted in a timely manner to modifications in laws and regulations.

19.5 If client can demonstrate that, due to amendments in legislation or regulations, it is essential for them or supplier that supplier makes adjustments to products or services developed by them or makes documentation available, client informs supplier of this in writing and in as much detail as possible. Parties then consult on how and within which period supplier and client can comply with that legislation or regulations. If supplier is prepared to adjust their product or service to the changes required by law for client, or to expand these for that purpose with additional products and services from themself or a third party, supplier may charge costs for this in line with its applicable rates. If supplier cannot or does not reasonably comply with the legislation that is necessary for client and client demonstrates that they have no other option but to comply with the necessary legislation, supplier will inform client mutatis mutandis. Either party will then have the right to terminate that part of the agreement that does not comply with the relevant legislation or regulations in accordance with the applicable arrangements. Supplier is not obliged to refund any money already received or to pay compensation as a result of this termination.

19.6 If client has a legal obligation to have supplier's employees participate in security awareness programmes, supplier is prepared to have their employees who are directly involved in providing services to client participate in such awareness programmes, provided that this does not place a disproportionate burden on supplier's organisation. Supplier may charge reasonable costs for this. If supplier can demonstrate that employees have already participated in similar awareness programmes at supplier's or third parties, client agrees that further participation in awareness programmes is not necessary.

Article 20 Data processing

20.1 Client is responsible for the data processed when using a product or service provided by supplier. Client guarantees to supplier that the content, use and/or processing of the data is not illegal or unlawful and does not infringe any third-party rights. In particular, client will respect the intellectual property rights and other rights of third parties, the privacy of third parties, not distribute data in violation of the law, not gain unauthorised access to systems, not distribute viruses or other harmful programs or data, and refrain from criminal offences, distributing terrorist content or violating any other legal obligation. Client indemnifies supplier against all third parties' claims, on whatever grounds, in connection with the processing of data or the performance of the agreement, unless client proves that the facts underlying the claim are attributable to supplier.

Article 21 Notice and action

21.1 Supplier is entitled to use measures and tools for content moderation. Supplier is not obliged to actively monitor or investigate illegal or unlawful activities. Intervention or monitoring by supplier does not alter this.

21.2 Unless otherwise agreed upon, the contact details known to client serve as central point of contact for communication with supplier.

21.3 Supplier is entitled to always take measures, whether or not in response to a notification from a third party, for example via a complaints handling system, to comply with applicable laws and regulations, to prevent current and impending liability towards third parties, to limit the consequences thereof or to comply with instructions or requests from authorities. These measures may include, for example, the permanent or temporary erasure or inaccessibility of data, the suspension of clients, the restriction of access to or use of the service, or the suspension in whole or in part or termination thereof. If possible, supplier may first request client in writing to erase certain data. In that case, client immediately removes the relevant data from supplier's systems.

21.4 Supplier cannot be expected to conduct extensive legal research to form an opinion on the validity of third-party claims or client's defence, or to be involved in any way in a dispute between a third party and client. Client deals with any conflict with a third party directly and informs supplier in writing, providing sufficient supporting documentation.

21.5 Supplier is not liable for any damage arising from this article.

Article 22 Information provision to authorities, right of inspection and cooperation

22.1 If, based on a request, instruction, statutory obligation or order to provide information, client makes a notification to authorities, it immediately informs supplier thereof. Client enables supplier to provide the information necessary for the request or notification.

22.2 If supplier has a statutory obligation to share particular information, an obligation to demonstrate the fulfilment by supplier of particular security and other obligations, a statutory audit right or a right to access particular locations, parties make further arrangements in this respect. Failing this, the procedure as described below applies.

22.3 Client first sends supplier a written request, as detailed as possible, to provide the information required by law or to fulfil the obligation to cooperate. Supplier makes the mandatory information available within a reasonable period of time. This information may include the submission of relevant certification, a valid Data Pro Verified label, or an audit report (Third Party Memorandum) prepared by an independent expert on supplier's behalf. If client's request concerns a data sharing request as referred to in the Data Act, the procedure as described in Chapter 5 applies.

22.4 If, despite the aforementioned information, client is still unable to comply with their legal obligations or with instructions from competent authorities, or if parties agreed on a contractual right to audit or access certain locations, client may, at their own expense, have an audit carried out or, if reasonably possible, gain access to the locations where the services are provided for inspection purposes, but no more than once a year – at least no more often than strictly necessary – at their own expense or, if reasonably possible, gain access to the locations where the services are provided for inspection. An independent, certified external expert with demonstrable experience in this field must carry out the audit or inspection. The audit or inspection is limited to checking whether supplier complies with their legal obligations towards client or the arrangements in the contract. The expert has a duty of confidentiality and reports only what is necessary for the information obligation towards competent authorities or if they find an attributable shortcoming. The expert provides a copy of the report to supplier. Supplier may refuse an expert, audit,

instruction or access if, in their opinion, this is contrary to legislation, if their competitive position is affected by the expert or if this constitutes an unacceptable breach of the security measures taken.

22.5 Parties consult as soon as possible on the findings in the report. Parties follow up on the proposed improvement measures set out in the report insofar as this can reasonably be expected of them. Supplier implements the proposed improvement measures insofar as they deem these appropriate, taking into account the risks associated with their product or service, the state of the art, the implementation costs, the market in which they operate and the intended use of the product or service.

22.6 If necessary and legally required for client, supplier provides further information and assistance in a reasonable manner in the event of an incident involving supplier's product or services.

22.7 Supplier may charge client for the reasonable costs incurred in implementing this article.

22.8 If supplier makes a mandatory or non-mandatory report to or cooperates with a request from authorities, supplier is not liable for any damage suffered by client or a third party as a result of the report or such cooperation.

22.9 Client is not entitled to recover from supplier any administrative fine imposed on them by authorities on any legal basis.

Chapter 3. Cyber security

This chapter applies, regardless of the type of product or service that supplier provides, if supplier is required by laws, regulations or agreement to comply with certain security standards. Among other things, this chapter provides further details on various open standards from laws and regulations in the field of security.

Article 23 Security level

23.1 The cyber security of the products and services complies with the security specifications parties have agreed on in writing. If an explicitly described method of security is lacking, the cyber security complies with a level that is not unreasonable, taking into account the state of the art, the implementation costs, the nature, scope and context of supplier's intended purpose of the product or service and the data contained therein, as known to supplier, the likelihood and severity of foreseeable use and associated risks for supplier, the consequences of incidents and the rights and freedoms of those involved. Supplier does not guarantee that the cyber security is effective under all circumstances.

Article 24 Use of security devices

24.1 The security devices provided to client via supplier, including Multi-Factor Authentication, encryption, access or identification means, codes or certificates, are confidential and will be treated as such by client. The security devices are disclosed only to persons specifically authorised by client. Supplier is entitled to modify or replace assigned security devices. Client is responsible for managing the security devices and authorisations, including providing, adjusting and revoking them in a timely manner. Client ensures proper access data management, including the use of strong passwords and password management.

24.2 Supplier is not liable for any damage or costs resulting from the use or misuse of access or identification codes, certificates or other security measures, unless such misuse is the direct result of intent or deliberate recklessness on the part of supplier's management.

Article 25 Responsibilities

25.1 If the security or testing thereof, for example by means of Threat Led Penetration Tests (TLPTs), relates to software, equipment or infrastructure that supplier themselves has not supplied to client, client guarantees that all necessary licences or approvals have been obtained to perform the intended service. Supplier is not liable for damage arising in connection with the performance of such services. Client indemnifies supplier against any legal action on any grounds in connection with the performance of such services.

25.2 It is up to client to assess whether the products and services are appropriate and proportionate in view of the security risks for their organisation, in its context as a whole, and whether they have taken appropriate technical and organisational measures to ensure compliance with the legal security requirements applicable to them and that the rights of data subjects are sufficiently safeguarded. Client adequately secures their own systems and infrastructure and ensure sufficient backups.

25.3 If client is of the opinion that the security measures taken by supplier are insufficient to meet their minimum legal requirements, client informs supplier of this in writing and in as much detail as possible. Article 19.5 applies mutatis mutandis.

25.4 Client discloses information from supplier about vulnerabilities, incidents, risk mitigation and corrective measures to their users where necessary.

25.5 Client reports incidents, possible security breaches, vulnerabilities or gaps in security to supplier or manufacturer as soon as possible.

25.6 If client discovers a possible breach, vulnerability or gap in a product or service for which supplier is not the manufacturer, and no contact address for the manufacturer of the product or service has been made available to client, client may submit the report to supplier through their usual channels, so that supplier can submit the report to the appropriate contact person at the manufacturer.

Article 26 Modifications in the security

26.1 Supplier may always take technical and organisational measures to protect the products and services to which client has direct or indirect access. These measures may also be used to monitor compliance with the agreed restrictions on content, duration of the right of use or the purpose of the products or services.

26.2 Supplier is entitled to adjust the security measures at any time if this is necessary due to changing legislation or circumstances in order to maintain an appropriate level of security. Supplier lays down important changes in security and inform client of these changes where relevant.

26.3 Supplier or an authority may issue instructions to client, for example with regard to performing security updates or modifying the settings of security measures, with the aim of preventing or minimising incidents or the consequences of incidents that could compromise security. If client fails to follow such instructions from supplier or authorities, or fails to do so in a timely manner, supplier is not liable and client indemnifies supplier against any damage that may arise as a result.

26.4 Client shall not remove or circumvent any security measures or resources or technical provisions or have them removed or circumvented. Furthermore, client shall not use coercive measures or abuse loopholes in supplier's technical infrastructure.

26.5 Client may request supplier to implement further security measures. Supplier is not obliged to implement such changes. Only after the security measures requested by client have been agreed in writing will supplier be obliged to implement these security measures. Supplier may charge its applicable rates for the security updates or changes in security provided by them at client's request.

Article 27 Backups

27.1 Only if the service provision explicitly includes the creation of backups of client data in writing, supplier, with due observance of the periods agreed in writing, and in the absence thereof at least once a week, makes a backup of client's data insofar as the data is stored on infrastructure managed by supplier. In the absence of arrangements about the retention period, supplier retains the backup for supplier's usual period. Supplier stores backups carefully and with due diligence. Only if agreed in writing supplier is obliged to apply data segmentation or other mechanisms when making backups, whereby individual client data can be restored separately. If supplier makes backups for client and applies data segmentation or other mechanisms, supplier may charge its applicable rates for this. Supplier is not obliged to restore corrupted or lost data other than by restoring the last available backup of the data in question, where possible. If parties have not agreed on data segmentation or other mechanism for data segregation, it may not be possible to restore a client-specific backup.

27.2 If supplier offers a technical option that allows client to make backups of their data themself, client is responsible for making backups of their data with sufficient frequency.

27.3 Even after the service has ended, client remains responsible for complying with all legal administration and retention obligations that apply to them.

Chapter 4. Processing of personal data

This chapter applies if, in the context of the performance of the agreement, supplier processes personal data for controller or on controllers' behalf in their capacity as data processor as referred to in the GDPR. Together with the relevant provisions of chapters 1, 2 and 3 and the practical arrangements about processing in the agreement or a separate appendix (e.g. a Data Pro Statement), this chapter constitutes a processing agreement as referred to in Article 28(3) of the GDPR.

Article 28 General

28.1 Supplier processes the personal data on client's instructions in accordance with client's agreed written instructions.

28.2 Client, or their principal, is the controller within the meaning of the GDPR, has control over the processing of the personal data and determines the purpose and means of the processing of the personal data.

28.3 Supplier is a processor within the meaning of the GDPR and therefore has no control over the purpose and means of processing the personal data and therefore does not make any decisions about, among other things, the use of the personal data.

28.4 Supplier implements the GDPR as laid down in these NLdigital Terms and in the agreement.

28.5 Client guarantees to supplier that they act in accordance with the GDPR and that the use and/or processing of personal data is not unlawful and does not infringe any rights of others.

28.6 Unless explicitly stated otherwise in the agreement, supplier's product or service is not designed for the processing of special categories of personal data, data relating to criminal convictions or offences, or personal numbers issued by the government.

Article 29 Personal data breaches

29.1 If supplier discovers a breach relating to personal data, it informs client without undue delay. If parties have not made any specific arrangements in the agreement about the manner of reporting, supplier contacts client in the usual manner.

29.2 It is up to controller (client or their principal) to assess whether the personal data breach reported by supplier must be reported to the authorities or data subject/data subjects. Reporting personal data breaches remains the responsibility of controller (client or their principal) at all times. Supplier is not obliged to report breaches relating to personal data to the authorities and/or the data subject/data subjects.

29.3 If necessary, supplier provides further information about the personal data breach and cooperates in providing the necessary information to client for the purpose of reporting to the competent authorities or data subject/data subjects.

29.4 Supplier may charge the reasonable costs incurred in this context to client.

Article 30 Obligations upon termination

30.1 Upon termination of the processing agreement, supplier will, within a reasonable period of time, erase all personal data in their possession and received from client in such a way that they can no longer be used and are no longer accessible (render inaccessible), or, if agreed, return them to client in a machine-readable format. Supplier may charge their applicable rates for this.

30.2 The provisions in article 30.1 do not apply if a statutory provision prevents supplier from erasing or returning all or part of the personal data. In such a case, supplier continues to process the personal data only to the extent necessary to comply with their legal obligations. The provisions in article 30.1 do not apply either if supplier is the controller within the meaning of the GDPR with regard to the personal data.

Article 31 Rights of data subjects and Data Protection Impact Assessment (DPIA)

31.1 Where possible, supplier cooperates with reasonable requests from client relating to the rights of data subjects invoked by data subjects at client. If supplier is approached directly by a data subject, it refers them to client where possible.

31.2 If client is obliged to do so under the GDPR, supplier will, upon reasonable request, cooperate with a data protection impact assessment (DPIA) or any subsequent prior consultation.

31.3 Supplier may charge their applicable rates for the activities referred to in this article.

Article 32 Sub-processors

32.1 Supplier has stated in the agreement whether, and if so which third parties (sub-processors) supplier engages in the processing of personal data.

32.2 Client gives supplier permission to engage other sub-processors to fulfil their obligations arising from the agreement.

32.3 Supplier informs client of any change in the third parties engaged by supplier. Client has the right to object to the aforementioned change by supplier.

Chapter 5. Data sharing

This chapter applies if the Data Act applies, for example if supplier provides connected products and related services, including Internet of Things (IoT), or data processing services, including SaaS, IaaS and PaaS (cloud services), as

referred to in the Data Act. This chapter sets out the obligations relating to data sharing for such products and services.

Article 33 General provisions for data sharing requests

33.1 If parties have not made any specific written arrangements about access to data, client may submit a request for data sharing to supplier via supplier's usual channels. Supplier only processes requests that have been submitted in writing in sufficient detail. Supplier has the right to check whether the request has been submitted lawfully and (to what extent) they are obliged to comply with such a request. Upon request, client provides all information necessary to assess the legitimacy and scope of the request. If supplier themself does not have access to the relevant data and is therefore unable to comply with the request, they where possible, provide reasonable assistance in referring client to the relevant party or parties.

33.2 Supplier makes data that they are required to provide under the Data Act available in a commonly used machine-readable format. Supplier is not obliged to implement the data at the data recipient.

33.3 Client ensures that they and the data recipient and/or third party comply without delay with requests from supplier within the scope of Article 11 of the Data Act.

33.4 Supplier may, to the extent permitted by law, charge client and data recipient transfer costs or data extraction costs, future or ongoing, and a reasonable fee for making the data available, or charge costs for additional services relating to the data sharing request at their applicable rates.

Article 34 Data sharing in the event of connected products and related services (IoT)

34.1 In the event of a data sharing request in relation to connected products and related services, supplier is obliged to only provide the readily available data concerning the performance, use and environment of connected products and/or related services and, if necessary, the relevant metadata. In any case, these data do not include information derived from or resulting from such data, nor do they include data relating to content. Supplier is exempt from sharing data as referred to in this article if they are a small business as referred to in Article 7 of the Data Act, or if client has direct access to these data.

34.2 In accordance with Articles 4 and 5 of the Data Act, supplier may impose regulations on the availability, use or further sharing of data as referred to in this article with client or a third party, in particular if this could undermine the security requirements of the connected product or related service, or if the data sharing affects trade secrets. Client ensures that data provided to a third party is not shared further.

34.3 Client may not use the data to develop a product or service or have these developed if these compete with the product or service from which the data originates, or to gain insight into the economic situation, assets and production methods of the manufacturer or supplier.

Article 35 Data sharing upon exit or in the event of ongoing parallel use of data processing services (cloud services)

35.1 If client submits a data sharing request for data processing services, supplier will, for the purposes of this request, supply at least the exportable data, insofar as this does not concern internal data that poses a risk of breach of a trade secret, or assets or data protected by intellectual property rights. Supplier is not obliged to make data available for testing and evaluation purposes or to facilitate this.

35.2 If client submits a data sharing request for data processing services, they specify in detail:

a. which data processing service/services are concerned;
b. whether client wishes to switch from data processing service or services and/or wishes to terminate and have the data erased (exit), or whether client wishes to continue to use supplier's data processing service or services (in parallel); and
c. to which party or parties the data must be transferred, including relevant contact details.

35.3 If client does not indicate within the notice period how they want the data sharing request to be carried out, supplier may consider the request as a request to erase the data and terminate the data processing service (exit).

35.4 The transition period starts no later than two months after receipt of the data sharing request. The transition period lasts for a maximum of 30 days. If this is technically not feasible, supplier may inform client within 14 working days of receiving the request about an alternative transition period, which will not exceed seven months. Client may submit a one-off written request, providing as much detail as possible, for a reasonable extension of the transition period.

35.5 During the transition period, supplier endeavours to take the necessary measures to perform the data sharing request, exercise due care to maintain business continuity, continue to provide the services under the agreement and maintain the agreed level of security or a level that is comparable to this. In the event of a switch to another data processing service, supplier also provides reasonable assistance and relevant information about any risks known to them that could affect the continuity of the data processing service.

35.6 If supplier provides customised services, they are not obliged to facilitate functional equivalence in the use of the new data processing service. Nor is supplier obliged in that case to guarantee compatibility with common specifications based on open interoperability specifications or harmonised interoperability standards. If supplier provides customised services, they may charge their applicable rates for executing the data sharing request.

Article 36 Termination of data processing services (exit)

36.1 If, in the data sharing request for data processing services, client has also indicated that they wish to terminate (exit), contrary to article 14 of these NLdigital Terms, the agreement will be terminated prematurely for the cancelled data processing service or services after the transition period has ended, provided that the switch has been successfully completed. If client has indicated in the data sharing request that they do not wish to switch, the agreement will be terminated prematurely two months after receipt of the request. The agreement between parties for the supply of other products and services remains in force, unless client also explicitly terminates the agreement for the supply of those other products and services in accordance with the agreed termination arrangements.

36.2 After the transition period has ended, client may claim their data during the retrieval period employed by supplier. This retrieval period is at least 30 days after the end of the transition period.

36.3 After the expiry of the retrieval period applied by supplier and after a successful transfer, supplier will, as far as possible, erase client's exportable data and digital assets in such a way that they can no longer be used and are no longer accessible (render inaccessible), unless a legal retention obligation applies to supplier.

36.4 In the event of premature termination as referred to in this article, supplier reserves the right to invoice the agreed fees that they could have charged up to the date of the originally agreed termination date as compensation for premature termination.

Chapter 6. Artificial Intelligence (AI) and Software-as-a-Service (SaaS)

The first provision in this chapter applies if supplier provides products and services in the field of AI. This provision sets out a number of rights and obligations relating to AI, regardless of whether SaaS is involved. The other provisions apply if the supplier provides services under the name or in the field of Software-as-a-Service (SaaS), regardless of whether AI is involved. These provisions contain rules on the performance of the SaaS service.

Article 37 Artificial Intelligence (AI)

37.1 If supplier provides AI, client must use it in accordance with the purpose intended by supplier and any instructions for use. If client acts contrary to the foregoing, resulting in the AI application changing into a high-risk AI system, the obligations under Article 25(2) of the AI Act do not apply. Supplier may always take corrective measures or withdraw the AI application from the market, deactivate it or recall it if the AI application no longer complies with the intended purpose, or if client is considered to be the provider through their own actions. In that case, supplier will not be bound to compensate any damage.

37.2 Client is aware of the characteristic feature of AI that it can involve a changing and self-learning technology, whereby the outcomes and conclusions of AI are constantly evolving and subject to change. Results may vary depending on the input and context, whereby AI, even after deployment at client's premises, may demonstrate adaptability, generate different results when applied repeatedly and exhibit "model drift". Supplier therefore does not guarantee that the results of the AI application are effective or accurate under all circumstances or over time.

37.3 Unless expressly agreed otherwise in writing, client is not allowed to place their name or brand on the AI application or to make substantial changes to it.

37.4 If supplier has established a monitoring system, they are entitled to use the information in the AI application for monitoring purposes. Client cooperates in this by granting access to the AI application for monitoring purposes.

37.5 As soon as client becomes aware of a serious incident, or believes that the AI application poses a risk as referred to in Article 79 of the AI Act, it immediately reports this to the provider or supplier first. Client reports a serious incident to the competent authorities only if they can demonstrate that they are unable to reach the provider of the AI application within the reporting period.

37.6 If supplier makes products and services available, client may not use them or integrate them into other AI applications without supplier's explicit written consent. If supplier is prepared to give consent for this and client and supplier are legally obliged to make further arrangements in that case, supplier is entitled to charge costs for this at their applicable rates. Such further arrangements will not affect intellectual property rights, confidential business information and trade secrets.

37.7 Client ensures sufficient human supervision of the use of AI.

37.8 Client ensures an adequate level of AI literacy among their staff and other persons who use the AI application on their behalf.

37.9 Depending on the manner in which the AI application in full or in part is made available, in addition to all previous chapters, the other articles in this chapter or the following chapters may also apply in addition to this article.

Article 38 SaaS implementation

38.1 For the application of these NLdigital Terms, SaaS means: supplier making and keeping functionality available to client remotely via the internet or another data network, without providing client with a physical carrier or download of the relevant underlying software. This functionality may include AI or parts hereof.

38.2 Supplier provides the SaaS on client's instructions. Client may solely use the SaaS for their own organisation and only insofar as required for the use intended by supplier. Client may not allow third parties to make use of the SaaS.

38.3 Supplier may modify the content or scope of the SaaS. If such modifications are substantive and result in a change in client's current procedures, supplier informs client about this as soon as possible and the costs of these changes are at client's expense. In the event that these costs are considerable, client may serve notice of termination of the agreement (*opzeggen*), which termination takes effect on the date on which the modification takes effect, unless the modification is related to amendments in relevant legislation or other instructions issued by public authorities, or the modification is at supplier's expense.

38.4 Supplier may continue to provide the SaaS using a new or modified version of the underlying software. Supplier is not obliged to maintain, modify or add particular features or functionalities of the SaaS specifically for client.

38.5 Supplier may temporarily put all or part of the SaaS out of service for maintenance services or other forms of service. Supplier ensures that the period of time during which the SaaS is disabled is as short as possible and, preferably, at times when the SaaS is usually used least intensively.

38.6 Supplier is not obliged to provide client with a physical carrier or download of the underlying software.

38.7 If no further arrangements have been made in this regard, client themself is responsible for designing, configuring, parameterising, tuning the SaaS, converting and uploading possible data, making backups, and, where required, for adjusting the infrastructure, hardware, other software, auxiliary or not, and user environment used and keep these updated.

Article 39 Guarantees

39.1 Supplier does not guarantee that the SaaS is free of errors and works without any malfunctions. Supplier makes every effort to repair the errors in the underlying software referred to in article 44.3 within a reasonable period of time insofar as underlying software is concerned that supplier themselves has developed and client has provided supplier with a detailed, written description of the relevant errors. In a particular case, supplier may postpone repairing errors until a new version of the underlying software is put into service. Supplier does not guarantee that errors in the SaaS that supplier themself has not developed are repaired. Supplier is entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the SaaS. If the SaaS, or part of it, has been developed on client's instructions, supplier may charge client for the costs incurred by repairing the error/errors at supplier's applicable rates. Supplier is not obliged to repair other imperfections than those referred to in this article. In the event supplier is prepared to remedy other imperfections than those referred to in this article, supplier is entitled to charge client a separate fee for this at their applicable rates.

39.2 On the basis of the information provided by supplier about measures to prevent and restrict the effects of malfunctions, errors and other imperfections in the SaaS, corruption or loss of

data or other incidents, client identifies and lists the risks to their organisation and, where necessary, takes additional measures.

39.3 If client experiences a high dependency and risks of continuity for incidents and calamities, supplier is prepared, at client's request, to cooperate reasonably with further measures to be taken by client to reduce these risks, subject to financial and other conditions to be set by supplier. These arrangements may, for example, concern the periodic or real-time return of data to client or to a third party. Such additional services are not automatically part of the service provision.

39.4 Supplier is not obliged to restore corrupted or lost data other than by restoring the last available backup of the data in question, where possible. If parties have not agreed on data segmentation or other mechanism for data segregation, it may not be possible to restore a client-specific backup.

Article 40 Start of the service; payment

40.1 The SaaS to be provided by supplier – and, where relevant, support – starts within a reasonable period of time after the agreement has been entered into. Unless agreed on otherwise, the SaaS starts by supplier providing the means to access the SaaS. Client ensures that they have the facilities required to use the SaaS immediately after the agreement has been entered into.

40.2 The fee payable by client for the SaaS is included in the agreement. If no payment scheme has been agreed on, all sums related to the SaaS delivered by supplier become due and payable, in advance, per calendar month.

Article 41 Additional stipulations

41.1 The following articles equally apply to the SaaS: 42.3, 42.5, 42.8, 44.1 (excluding the reference to art. 48), 44.11, 56.4, 57.1, 57.2, 70.2 and 70.4. In these articles the word 'software' should be read as 'SaaS' and the word 'delivery' as 'start of the service'.

Chapter 7. Software

This chapter applies if supplier makes software, apps and AI available to client for use, together with the relevant data or databases and/or user documentation for this software– in these NLdigital Terms together to be referred to as 'software' – other than on the basis of a SaaS.

Article 42 Right to use and restrictions on use

42.1 Supplier makes the software agreed on available for use by client on the basis of a user licence and for the term of the agreement. The right to use the software is non-exclusive, non-transferable, non-pledgeable and non-sublicensable.

42.2 Supplier's obligation to make the software available and client's right to use the software exclusively extend to the so-called object code of the software. Client's right to use the software does not pertain to the software's source code. The source code of the software and the technical documentation drafted when the software was developed are not made available to client, not even if client is prepared to pay a financial compensation.

42.3 Client always strictly complies with the agreed restrictions on the use of the software, regardless of the nature or the content of these restrictions.

42.4 If parties have agreed that the software may be used only in combination with particular hardware and this hardware has a malfunction, client is entitled to use the software on other hardware with the same qualifications during the period of time that the original hardware remains defective.

42.5 Supplier may require that client only starts using the software after they have received one or more codes needed for the use from supplier, from supplier's supplier or from the producer of the software.

42.6 Client is entitled to only use the software in and for its own organisation and only insofar as required for the use intended by supplier or their licensor. Client shall not use the software for the benefit of third parties, for example in the context of Software-as-a-Service (SaaS) or outsourcing.

42.7 Client is not entitled to sell, lease or alienate, or grant limited rights to, or make the software and the carriers on which the software is or will be recorded available to third parties, in whatever way, for whatever purpose or under whatever title. Neither is client entitled to grant - remotely or not (online) - a third party access to the software or place the software with a third party for hosting, not even if the third party concerned exclusively uses the software in client's interest.

42.8 If so requested, client promptly renders assistance in any investigation into compliance with the agreed restrictions on use to be carried out by or on supplier's behalf. At supplier's first request, client grants supplier access to their buildings and systems. Insofar as such information does not concern the use of the software itself, supplier observes confidentiality with respect to all confidential business information that they obtain from client or at client's business location in the context of an investigation.

42.9 Parties agree that the agreement entered into by parties is not seen as a purchase agreement where it is related to making software available for use.

42.10 Supplier is not obliged to maintain the software and/or provide support to users and/or administrators of the software. If, contrary to the foregoing, supplier is asked to perform maintenance activities and/or provide support for the software, supplier may require that client enters into a separate, written agreement for this purpose.

Article 43 Delivery and installation

43.1 At their discretion, supplier either delivers the software on the agreed type of data carrier or, if parties have not made any arrangements about this, on a type of data carrier determined by supplier, or makes the software online available to client.

43.2 Supplier installs the software at client's business premises only if parties have agreed on this. If parties have not made any arrangements about this, client themself is responsible for installing, designing, configuring, parameterising, tuning, converting and uploading of data, if any, ensure backups and, if necessary, for adjusting the hardware and operating environment used and keeping these updated and accomplishing the interoperability desired by client.

Article 44 Acceptance

44.1 If parties have not agreed on an acceptance test, client accepts the software in the state that it is in when delivered ('as is, where is'), therefore, with all visible and invisible errors and defects, without prejudice to supplier's obligations under the guarantee scheme as set out in article 48. If this is the case, the software is deemed to have been accepted by client upon delivery or, if installation by supplier has been agreed on in writing, upon completion of the installation.

44.2 If an acceptance test has been agreed on by parties, the provisions of articles 44.3 up to and including 44.10 apply.

44.3 Where these NLdigital Terms refer to 'error' this is understood to mean a substantial failure of the software to meet the functional or technical specifications of the software explicitly made known by supplier in writing and, if all or part of the software is customised software, a substantial failure to meet the functional or technical specifications explicitly agreed on in writing. An error

exists only if client can demonstrate it and if it is reproducible. Client is obliged to report errors without delay. Supplier does not have any other obligation with respect to other imperfections in or on the software than those in relation to errors in the sense of these NLdigital Terms.

44.4 If an acceptance test has been agreed on, the test period is fourteen days following delivery or, if installation by supplier has been agreed on in writing, fourteen days following the completion of installation. During the test period, client may not use the software for production or operational purposes. Client performs the agreed acceptance test with qualified personnel, to an adequate extent and in sufficient detail.

44.5 If an acceptance test has been agreed on, client checks whether the software delivered meets the functional or technical specifications explicitly made known by supplier in writing and, if all or part of the software is customised software, that it meets the functional or technical specifications explicitly agreed on in writing.

44.6 If testing on client's instruction involves personal data being made use of, client ensures that using these data for this purpose is allowed.

44.7 If it becomes clear in the course of the acceptance test that the software contains errors, client reports the test results to supplier in writing in a well-ordered, detailed and understandable manner no later than on the last day of the test period. Supplier endeavours to repair the errors referred to within a reasonable period of time. In this context, supplier is entitled to install temporary solutions, program bypasses or problem-avoiding restrictions.

44.8 The software is understood to have been accepted:

a. if parties have agreed on an acceptance test: on the first day following the test period, or
b. if supplier receives a test report as referred to in article 44.7 prior to the end of the test period: at the time the errors listed in this test report have been repaired, notwithstanding the presence of errors that, according to article 44.9, do not prevent acceptance, or
c. if client uses the software in any way for production or operational purposes: at the time it is put into use for production or operational purposes.

44.9 Client is neither entitled to refuse to accept the software for reasons that are not related to the specifications parties explicitly agreed on in writing nor entitled to refuse to accept the software because it has minor errors, i.e. errors that do not prevent – within reason – the productive or operational use of the software, all of this without prejudice to supplier's obligation to repair these minor errors as referred to in article 48. Acceptance may not be refused either because of aspects of the software that can be assessed subjectively only, such as aesthetic aspects of the user interfaces.

44.10 If the software is delivered and tested in phases and/or parts, non-acceptance of a certain phase and/or part is without prejudice to the acceptance of a previous phase and/or a different part.

44.11 Acceptance of the software results in supplier being discharged of their obligations in the context of making the software available and delivering it and, if parties have also agreed on installation of the software by supplier, of their obligations in the context of installing it.

44.12 Acceptance of the software is without prejudice to client's rights under article 44.9 regarding minor errors and article 48 providing for guarantees.

Article 45 Making the software available

45.1 Supplier makes the software available to client within a reasonable period of time after parties have entered into the agreement.

45.2 Immediately after the agreement ends, client returns all copies of the software in its possession to supplier. If parties have agreed that client is obliged to destroy the relevant copies when the agreement ends, client informs supplier, promptly and in writing, that the copies have been destroyed. When the agreement ends or after it has ended, supplier is not obliged to render assistance in any data conversion that client may possibly want to perform.

Article 46 Payment for the right to use the software

46.1 Client must pay the sum due for the right to use at the agreed times or, if parties have not agreed on a time:

a. if parties have not agreed that supplier provides the installation of the software: (i) upon the provision of the software, or (ii) in the event periodic payments are due for the right to use, upon the provision of the software and subsequently when each new term of the right to use starts;
b. if parties have agreed that supplier provides the installation of the software: (i) upon completion of that installation, or (ii) in the event periodic payments are due for the right to use the software, upon completion of that installation and subsequently when each new term of the right to use starts.

Article 47 Modifications to the software

47.1 Except where mandatory statutory provisions provide otherwise, client is not entitled to modify all or part of the software without supplier's prior written consent. Supplier is entitled to refuse consent or to attach conditions to their consent. Client bears the entire risk of all modifications that they implement – whether or not with supplier's consent – or that client has implemented by third parties on their instructions.

Article 48 Guarantees

48.1 Supplier makes reasonable efforts to repair errors in the sense of article 44.3 within a reasonable period of time if client reports these errors, in detail and in writing, to supplier within a period of three months after delivery or, if parties have agreed on an acceptance test, within three months after acceptance. Supplier does not guarantee that the software is suitable for the actual and/or the intended use. Supplier does not guarantee either that the software works without any malfunctions and/or that all errors are always repaired. Repairs are carried out free of charge unless the software was developed on client's instructions other than for a fixed price, in which case supplier may charge the costs of the repairs to client at their applicable rates.

48.2 Supplier may charge the costs of the repairs to client at their applicable rates if such repairs are required as a result of usage errors or client not using the software properly, or as a result of causes that cannot be attributed to supplier. The obligation to repair errors ends when client modifies the software or has such modifications implemented without supplier's written consent.

48.3 Errors are repaired at a location and in a manner determined by supplier. Supplier is entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software.

48.4 Supplier is not obliged to recover corrupted or lost data other than by restoring the last available backup of the data in question, where possible. If parties have not agreed on data segmentation or other mechanism for data segregation, it may not be possible to restore a client-specific backup.

48.5 Supplier does not have any obligation, of whatever nature or content, with respect to errors reported after the end of the guarantee period referred to in article 48.1.

Chapter 8. Development of software and websites

The chapter applies if supplier develops and/or designs software as described in chapter 7 and/or websites for client and possibly installs the software and/or websites.

Article 49 Specifications and development of software and/or websites

49.1 Development always takes place under an agreement for services. If no specifications or design of the software and/or website to be developed have been provided before the agreement is entered into or no specifications or design are provided when the agreement is entered into, parties specify, by consultation and in writing, the software and/or website to be developed and the manner in which this development takes place.

49.2 Supplier develops the software and/or website with due care and in accordance with the explicitly agreed specifications or design and - where applicable - with due regard for the project organisation, methods, techniques and/or procedures agreed on in writing with client. Before starting the development activities, supplier may require that client agrees to the specifications or design in writing.

49.3 If no specific arrangements have been made in the matter , the design and/or development activities start within a reasonable period of time, to be determined by supplier, after parties have entered into the agreement.

49.4 At supplier's request, client provides supplier with the opportunity to perform activities at client's premises outside the usual working days and working hours.

49.5 The development of a website includes the provision of a content management system only if parties have explicitly agreed on this in writing.

49.6 If parties agree that, apart from development activities, supplier also provides training courses, hosting, maintenance and/or support and/or that supplier also applies for a domain name, supplier may request that client enters into a separate, written agreement. Supplier may charge client separately for these services, at supplier's applicable rates.

49.7 If supplier provides services to client in the context of a domain name, such as the application for, renewal, alienation or transfer to a third party of that name, client is obliged to follow the rules and methods of this authority or these authorities. At client's request, supplier provides client with a written copy of these rules. Supplier is explicitly neither responsible for the correctness or the promptness of the services nor responsible for achieving the results client intends to achieve. Supplier may charge all costs involved in the application and/or registration at the agreed rates and, if parties have not agreed on any rates, at supplier's applicable rates. Supplier does not guarantee that a domain name client wants to use will actually be assigned to client.

Article 50 Agile development of software/websites

50.1 If parties use an iterative development method – scrum, for example – parties accept: (i) that, at the start, the activities are not performed on the basis of fully detailed specifications; and (ii) that specifications which parties have earlier agreed on may be adapted during the term of the agreement, in mutual consultation and in line with the project approach of the applied development method.

50.2 Before starting the development, parties put together one or more teams that consist of representatives of both supplier and client. The team ensures that the communication lines remain short and direct and that consultations take place regularly. Parties both provide for the deployment of the capacity agreed on (FTEs) in terms of team members in the roles and with the knowledge and experience and the decision-making powers required to perform the agreement. Parties accept that in order to make the project successful, the capacity agreed on is a minimum requirement. Parties endeavour to keep key staff available that have been deployed in first instance, as much as reasonably possible, until the end of the project, unless circumstances arise that are beyond parties' control. During the performance of the agreement, parties jointly decide, by consultation, on the specifications that apply to the following phase of the project – for example a time box – and/or for the development of a following part. Client accepts the risk that the software and/or the website may not necessarily meet all specifications. Client ensures permanent and active input by and contributions from relevant end users, supported by client's organisation, among other things, testing and decision making and further decision making. Client guarantees expeditiousness in progress-related decisions that have to be made during the performance of the agreement. If client fails to make clear and prompt progress-related decisions in conformity with the applied project approach, supplier is entitled - though not obliged - to make the decisions that supplier considers to be appropriate.

50.3 If parties have agreed on one or more test moments, a test exclusively takes place on the basis of objective, measurable criteria agreed on previously, such as confirming to development standards. Errors and other imperfections are repaired only if the responsible team decides so and this will be carried out in a subsequent iteration. When an extra iteration is required, the costs are at client's expense at supplier's applicable rates. After the last development phase, supplier is not obliged to repair any errors or other imperfections, unless parties explicitly agree on this otherwise in writing.

Article 51 Delivery, installation and acceptance

51.1 The provisions of article 43 with respect to delivery and installation apply mutatis mutandis.

51.2 Unless supplier is obliged, under the agreement, to host the software and/or website for client on their own computer system, supplier either delivers the software and/or website to client on a data carrier and in a form determined by supplier, or makes the software and/or website online available to client.

51.3 The provisions in article 44 with respect to acceptance apply mutatis mutandis.

51.4 If parties use of a development method as referred to in article 50, the provisions in article 44.1, 44.2, 44.4 up to and including 44.9, 44.12, 48.1 and 48.5 do not apply. Client accepts the software and/or website in the state it is in at the moment the last development phase ends ('as is, where is').

Article 52 Right to use

52.1 Supplier makes the software and/or website developed on client's instructions, together with the relevant user documentation, available to client for use.

52.2 The source code of the software and the technical documentation prepared when the software is developed is made available to client only when this has been agreed on in writing, in which case client is entitled to modify the software.

52.3 Supplier is not obliged to make the auxiliary software and program or data libraries required for the use and/or maintenance of the software and/or website available to client.

52.4 The provisions in article 42 with respect to the right to use and restrictions on the use apply *mutatis mutandis*.

Article 53 Payment

53.1 If parties have not agreed on a payment scheme, all sums related to the development of software and/or website become due and payable, retroactively, per calendar month.
53.2 In the absence of further arrangements, client also obtains the right to use the software and/or website.
53.3 Supplier is entitled to charge their applicable rates for statutory security updates.
53.4 Client themself is responsible for auxiliary software and program and data libraries, any installation services, any adjustments and/or maintenance of the software and/or website, and/or support services for users.

Article 54 Guarantees

54.1 The provisions in article 48 with respect to guarantees apply mutatis mutandis.
54.2 Supplier does not guarantee that the software and/or website they have developed function properly on all sorts of new versions of web browser types and possibly other software or auxiliary software and/or websites. Supplier does not guarantee either that the software and/or website function properly on all types of hardware.

Chapter 9. Maintenance of software and support

This chapter applies if supplier performs services in the field of software maintenance and software support for the use of the software.

Article 55 Maintenance services

55.1 If agreed, supplier performs maintenance services for the software specified in the agreement. The obligation to provide maintenance includes repairing errors in the software as referred to in article 44.3 and, only if parties have agreed on this in writing, making new versions of the software available in accordance with article 56.
55.2 Client reports any errors discovered in the software as detailed as possible. Following receipt of the report, supplier endeavours to repair the errors observed and/or implement corrections in future versions of the software in accordance with their usual procedures. Depending on the urgency and supplier's version and release policy, supplier makes the results available to client in a manner and within the period of time determined by supplier. Supplier may also install temporary solutions, program bypasses or problem-avoiding restrictions in the software. Client themself must install, organise, configure, parameterise, and tune the corrected software or the new version of the software as made available, convert and upload any data, make backups, and, if necessary, adjust the infrastructure used for this, hardware, other software or auxiliary software and operating environment used and keep these updated and accomplish the interoperability desired by client. Supplier is not obliged to repair other imperfections than those referred to in this article. If supplier is prepared to correct other imperfections, supplier is entitled to charge a fee at their applicable rates for this.
55.3 The provisions in article 48.3 and 48.4 apply mutatis mutandis.
55.4 If supplier performs maintenance services online, client provides, in due time, for a properly and appropriately secured infrastructure and network facilities.
55.5 Client renders every assistance required by supplier for the maintenance services, including that client must temporarily stop using the software and must make a backup of all data.
55.6 When maintenance concerns software that supplier did not deliver to client and if supplier believes this is necessary or appropriate in the context of maintenance, client makes the source code and the technical development and other documentation of the software, including data models, designs, change logs and the like, available to supplier. Client guarantees that they are entitled to make the source code and documentation available. Client grants supplier the right to use and modify the software, including the source code and technical development and other documentation, so that supplier can perform the maintenance services agreed on.

Article 56 New versions of the software

56.1 Maintenance includes making new versions of the software available only when and insofar as parties have agreed on this in writing, or if the law prescribes this as mandatory. If maintenance includes making new versions of the software available, supplier makes these new versions available at their discretion.
56.2 Three months after supplier has made an enhanced version available, they are no longer obliged to repair errors in the previous version and to provide support and/or perform maintenance services on a previous version, unless the law prescribes this as mandatory in any other manner.
56.3 Supplier may require that client must enter into an additional written agreement with supplier for a version with new functionality and that client must make a further payment for this version. Supplier may incorporate functionality from a previous version of the software in the new version without any modifications, but supplier does not guarantee that each new version includes the same functionality as the previous version. Supplier is not obliged to maintain, modify or add particular features or functionalities in the software especially for client.
56.4 Supplier may require that client must modify their system (hardware, web browser, software and the like) if this is necessary for the proper functioning of a new version of the software.

Article 57 Support services

57.1 If the services provided by supplier under the agreement include support services to users and/or administrators of the software, supplier advises, for lack of written arrangements to the contrary, online, by telephone or by email on the use and functioning of the software specified in the agreement. Prior to a request for support, client consults the documentation provided by supplier to see whether they can solve the issue with this. Client is obliged to specify the requests for support as comprehensively and in as much detail as possible so that supplier can respond appropriately. Supplier may set conditions with respect to the way in which client requests support and the qualifications and the number of persons eligible for support. For lack of further written agreements, supplier properly deals with substantiated requests for support within a reasonable period of time and in compliance with their usual procedures. Supplier does not guarantee the correctness, completeness or timeliness of responses or of the support offered. Support services are performed on working days during supplier's usual business hours.
57.2 If the services provided by supplier under the agreement include standby services, supplier ensures that one or more employees are available on the days and at the times specified in the agreement. If parties have agreed on standby services, client is entitled, in urgent cases, to call in the employees on standby if there are serious errors, serious malfunctions and other serious imperfections in the functioning of the software. Supplier does not guarantee that these are promptly repaired.
57.3 The maintenance and other agreed services referred to in this chapter are performed starting from the date on which parties

enter into the agreement, unless parties have agreed otherwise in writing.

Article 58 Payment

58.1 If parties have not explicitly agreed on a payment scheme, all sums related to the maintenance of the software and other services as meant in this section and set out in the agreement become due and payable, in advance, per calendar month.

58.2 Sums relating to the maintenance of the software and the other services as meant in this section and set out in the agreement are payable when parties enter into the agreement. Payment for maintenance and other services is always due, regardless whether client has taken the software into use and regardless whether client actually makes use of the maintenance or support services.

Chapter 10. Advisory services

This chapter applies if supplier provides services in the field of advice, which services supplier does not provide under client's direction and supervision, under the name advisory, consultancy, contracting, project-based activities, interim assignments or under any other name.

Article 59 Performance of advisory services

59.1 Supplier performs the advisory services in a fully independent manner, at their own discretion and without client's supervision and directions, which does not involve the provision of labour as described in chapter 11.

59.2 Supplier does not commit to a completion time of the assignment because the completion time of an assignment in the field of advisory services depends on various factors and circumstances, such as the quality of the data and the information provided by client and the assistance rendered by client and relevant third parties.

59.3 Supplier performs their services only on supplier's usual working days and during supplier's usual business hours.

59.4 The use that client makes of any advisory report drafted by supplier is always at client's risk. The burden of proof is on client to prove that the advisory services or the way in which these are performed is not in compliance with that which parties have agreed on in writing or that which may be expected from a competent supplier acting reasonably, without prejudice to supplier's right to provide evidence to the contrary, using any legal means.

59.5 Without supplier's prior written consent, client may not inform any third party about supplier's way of working, methods and/or techniques and/or the content of supplier's recommendations or reports. Client does furthermore not provide supplier's recommendations or reports to a third party or otherwise make supplier's recommendations or reports public.

Article 60 Reporting

60.1 Supplier periodically informs client, in the manner agreed on in writing, about the performance of the advisory services. Client informs supplier, in advance and in writing, about circumstances of importance or circumstances that are or could be of importance to supplier, such as the manner of reporting, the issues to be addressed, client's prioritisation, the availability of client's resources and staff, and special facts or circumstances or facts or circumstances of which supplier is possibly unaware. Client ensures that the information provided by supplier is distributed and actually taken notice of within client's organisation or company and client assesses this information, also on this basis, and informs supplier of this.

Article 61 Payment

61.1 If parties have not agreed on an explicit payment scheme, all sums related to the advisory services provided by supplier as meant in this chapter become due and payable, retroactively, per calendar month.

Chapter 11. Provision of labour force

This chapter applies if supplier provides one or more workers to client to perform activities under client's direction and supervision, under the name of secondment or under any other name, except in cases where the law provides for exceptions.

Article 62 Provision of labour force

62.1 Supplier makes the workers specified in the agreement available to perform activities under client's responsibility, direction and supervision (*gezag*). The results of these activities are at client's risk. Unless otherwise agreed in writing, the worker is made available to client for forty hours a week, during supplier's usual working days.

62.2 Client informs supplier about an intended temporary or permanent closure of their business or organization on time.

62.3 Client may deploy the worker made available to perform activities other than the activities agreed on only if supplier has agreed to this in advance and in writing.

62.4 Client may second the worker who supplier made available to a third party or let the worker work under a third party's direction and supervision only supplier has explicitly agreed to this in writing.

62.5 Supplier endeavours to ensure that the worker made available remains available, during the agreed days, to perform activities for the term of the agreement, except in the event of the employee's incapacity for work or if the employee leaves supplier's employment. Even if parties have entered into the agreement with a view to one particular person performing the activities, supplier is always entitled, after consultations with client, to replace the worker made available by one or more persons who have the same or similar qualifications.

62.6 Client is entitled to request that the worker made available must be replaced (i) if the worker provided demonstrably fails to meet the quality requirements parties explicitly agreed on in writing and client informs supplier about this, stating reasons, within three working days after the activities have started, or (ii) in the event of the relevant worker's prolonged incapacity to work or if the employee leaves supplier's employment. Supplier complies with such a request as soon as possible and as a matter of priority. Supplier does not guarantee that the employee made available can always be replaced. If the employee cannot be replaced or cannot be replaced promptly, both client's rights with respect to further performance of the agreement and all client's claims arising from non-performance of the agreement lapse. Client's payment obligations with respect to activities already performed continue to apply in full.

Article 63 Duration of the agreement to provide labour force

63.1 Notwithstanding article 4, if parties have not agreed anything on the duration of the worker being made available, the agreement is seen as an agreement for an indefinite period of time, in which case either party must observe a notice period of one calendar month. Parties must terminate this agreement by serving notice of termination (*opzegging*) in writing.

Article 64 Applicable laws and regulations

64.1 Client complies with all laws and regulations applicable to the hiring of the worker/workers provided to client and also ensures that client complies with these laws and regulations. Client also gives supplier every opportunity and does everything possible to enable supplier to comply with their legal obligations regarding the provision of labour and, in the event of changes in the law during the provision of labour, to continue to comply.

Article 65 Overtime pay, rates, costs and travel time

65.1 If, on client's instructions or at client's request, the worker made available works more hours per day than the agreed number of working hours or works on days other than supplier's usual working days, supplier charges these hours to client at the overtime rate agreed on, or, in the absence hereof, at supplier's usual overtime rate. If so requested, supplier informs client about their applicable overtime rates.

65.2 Supplier may charge rates, costs and travel time of the worker made available to client on a monthly basis retroactively in accordance with supplier's applicable rules and standards. If so requested, supplier informs client about supplier's applicable rules and standards.

Article 66 Fiscality and other liability

66.1 Supplier – insofar as due - ensures that amounts payable in terms of payroll tax and social insurance contributions of and for the worker made available are paid. Supplier indemnifies client against claims of the Tax Administration or authorities responsible for implementing social insurance legislation, which supplier is due and payable under the agreement with client to provide labour force, on the condition that client promptly informs supplier, in writing, about the existence and content of such claim and the settlement hereof, including any arrangements to be made in this regard, entirely up to supplier. Client provides supplier with all powers of attorney and the information required and assists supplier in defending themself, if necessary in client's name, against such claims.

66.2 Supplier does not accept any liability for the quality of the results of the activities performed under client's supervision and instructions.

66.3 Client complies with all necessary safety requirements with regard to the space in which and the goods with which the temporary worker works and takes such measures and provides such instructions as are reasonably necessary to prevent the temporary worker from suffering damage while performing the activities for/at client. Client also takes out adequate insurance against liability on the basis of the provisions of this section and provides proof of insurance at supplier's request.

Chapter 12. Training courses

This chapter applies if supplier provides services, under whatever name and in whatever way – for example in electronic form – in the field of education, courses, workshops, trainings, webinars, e-learning, seminars and the like (training courses).

Article 67 Registration and cancellation

67.1 Registration for a training course must take place in writing and is binding following its confirmation by supplier.

67.2 Client is responsible for the choice and suitability of the training course for the participants. A participant's lack of the required prior knowledge does not affect client's obligations under the agreement. Client may replace a training course participant by another participant following supplier's written consent.

67.3 If, in supplier's opinion, the number of registrations gives rise to this, supplier is entitled to cancel the training course, to combine it with one or more training courses or schedule it on a later date or at a later time. Supplier reserves the right to modify the location of the training course. Supplier is entitled to modify the training course in organisational terms and in terms of content.

67.4 If client or a participant cancels participation in a training course, the consequences of the cancellation are governed by supplier's applicable rules. In any case, cancellation must take place in writing and prior to the training course or the part of the training course concerned. Cancellation or non-attendance does not affect client's payment obligations under the agreement.

Article 68 Implementation of training courses

68.1 Client accepts that supplier determines the content and the scope of the training course.

68.2 Client informs the participants about the obligations under the agreement and the rules of conduct and other rules prescribed by supplier for participation in the training course, and client ensures compliance by participants with these obligations and rules.

68.3 If supplier uses their own hardware or software in the training course, supplier does not guarantee that this hardware or software is free of errors and works without any malfunctions. If the training course is at client's premises, client ensures that an appropriate classroom and properly operating hardware and software are available. In the event the facilities at client's premises appear not to meet the requirements and the quality of the training course, therefore, cannot be guaranteed, supplier is entitled not to start or to shorten the training course or to stop it altogether.

68.4 By default, the agreement does not include administering an exam or a test.

68.5 Supplier charges client separately for the documentation, training materials or training resources made available or produced for the training course. This also applies to possible training course certificates or duplicates of training course certificates.

68.6 If the training course takes place as an e-learning training course, the provisions of chapter 6 apply *mutatis mutandis* as much as possible.

Article 69 Price and payment

69.1 Supplier may require that client pays the sums due prior to the start of the training course. Suppler may exclude participants from participating in the training course if client fails to ensure timely payment, without prejudice to any other rights supplier may have.

69.2 If supplier has carried out a preliminary study to make a training course plan or has given training course recommendations, supplier may separately charge client for any costs involved.

69.3 Unless supplier has explicitly indicated that the training course is VAT exempt within the meaning of Article 11 of the Dutch Turnover Tax Act 1968, VAT is payable on client's payment. Supplier is entitled to adjust their prices after parties have entered into the agreement in the event of any changes in the VAT regime for training courses as this applies under or pursuant to the law.

Chapter 13. Hosting, including online platforms

This chapter applies if supplier provides services, under whatever name, in the field of hosting, including IaaS, PaaS or online platforms and hosting-related services.

Article 70 Hosting services

70.1 Supplier performs the hosting services agreed on with client.

70.2 If the agreement's object is to provide infrastructure or storage space, client may not exceed the agreed infrastructure or storage space unless the agreement explicitly arranges for the consequences of doing so. The agreement pertains to providing infrastructure or storage space on hardware specifically reserved for client only insofar as parties have explicitly agreed on this in writing. All use of infrastructure or disk space, data traffic and other use made of systems is restricted to the maximums parties have agreed. Infrastructure, storage space and/or data traffic that client does not use in a given period may not be transferred to a subsequent period. If the agreed maximums are exceeded, supplier may charge client for an additional compensation at their applicable rates.

70.3 Client is responsible for the management, including checks of the settings, and use of the hosting service, and the way in which the results of the service are implemented. If parties have not made any specific arrangements in this regard, client themself is responsible for installing, organising, parameterising and tuning the required software and auxiliary software, converting and uploading any data, making backups, and, where required, adjusting the infrastructure, hardware, other software or auxiliary software and user environment used and keeping these updated and for effecting the interoperability wanted. Supplier is not obliged to perform data conversion.

70.4 Additional services, such as backups, security, redundancy and recovery provisions, are part of the agreement only if parties have explicitly agreed on this in writing.

70.5 Supplier is entitled to temporarily put all or part of the hosting service out of operation for maintenance or adjustment of systems. Where possible, this will take place outside office hours and with reasonable notice to client.

70.6 If, under the agreement, supplier provides services to client in the context of a domain name, such as the application for, renewal, alienation or transfer to a third party of that name, article 49.7 applies *mutatis mutandis*.

Article 71 Procedure for reporting potentially illegal or unlawful content to hosting providers

71.1 In addition to article 21, this article applies to reporting potentially illegal or unlawful content to supplier if they provide hosting services.

71.2 Anyone who believes that illegal or unlawful content is available via supplier's hosting service can report this electronically via supplier's standard channels. A report must in any case contain the following information:

a. sufficiently accurate and reasoned statement of why the reporter believes that the information in question is illegal or unlawful;
b. a clear indication of the exact electronic location of that information, such as an exact URL, and, where necessary, additional information that enables the illegal or unlawful content to be identified;
c. the name and e-mail address of reporter, except in the event of information that can reasonably be assumed to relate to child sexual abuse or related criminal offences;
d. a statement by reporter that the report and the information and allegations contained therein are accurate, true and complete.

71.3 If a report meets the aforementioned requirements, supplier may process the report.

71.4 Even if the report does not meet the aforementioned requirements, supplier may decide to take appropriate measures, including erasing or blocking the information in question, restricting access or visibility, or suspending or terminating their services. Supplier is entitled to inform clients directly involved in the service about any measures imposed.

71.5 Supplier is not liable for any damage resulting from the measures or obligations referred to in this chapter.

Article 72 Complaints procedure for online platforms

72.1 In addition to article 21 and article 71 above, this article applies if the supplier offers an online platform and is not a micro or small enterprise as referred to in the DSA.

72.2 Client or anyone who has submitted a complaint to an online platform may, within six months of becoming aware of a decision by supplier, whether or not as a result of a notification referred to in the previous article or a measure referred to in article 21, submit a complaint via supplier's complaint handling system. Supplier handles the complaint carefully and within a reasonable period of time.

72.3 Supplier is entitled, after giving prior warning, to suspend the handling of reports or complaints from complainants who regularly submit manifestly unfounded reports or complaints for a reasonable period of time.

72.4 After completing the complaints procedure, complainant may appeal to a certified extrajudicial dispute resolution body if they do not agree with the outcome.

Chapter 14. Hardware purchases

This chapter applies if supplier sells hardware, of whatever nature, and/or other goods (corporeal objects) to client.

Article 73 Purchase and sale

73.1 Supplier sells the hardware and/or other goods according to the nature and number agreed on in writing.

73.2 Supplier does not guarantee that the hardware and/or goods are suitable, on delivery, for client's actual and/or intended use unless client has clearly specified the intended purposes, without caveats, in the written agreement.

73.3 By default, supplier's obligation to sell does not include assembly and installation of materials, software, consumer goods and articles, batteries, stamps, ink and ink cartridges, toner articles, cables and accessories.

73.4 Supplier does not guarantee that the assembly, installation and operating instructions that come with the hardware and/or goods are free of errors and that the hardware and/or goods have the features stated in these instructions.

Article 74 Delivery

74.1 Supplier delivers the hardware and/or goods sold to client to client ex warehouse. If parties have agreed on this in writing, supplier delivers the goods sold to client at a location to be designated by client, or has these goods delivered at this location. In this case, supplier informs client, if possible in good

time before the delivery, about the time when supplier or the transporter contracted by supplier intends to deliver the hardware and/or goods.

74.2 Supplier may charge costs of transportation, insurance, hauling and hoisting, the hiring of temporary facilities and the like, if applicable, to client and these costs are included in the purchase price only if parties have explicitly agreed on this.

74.3 When client requests supplier to remove or destroy old materials – such as networks, cabinets, cable ducts, packaging materials, hardware or data on hardware – or if supplier is legally obliged to do so, supplier may accept this request on the basis of a written order. Supplier may charge their applicable rates for these activities insofar as this is permitted by law.

74.4 If parties have entered into a written agreement to arrange this, supplier is responsible for installing, configuring and connecting the hardware and/or goods or for having the hardware and/or goods installed, configured and connected. By default, any obligation of supplier to install and/or configure hardware neither includes data conversion nor software installation. Supplier is not responsible for obtaining any of the licences possibly required.

74.5 Supplier may perform the agreement in partial deliveries.

Article 75 Test setup

75.1 Supplier is obliged to set up a test environment for the hardware client is interested in only if parties have agreed on this in writing. Supplier may attach financial and other conditions to a test setup. A test setup involves making the standard version of the hardware temporarily available on approval, excluding accessories, in a space made available by client, prior to client's final decision on whether or not to purchase the hardware in question. Client is liable for the use of, damage to and theft or loss of the hardware that forms part of a test setup.

Article 76 Requirements to hardware environment

76.1 Client ensures an environment that meets the requirements supplier has specified for the hardware and/or goods, among other things in terms of temperature, humidity and technical requirements.

76.2 Client ensures that activities with respect to environment requirements that third parties perform, such as constructional work, are performed adequately and on time.

Article 77 Guarantees

77.1 Supplier endeavours to repair defects in the material and manufacturing defects in the hardware and/or goods sold, as well as defects in parts delivered by supplier within the scope of the guarantee, within a reasonable period of time and free of charge if client reports these defects – for lack of an agreed period - in detail, to supplier within a period of three months following delivery. If, in supplier's reasonable opinion, the defects cannot be repaired or repair would take too long, or if repair entails disproportionately high costs, supplier is entitled to replace the hardware and/or goods free of charge with other, similar, though not necessarily identical, hardware and/or goods. The guarantee does not include any data conversion that is required because of any repair or replacement. All replaced parts are supplier's property. The guarantee obligation no longer applies when defects in the hardware, goods or parts are in ful or in part caused by incorrect, careless or incompetent use or by external circumstances such as fire or water damage, or when client modifies the hardware or parts delivered by supplier under the guarantee, or has them modified, without supplier's consent. Supplier does not withhold such consent on unreasonable grounds.

77.2 Client cannot file any claims or further claims concerning non-conformity of hardware and/or goods delivered other than those laid down in article 77.1.

77.3 Supplier may charge any costs incurred by activities and repairs performed outside the scope of this guarantee at their applicable rates.

77.4 Supplier does not have any obligation under the purchase agreement with respect to defects and/or other faults reported after the period referred to in article 77.1 ends.

Chapter 15. Leasing hardware

This chapter applies if supplier leases hardware of whatever nature to client.

Article 78 Leasing

78.1 Supplier leases to client the hardware and relevant user documentation specified in the lease agreement.

78.2 The lease neither includes the provision of separate software nor does it include the provision of the consumer goods and articles that are required to use the hardware, such as batteries, ink and ink cartridges, toner articles, cables and accessories.

78.3 The lease starts on the date supplier makes the hardware available to client.

Article 79 Prior inspection

79.1 By way of prior inspection, supplier may draft a report, in client's presence and prior to making the hardware available or when they have made it available, describing the state of the hardware, including any defects observed. Supplier may require that client must sign this report, prior to making the hardware available to client for use, to indicate client's agreement with the text of the report. The defects in the hardware listed in this report are at supplier's account. If any defects are observed, parties arrange whether, and if so, how and when, the defects listed in the report must be repaired.

79.2 If client does not properly cooperate in the prior inspection referred to in article 79.1, supplier is entitled to perform this prior inspection without client being present and to draft the report themself. This report is binding on client.

79.3 If no prior inspection is carried out, client is deemed to have received the hardware in a proper and undamaged state.

Article 80 Use of the hardware

80.1 Client exclusively uses the hardware in accordance with the intended purpose and at the premises agreed for their own organisation or company. Use of the hardware by or for the benefit of third parties is not allowed. The right to use the hardware is non-transferable. Client is not allowed to lease the hardware to a third party or otherwise enable a third party to use the hardware or to make use of it together with client.

80.2 Client themself is responsible for installing and assembling the hardware and making it ready for use.

80.3 Client is not allowed to use the hardware or any part of it as a security or collateral, in whatever way, or to dispose of the hardware or any part of it in another way.

80.4 Client uses and maintains the hardware with due care. Client takes adequate measures to prevent any damage to the hardware. Should there be any damage, client promptly informs supplier about this. For the term of the lease, client is always liable to supplier for damage to the hardware and theft, loss or misappropriation of the hardware. It is client's responsibility to potentially insure this risk.

80.5 Client is neither permitted to modify the hardware, either in full or in part, nor permitted to add anything to it. If client nevertheless makes any modifications or additions, they are obliged to undo or remove these modifications or additions no later than at the end of the lease agreement.

80.6 Parties agree that defects in the modifications or additions made to the hardware by or under client's instructions and all defects in the hardware caused by those modifications or defects are not considered defects within the sense of article 7:204 of the Netherlands Civil Code. Client cannot file a claim against supplier with respect to such defects. Supplier is not obliged to perform repairs or maintenance services with respect to such defects.

80.7 Client is not entitled to compensation for modifications or additions they made to the leased hardware if they do not undo or remove these modifications or additions, for any reason whatsoever, when or after the lease agreement ends.

80.8 Client promptly informs supplier in writing when the hardware is provisionally attached, stating the identity of the attaching party and the reason for the attachment. Client promptly allows the bailiff levying the attachment to inspect the lease agreement.

Article 81 Maintenance of the leased hardware

81.1 Client is not allowed to maintain the leased hardware themself or have the hardware maintained by a third party.

81.2 Client immediately informs supplier in writing about any defects that they observe in the leased hardware. Supplier endeavours, within a reasonable period of time and by means of corrective maintenance, to repair defects in the hardware that are at supplier's account. Supplier may also perform preventive maintenance services on the hardware, but is not obliged to do this. If so requested, client provides supplier with the opportunity to perform corrective and/or preventive maintenance services. Parties discuss, by consultation and in advance, the dates on which and the times at which maintenance services must be performed. Client is not entitled to replacement hardware during periods of time maintenance services are performed.

81.3 Supplier's obligation to repair excludes defects:

a. that client accepted when entering into the lease agreement;
b. that are caused by external circumstances;
c. that can be attributed to client, their staff members and/or third parties contracted by client;
d. that are caused by careless, incorrect or incompetent use or use that is contrary to the use described in the documentation;
e. that are related to the use of parts or consumer articles that supplier has not recommended or authorised;
f. that are caused by the hardware being used in a manner that is contrary to the purpose;
g. that are caused by unauthorised modifications of or additions to the hardware.

81.4 If supplier repairs the defects referred to in the preceding section or has such defects repaired, supplier may charge, at their applicable rates, the costs incurred by the repairs performed.

81.5 Supplier is always entitled to choose not to repair the defects and to replace the hardware with other, similar, though not necessarily identical, hardware.

81.6 Supplier is not obliged to recover data that have been lost other than restoring the last available backup of the relevant data, where possible. If parties have not agreed on data segmentation or other mechanism for data segregation, it may not be possible to restore a client-specific backup.

Article 82 Final inspection and return of hardware

82.1 At the end of the lease agreement, client returns the hardware to supplier in its original state. Client must pay any costs of transportation incurred by the return of the hardware.

82.2 Prior to or no later than on the last working day of the lease's term, client renders their assistance in a joint, final inspection of the hardware's condition. Parties jointly draft a report that includes the findings of this final inspection. Both parties must sign this report. If client does not render assistance in the final inspection, supplier is entitled to perform the inspection without client being present and to draft the report themself. This report is binding on client.

82.3 Supplier is entitled to have the defects listed in the final inspection report and that are – within reason – at client's risk and expense, repaired at client's expense. Client is liable for any loss supplier suffers because the hardware is temporarily out of operation or because supplier cannot lease the hardware to a third party.

82.4 If, at the end of the term of the lease, client has not undone a modification or removed an addition that client implemented in the hardware, parties agree that client is deemed to have waived any and all rights to those modifications and/or additions.

Chapter 16. Maintenance of hardware

This chapter applies if supplier maintains hardware, of whatever nature, for client.

Article 83 Maintenance services

83.1 Supplier performs maintenance services for the hardware specified in the maintenance agreement provided that this hardware is located in the Netherlands. During the maintenance, client is not entitled to replacement hardware.

83.2 The arrangements about the maintenance and the accompanying service levels are laid down in writing. In the absence of a written agreement, supplier endeavours to repair malfunctions, within a reasonable period of time, that client has reported in writing and in an appropriate way. Additionally, supplier may perform preventive maintenance but is not obliged to do so.

83.3 In this chapter, 'malfunction' means non-compliance of the hardware with the hardware specifications that supplier explicitly made known in writing or a failure of the hardware to comply with

these specifications without any malfunctions. Client must be able to demonstrate the malfunction and show this to supplier (reproduce).

83.4 When a malfunction occurs, client immediately informs supplier hereof with a clear description of the malfunction. Client renders the assistance requested by supplier for maintenance services, for example by temporarily stopping the use of the hardware. Client ensures that supplier's staff or persons engaged by supplier get access to the location of the hardware, makes the hardware available for the maintenance services and further renders all assistance required.

83.5 Client ensures that a complete and properly functioning backup is made of all software and data recorded in or on the hardware before client makes the hardware available to supplier for maintenance.

83.6 At supplier's request, an expert employee of client is present during the maintenance services to contribute ideas or answer questions.

83.7 Client may connect hardware and systems which supplier has not delivered to the hardware delivered and install software on that hardware.

83.8 If supplier deems it necessary that for maintenance hardware's connections with other hardware or software are tested, client makes this other hardware and software, test procedures and data carriers available to supplier.

83.9 Client must deliver testing material required for maintenance that is not included in supplier's normal range of hardware.

83.10 Client is responsible for loss or theft of, or damage to, the hardware during the time that supplier has the hardware in their possession. It is up to client to potentially take out insurance against this risk.

Article 84 Maintenance fees

84.1 The maintenance fee includes the following costs only if this has been explicitly agreed on:

a. costs of consumer articles, or of replacing these articles, such as batteries, stamps, ink and ink cartridges, toner articles, cables and accessories;
b. costs of parts, or of replacing these parts, and of maintenance to repair malfunctions that were caused or partly caused by attempts at repair by parties other than supplier;
c. activities performed for overhaul of the hardware;
d. adjustments to the hardware;
e. moving, relocating or reinstalling hardware, or costs for transportation where hardware is to be repaired or any other activities arising from this.

84.2 Supplier may charge client a maintenance fee, even if client has not put the hardware to use or to use yet and does not use the maintenance option.

Article 85 Exclusions

85.1 Activities to investigate or repair malfunctions that arise by operating errors, incorrect use of the hardware or external circumstances such as issues with internet services, networks, power supplies or connections to hardware, software or materials that are not covered by the maintenance agreement, do not fall within the scope of supplier's obligations under the maintenance agreement.

85.2 Supplier's obligations with respect to maintenance obligations do not cover - unless otherwise agreed on – the investigation or repair of malfunctions that are related to:

a. a modification of the hardware that is not implemented by or on supplier's behalf;
b. the use of the hardware in breach of the arrangements and the failure to have the maintenance performed on time;
c. software installed on the hardware.

85.3 Supplier may charge the costs in connection with maintenance services and/or investigations as referred to articles 85.1 and/or 85.2, at their applicable rates.

85.4 Supplier is not obliged to recover corrupted or lost data other than restoring the most recent backup of the relevant data, where possible. If parties have not agreed on data segmentation or other mechanism for data segregation, it may not be possible to restore a client-specific backup.

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