

# GENERAL TERMS AND CONDITIONS HJ MEDIA GROEP B.V. dated 26 July 2022

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## INTRODUCTION

These general terms and conditions comprise two parts:

- the General Section (Articles 1 to 21);
- the Specific Section (Articles 22 et seq).

The Specific Section includes parts of the ICT Waarborg General Terms and Conditions - B2B. The provisions in the Specific Section of these general terms and conditions apply in addition to H.J. Media Groep B.V.'s own provisions, as laid down in the General Section of these general terms and conditions.

Various priority provisions have been included, which together have the following order of precedence:

1. Agreement;
2. The Specific Section of these general terms and conditions (Articles 22 et seq.), comprising:

Module A: General;

Module B: Development of web and other applications;

Module C: Hosting / SaaS

Module H: Maintenance and Support

If Module B, C or H applies, it will take precedence over Module A. If Module A does not conflict with the applicable provisions from Module B, C or H, Module A will also apply.

3. The General Section of these general terms and conditions (Articles 1 to 21).

## THE GENERAL SECTION OF THESE GENERAL TERMS AND CONDITIONS

### Article 1 - General

1.1 Unless expressly agreed otherwise in writing, these terms and conditions will apply to all legal and other relationships between HJ Media Groep B.V. (hereinafter: "HJMG") and the Client. Deviations must be expressly agreed In Writing.

1.2 In these terms and conditions, "Client" is taken to mean any legal or natural person who concludes or wishes to conclude an agreement with HJMG. "Agreement" is also taken to mean any legal or other act in preparation or implementation of the Agreement.

"Products" includes all services, work and related matters that are the subject of an Agreement. "In Writing" is also understood to include e-mail and communication by fax, provided that the identity of the sender and the integrity of the message have been sufficiently established.

1.3 The applicability of the Client's general terms and conditions is explicitly excluded.

1.4 In the event of any conflict between these terms and conditions and the Agreement, the provisions of the Agreement will prevail.

1.5 The Dutch text of these terms and conditions is always decisive and will prevail over any translations thereof in the event of a dispute.

### Article 2 - Offers and Agreements

2.1 All offers made by HJMG are without obligation. Furthermore, all offers are revocable, regardless of whether they contain a term for acceptance.

2.2 Information and communications from HJMG are made under reservation of typing and calculation errors.

2.3 Design costs incurred will not be charged if the Client enters into an Agreement with HJMG to which the design relates. In all other cases, the Client may be charged for these costs.

2.4 All additions, undertakings or changes agreed to orally are only binding if they have been agreed to by persons authorised to do so by HJMG.

2.5 Models, illustrations and drawings shown or provided are only indicative, and the Products do not necessarily have to correspond to them. Minor deviations with regard to specified dimensions, weights, numbers, colours and the like, are not deemed shortcomings. Commercial practice is the determining factor regarding minor deviations, which will be based on a random representative sample. For paper, deviations in the gram weight per square metre upwards and downwards are permissible within the limits stated in the Agreement.

2.6 HJMG is at all times entitled, before performance or further performance, to require security from the Client to ensure that both payment and other obligations will be met. Security will be provided in the manner determined by HJMG.

2.7 If the Client has not provided security in the manner determined by HJMG within 14 days after a request to that effect, all claims that HJMG has against the Client will become due and payable in their entirety and immediately, without prior notice of default being required.

2.8 HJMG will be entitled to have the Agreement executed by third parties if, in HJMG's opinion, this enhances the efficient execution of the Agreement.

2.9 The stipulations in the Agreement and in these general terms and conditions will also apply to all legal or natural persons engaged and/or involved by HJMG within the framework of the Agreement (including HJMG's employees, or all persons for whose acts or omissions HJMG may be liable).

### Article 3 - Delivery/supply and transport

3.1 HJMG will observe the delivery/supply term as far as possible. The delivery/supply term given by HJMG is not a deadline. The mere expiry of the deadline will not constitute default. HJMG will only be in default after it has received a notice of default In Writing. Exceeding the delivery/supply term will not mean that the Client is entitled to compensation.

3.2 If no delivery/supply term was expressly agreed, a reasonable delivery/supply term will apply, counting from the date of conclusion of the Agreement.

3.3 HJMG is always entitled to deliver/supply in separate parts and to invoice these parts separately.

3.4 Delivery/supply will take place ex works / ex factory in accordance with the definitions stipulated the latest version of the Incoterms. In the event of any conflict between these terms and conditions and the Incoterms, the terms and conditions will prevail.

3.5 HJMG will have fulfilled its obligation to deliver/supply by making the Products available to the Client at the agreed time in its warehouse, or the warehouse of a third party engaged by HJMG. The delivery document and/or accompanying annexes signed by or on behalf of the Client will constitute full proof of the delivery by HJMG of the Products specified in the delivery document and/or accompanying annexes. The acceptance of HJMG's Products by the transporter will serve as proof that they were visually in good condition, unless the contrary is evident from the waybill or delivery receipt

3.6 Digital delivery is made to an e-mail address provided by the Client, or – always at Client's risk – by uploading to an external server or by making such available on HJMG's server or the server of HJMG's agent.

3.7 If the Client does not take delivery of the Products to be delivered or does not take delivery on time and/or adequately, the Client will be in default without any notice of default being required and HJMG will, in any event, be entitled to invoice the agreed price. HJMG will then also be entitled, without prejudice to its other powers under the law, to store the Products to be delivered at the expense and risk of the Client; all costs arising from this, including increases in rights, levies, premiums and the like will be at the expense of the Client.

3.8 If a situation as described in article 3.7 arises and the Client still does not take delivery, or does not take delivery in time and/or properly, despite

having been given a reasonable period of time by HJMG to do so, HJMG will be released from all its obligations.

3.9 If transport of the Products has been agreed upon, including transmission of data by technical means, the transport costs will be at the Client's expense. Transport costs will in any event include export and import duties, clearance charges, taxes and other government levies.

3.10 Unless otherwise agreed In Writing, the Products will always be transported at the Client's risk, with the Client being obliged to take out transport insurance at its own expense.

#### Article 4 - Prices

4.1 All prices are exclusive of VAT, costs of transport and/or dispatch, other costs to be incurred in connection with the delivery, as well as any government levies and/or taxes.

4.2 HJMG is entitled to change its prices at any time on the understanding that prices already agreed upon may only be changed if one or more of the following circumstances occurs:

- (a) the cost-determining factors on which the prices are based have changed since the Agreement was concluded and before delivery.
- (b) the price is based on data provided by the Client and these data prove to be incorrect, inaccurate or incomplete.
- (c) a manifest typing error or calculation error has been made.
- (d) a text requiring much editing, unclear copy, sketches, drawings or models, unsound data carriers, unsound computer software or data files have been provided, or the Client submits unsound materials, electronic or other data or products, which require HJMG to carry out more work or incur more costs than could reasonably have been estimated when the Agreement was concluded.
- (e) HJMG encounters exceptional or reasonably unforeseeable processing difficulties due to the nature of the materials, electronic or other data or products to be processed.
- (f) the Client makes changes to the agreed specifications, including author's corrections and changed instructions after receipt of working drawings, models and/or typesetting, printing and other proofs.

#### Article 5 - Typesetting, printing and other proofs

5.1 The Client is obliged to carefully examine the typesetting, printing or other proofs received from HJMG, whether or not at its request, for errors and defects, and to promptly return them to HJMG corrected or approved.

5.2 If the Client approves the proof, this will constitute acknowledgement that HJMG has correctly performed the work and services preceding the proof.

5.3 HJMG will not be liable for any deviations, errors and defects that have gone unnoticed in a proof approved or corrected by the Client.

5.4 Each proof produced at the request of the Client will be charged in addition to the agreed price, unless it is expressly agreed that the cost of the proof in question is included in the price.

#### Article 6 - Continuing performance agreements; periodic publications

6.1 Unless expressly agreed otherwise In Writing, an Agreement to produce a periodic publication is valid for an indefinite period of time and may only be terminated by giving notice, with due observance of a notice period. This notice period is one year if it concerns a periodic publication that appears four times a year or more, and six months if it concerns a periodic publication that appears less frequently. "Production" also includes the production of semi-finished products or auxiliary resource materials, such as separate quires, litho and typesetting work, as well as work on completing and distributing the publication.

6.2 A periodic publication as referred to in paragraph 1 of this Article means a publication that appears at least twice per calendar year.

#### Article 7 - Continuing performance agreements; other work/services other than periodic publications

7.1 The following terms and conditions apply with regard to continuing performance agreements other than those provided for in Article 6 of these terms and conditions, without prejudice to the other provisions of these general terms and conditions:

- the content of each Agreement is included in the Agreement itself.
- every Agreement is entered into for a period of one year.
- the Agreement will each time be renewed for a period of one year, subject to notice of termination In Writing with a notice period of at least one month.
- payments must be made monthly in advance by means of a direct debit.

#### Article 8 - Return consignment, complaints and warranty

8.1 Without its prior consent In Writing, HJMG will not be obliged to accept any return consignment from the Client. If a return consignment

takes place without HJMG's prior consent In Writing, both the return consignment and the storage thereof after receipt will be at the risk and expense of the Client.

8.2 The risk attached to the Products returned will remain with the Client until HJMG has accepted the return consignment and the Products returned In Writing, to which acceptance HJMG may attach conditions.

8.3 The Client is responsible for carrying out or having a conformity check carried out on delivery of the Products. Complaints must be made In Writing within 14 days of receipt of the Products delivered, stating reasons, and accompanied by supporting documents if possible. Failing this, the quantity and quality will be deemed to have been accepted by the Client and the Client will no longer be able to invoke a defect in the performance, including no-performance at all.

8.4 Complaints concerning Products that have been used, adapted or processed in any way and/or supplied to third parties after delivery will not be accepted.

8.5 Complaints will not cause the Client's payment obligation to be suspended.

8.6 If a complaint has been made in time and in accordance with these terms and conditions and it has been demonstrated to HJMG's satisfaction that the Products are not suitable for the use for which they are intended, HJMG will then, at its discretion, either deliver what is missing so that the Products are indeed suitable for the intended use, or replace the unsound Products free of charge or to grant a discount on the price. By fulfilling one of the performances referred to above, HJMG will be fully discharged of its warranty obligation and will not be obliged to pay any further compensation. Replaced goods become the property of HJMG.

8.7 If a complaint has been made in time and in accordance with these terms and conditions and the claim is rejected by HJMG, the Client must, on pain of forfeiture of all its rights and powers, commence proceedings against HJMG within 3 months of this rejection in accordance with Article 19 of these terms and conditions.

#### Article 9 - Liability

9.1 HJMG will only be liable for direct damage resulting from intent or deliberate recklessness on the part of HJMG and/or its executive subordinates who are part of its board or management in the performance of the obligations arising from the Agreement concluded between HJMG and the Client.

9.2 "Direct damage" is understood to mean damage incurred in order to rectify the breach of contract. Direct damage is limited to:

- damage caused to tangible property, also referred to as material property damage;
- costs incurred by the Client in order to prompt HJMG to properly comply with the Agreement;
- costs incurred by the Client to limit, prevent or remedy direct damage;
- costs incurred by the Client to have the performance comply with the Agreement;
- costs incurred in establishing the cause and extent of the damage, insofar as this concerns direct damage as referred to in this provision;
- costs incurred in order to remedy or limit a data breach (as referred to in the GDPR).

9.3 HJMG will never be liable for:

1. indirect damage of any kind whatsoever, including consequential loss;
2. and/or intangible loss which the Client or a third party incurs because HJMG, or a person for whom HJMG is liable by law, fails in the performance of the Agreement.

9.4 HJMG is also not liable for:

1. damage caused by acts or omissions on the part of the Client and/or third parties contrary to instructions given by HJMG, the Agreement and/or these terms and conditions;
2. damage as a result of inaccurate, incomplete and/or unsound information provided to HJMG by or on behalf of the Client;
3. damage resulting from or related to cybercrime committed against HJMG or cybercrime of which HJMG has become the victim, including damage as a result of computer intrusion and computer viruses;
4. damage to materials, electronic or other data or products received from the Client, which are to be adapted or processed, if the Client failed to inform HJMG of the properties and nature of these materials, electronic or other data and products prior to the conclusion of the Agreement;
5. defects in third-party products and services, including software and applications.

9.5 The Client will in any event be liable for damage, of whatever nature and in whatever form, that arises after the Products delivered by HJMG have been put into use, have been adapted and/or processed and/or have been delivered to third parties.

9.6 HJMG's liability per event, in which regard a series of related events is

considered a single event, will at all times be limited to the amount paid out under HJMG's professional liability insurance in the relevant case. If for any reason the insurer does not pay out, HJMG's liability per event, in which regard a series of related events is considered a single event, will be limited to the net invoice value of that part of the Agreement to which the liability relates, with an absolute maximum of EUR 10,000 (in words: ten thousand euros). If it concerns an Agreement with a term of more than one (1) year, the net invoice value may never exceed the value stipulated for one (1) year.

9.7 The Client will indemnify HJMG against and compensate HJMG for all third-party claims, of whatever nature, in respect of compensation of damage, costs, interest and/or losses arising from Products supplied by HJMG. If HJMG is nevertheless held liable, the provisions of the previous paragraphs will remain in full force and effect. In that case, HJMG will be entitled to a right of recourse against the Client with regard to the amount paid by it in compensation and costs.

9.8 The provisions of this Article also apply with regard to all legal and natural persons whose services HJMG uses for the performance of the Agreement.

9.9 Unless the Client previously initiated proceedings in accordance with the provisions of Article 19 of these terms and conditions, any legal claim for damages will lapse six (6) months after receipt of the Products delivered, or three (3) months after HJMG has rejected the claim in accordance with Article 8.7 of these terms and conditions, whichever is earlier.

#### Article 10 - Force majeure (non-attributable failure to perform)

10.1 In the event that HJMG is prevented from performing the Agreement due to force majeure, or performance is made more expensive due to force majeure, HJMG will be entitled to suspend the Agreement for the duration of the force majeure situation, or to dissolve the Agreement in part or in full, without being obliged to pay any compensation.

10.2 "Force majeure" is taken to mean any circumstance, both foreseen and unforeseen, as a result of which the Client can no longer reasonably require performance of the Agreement. Such circumstances are in any event understood to include disruption of the Internet or other telecommunications facilities, strikes, excessive absenteeism of staff, disruptions in production, transport difficulties, fire and other operational disturbances, stagnation, restriction or termination of supply by public utility companies, lack of gas, petroleum products or other means for generating energy, import and export and transit bans, late or faulty supply by HJMG's suppliers and other events beyond HJMG's control such as floods, storms, natural and/or nuclear disasters, sabotage, mobilisation, war and/or threat of war, quarantines, epidemics and pandemics but also changing legislation or government measures, including, but not limited to, government measures in the context of COVID-19 or other viruses. In addition, HJMG will always be able to invoke force majeure in the case of unsuitability of goods and/or persons whose services it uses for the performance of the Agreement.

10.3 If HJMG suspends performance of the Agreement in accordance with the provisions of paragraph 1 of this Article, the Client will be obliged, at HJMG's request, to extend any Letter(s) of Credit or security required under Article 2.6 of these terms and conditions until the new delivery date.

10.4 In the event that upon occurrence of the situation of force majeure HJMG has already performed all or part of its obligations or can perform only part of its obligations, HJMG may invoice the part performed or the part it will be able to perform separately and the Client is obliged to pay such invoice as if it related to a separate Agreement.

#### Article 11 - Payment

11.1 Unless agreed otherwise In Writing, payment will be made within 14 days after the date of the invoice, without discount, set-off and/or self-garnishment and in the currency and manner specified by HJMG.

11.2 If payment is not made in full within the term specified, the Client will be in default by operation of law and will owe interest of 10% per annum on the outstanding amount. If the statutory commercial interest is more than 10%, the Client will owe the statutory commercial interest.

11.3 Judicial and extrajudicial costs will be borne by the Client. The extrajudicial costs amount to 15% of the invoiced amount, with a minimum of EUR 125.

11.4 Complaints regarding the invoicing may only be submitted within the payment term, without prejudice to the provisions of Article 8.3. Complaints must be submitted In Writing. Complaints do not cause the Client's payment obligation to be suspended.

11.5 A payment made will first be deducted from any judicial costs, extrajudicial collection costs and interest owed and will then be deducted from the longest outstanding principal amounts, regardless of any

instructions to the contrary from the Client.

11.6 HJMG is entitled to set off all claims in respect of the Client against any debt that HJMG may owe to the Client or to legal or natural persons affiliated with the Client.

#### Article 12 - Suspension and dissolution

12.1

1. In the event that any payable amount is not paid, not paid in full, or is paid late, or if any other obligation under an Agreement or these general terms and conditions is not performed, not performed in full, or performed late, or if there are good grounds for fearing that this will occur,
2. in the event that a suspension of payments is granted or applied for, or if a bankruptcy application is filed or granted, in case of placement under guardianship, death,
3. in case of attachment of a considerable part of the Client's assets or any other situation in which the Client must reasonably be considered no longer to be able to perform the Agreement,
4. in the event of full or partial takeover, direct or indirect change of control or any other similar situation at the Client's,
5. in the event of shutdown, discontinuation or liquidation of Client's business,

HJMG is entitled, without notice of default or judicial intervention being required, to suspend the performance of the Agreement or to dissolve the Agreement in full or in part and to reclaim as its property any Products delivered and not yet paid for in full, after settlement of any payments already made, without prejudice to its right to compensation. If one of the situations mentioned in the previous sentence occurs, all of HJMG's claims against the Client will be immediately due and payable in full, without requiring a prior notice of default.

12.2 If HJMG suspends performance of the Agreement in accordance with the provisions of paragraph 1 of this Article, the Client will be obliged, at HJMG's request, to extend any Letter(s) of Credit or security required under Article 2.6 of these terms and conditions until the new delivery date.

#### Article 13 - Retention of title

13.1 HJMG will remain the owner of all goods sold by it until the Client has paid the consideration for the goods delivered or to be delivered by HJMG under the Agreement or for the work/services also performed or to be performed for the Client under such Agreement, and until the claims for failure to perform such Agreement have been settled.

13.2 The Client may not pledge the goods in whole or in part to third parties or transfer the ownership of such goods other than in accordance with its normal business operations or the normal use of the goods until payment has been made in full.

13.3 The Client will exercise due care when storing the goods delivered subject to retention of title and will ensure that these goods are recognisable as the property of HJMG.

13.4 If the Client fails to comply with its obligations under paragraph 1, HJMG will be entitled to repossess the goods, which are their property, or have them repossessed from where they are stored, at the expense of the Client. The Client hereby irrevocably grants HJMG permission to enter the premises used by or on behalf the Client for that purpose.

13.5 The Client is not permitted to invoke a right of retention with regard to the costs incurred for storage under Article 13.3 or to set off these costs against the performance to be rendered by it.

13.6 If the Client creates a new product from or with the goods delivered to him by HJMG, this will be HJMG's own creation and the Client will store it for HJMG, while HJMG remains the owner until all obligations referred to in paragraph 1 of this article have been performed.

13.7 If delivery takes place abroad, then – in addition to the retention of title under Dutch law as referred to in paragraph 1 – a retention of title will apply in accordance with the legal system applicable in that country if and as soon as the Products are in the territory of the country concerned. In all other respects, the Agreement will be governed exclusively by Dutch law.

#### Article 14 - Intellectual Property

14.1 The Client guarantees that it is the rightful owner with regard to all goods received in the context of the Agreement from or on behalf of the Client in whatever form, such as copy, type, models, drawings, photographs, images, lithographs, films, videos, data carriers, software, data, source codes, object codes, samples, designs, sketches, processes, procedures, reports, articles, correspondence, documents, etc., and the intellectual property and other rights of third parties have not been infringed. The Client will indemnify and hold HJMG harmless against all third-party claims in this respect. Should HJMG nevertheless be called to account, it will have a right of recourse against the Client for the full

amount of compensation and costs paid by it.

14.2 HJMG is entitled to suspend performance of the Agreement as long as it has not been established unequivocally and In Writing that the Client is the rightful owner

14.3 Unless expressly agreed otherwise In Writing, HJMG will always be the holder of the intellectual property rights to the Products manufactured by it in performance of the Agreement.

14.4 Goods delivered by HJMG, such as copy, type, design drawings, models, working and detail drawings, data carriers, software, websites, data files, equipment, photographic recordings, lithographs, films and similar production and auxiliary resources, as well as a part of the essential design, may only be reproduced within the framework of any production process with HJMG's consent In Writing, even if and in so far as there is no copyright on the design concerned or any other form of legal protection for HJMG.

14.5 Following delivery by HJMG, the Client will acquire the non-exclusive, non-transferable right to use the Products delivered by HJMG in the context of the Agreement, subject to the condition precedent that the Client has fully complied with its financial obligations under the Agreement. This right of use is limited to the right of normal use of the delivered Products in the context the Client's business operations and the Client will not otherwise reproduce or disclose these Products without the prior consent of HJMG In Writing.

14.6 The right granted to the Client on the basis of this Article does not affect the HJMG's right or opportunity to use and/or exploit the components, general principles, ideas, designs, algorithms, documentation, programming languages, protocols, standards, know-how and the like underlying that development, without any restrictions for other purposes. Nor does it affect HJMG's right to execute developments that are similar to and/or derived from those made or to be made on behalf of the Principal.

14.7 Even if the Agreement does not expressly provide for this, HJMG will at all times be permitted to make technical provisions for the protection of equipment, data files, websites, software made available and software to which the Client is granted access.

#### Article 15 - **Contract variations**

15.1 Amendments to the Agreement will in any event result in contract variations if there is a change in the design or in the specifications, which is also understood to include delay or overrun that can be attributed to the Client.

15.2 Contract variations are agreed In Writing and in advance, except in case of urgent circumstances.

15.3 The absence of an order In Writing will not affect the claims of HJMG and the Client to set off contract variations, in which regard the burden of proof will rest on the person making the claim.

15.4 Contract extras will be calculated on the basis of the value of the price-determining factors applicable at the time the contract extras are carried out. Contract reductions will be settled on the basis of the value of the price-determining factors applicable at the time the Agreement was concluded.

#### Article 16 - **Obligations of the Client with regard to materials delivered**

16.1 If the Client has agreed with HJMG that the Client will supply material, electronic or other data or products, the Client must follow HJMG's instructions regarding the quantity, dates and method of supply.

16.2 The Client bears the risk of any misunderstanding regarding the content and performance of the Agreement if such misunderstanding arises from specifications or other communications not received by HJMG in full, not received correctly or in good time.

16.3 HJMG is not obliged to check the goods received from the Client for suitability prior to processing.

16.4 HJMG is not liable for processing difficulties that HJMG was not reasonably able to foresee, resulting from materials, electronic or other data or products supplied by the Client or resulting from deviations between the sample or example initially shown to HJMG and the materials, electronic or other data or products supplied later by the Client and/or by the Client's failure to provide proper information about the pre-treatment and/or surface treatment applied.

16.5 HJMG will store the goods supplied by the Client with due care. During storage, the Client will bear the risks with regard to these goods. The Client itself must take out insurance with regard to these risks.

16.6 The Client must ensure that duplicates are made of copy, drawings, designs, photographic recordings or data carriers prior to their submission to HJMG. The Client must retain these in case the delivered goods are lost or become unusable due to damage during storage by HJMG.

16.7 The Client will grant HJMG a right of pledge with regard to goods put at the disposal of HJMG by the Client within the context of the Agreement,

as well as with regard to all other goods that are the property of the Client and are put at the disposal of HJMG by the Client, and with regard to goods delivered in respect of which HJMG cannot invoke its retention of title due to the delivered goods have been mixed, reshaped or have become subject to accession; the above will serve as additional security for all that the Client may owe to HJMG in whatever capacity and by any virtue, including conditional debts that are not yet payable.

#### Clause 17 - **Confidentiality and Security**

17.1 The parties are obliged to observe confidentiality in respect of third parties that are not involved in the performance of the Agreement. This confidentiality concerns all information of a confidential nature that they have made available to each other, as well as the results from processing it. The parties will also impose this obligation on their employees and third parties engaged by them in the performance of the Agreement.

17.2 This confidentiality does not apply in so far as laws and/or regulations impose an obligation on HJMG to provide information or insofar as the Client has released HJMG from the confidentiality obligation. This provision also does not impede confidential consultations between colleagues within HJMG's organisation, in so far as HJMG deems this necessary for a careful performance of the Agreement or for careful compliance with legal obligations. In addition, HJMG is permitted to use information of a confidential nature if HJMG acts on its own behalf in civil or criminal proceedings in which such information may be of importance.

17.3 If and insofar as HJMG is bound under the Agreement to provide a form of information security, such security will correspond to the security specifications expressly agreed between the parties In Writing. HJMG does not guarantee that the information security is effective under all circumstances. If a security measure explicitly stated in the Agreement is missing, the security will have to meet a level that can reasonably be expected of HJMG in view of the prior art, the sensitivity of the data and the costs related to taking security measures.

17.4 The access or identification codes and certificates provided to the Client by or on behalf of HJMG are confidential and must be treated as such by the Client and will only be made known to authorised staff members from the Client's own organisation. HJMG is entitled to change assigned access or identification codes and certificates.

17.5 The Client will secure its systems and infrastructure adequately, update them in a timely manner and have anti-virus software in operation at all times.

#### Article 18 - **Processing of personal data**

18.1 If HJMG processes personal data (as referred to in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data (the 'GDPR')), or has such data processed, then HJMG will comply with the applicable laws and regulations, including but not limited to the GDPR, with regard to the processing of these data. In that case, HJMG will be regarded as a processor as referred to in the GDPR and will as such fulfil its obligations arising from the GDPR. In that case, HJMG and the Client will enter into a processing agreement within the meaning of the GDPR, in which the arrangements between the parties will be laid down.

18.2 With regard to the processing of the personal data as referred to in paragraph 1 of this Article, the Client is obliged to comply with the applicable laws and regulations, including but not limited to the GDPR. In that case, the Client will be regarded as a controller and/or processor as referred to in the GDPR. The Client is fully responsible and accountable for the performance of its obligations under the aforementioned laws and regulations, including but not limited to the GDPR, in its capacity as controller and/or processor.

18.3 If the personal data referred to in paragraph 1 of this Article are processed, the Client will ensure that the processing of personal data is not unlawful and does not infringe the rights of the parties involved. The Client will indemnify HJMG against any claims from data subjects or third parties as a result of the Client's failure to comply with the applicable laws and regulations, including but not limited to the GDPR. HJMG will be liable for the damage caused by the processing of personal data only where it has not complied with obligations of the GDPR specifically directed to HJMG as a processor or where it has acted outside or contrary to the lawful instructions of the Client.

#### Article 19 - **Applicable law and competent court**

All agreements as well as these terms and conditions are exclusively governed by Dutch law. With regard to all disputes with HJMG that may arise, the District Court of Rotterdam will have jurisdiction, unless mandatory law prescribes otherwise.



## Article 20 - Conversion

If and insofar as any provision of these general terms and conditions cannot be relied upon, that provision shall be accorded a meaning corresponding as closely as possible to its content and purport, so that it can be relied upon.

## Article 21 - Amendment of the general terms and conditions

21.1 If the Agreement is a continuing performance agreement, HJMG reserves the right to change or supplement these general terms and conditions.

21.2 Changes also apply to Agreements already entered into subject to a period of 30 days after the change has been published on HJMG's website or announced by electronic message. Changes that are of minor importance may be made by HJMG at any time.

## THE SPECIFIC SECTION OF THESE GENERAL TERMS AND CONDITIONS

### Article 22 - Order of Precedence

Articles 22 et seq. apply in addition to Articles 1 through 21. If and insofar as Articles 22 et seq. deviate from Articles 1 through 21, the provisions of Article 22 et seq. will prevail. The order of precedence is therefore as follows:

1. Agreement;
2. The Specific Section of these general terms and conditions (Articles 22 et seq.);
3. The General Section of these general terms and conditions (Articles 1 through 21).

### Article 23 - Definitions

For the purposes of the Specific Part of these General Terms and Conditions:

**Acceptance test:** is a delineated compulsory test performed by the Client in order to round off the Project.

**Service:** the service to be supplied by HJMG, including the development and/or maintenance of software, applications, etc. The Agreement specifies which Services are involved and this Specific Part sets more detailed rules for specific Services.

**Defect:** failure to satisfy the Specifications.

**User:** the user or end user who uses the Service/Project provided by HJMG on the Client's behalf.

**Hardware:** equipment supplied by HJMG to the Client.

**Materials:** for example, applications (web or other), software, advice or reports.

**Employee:** an employee, freelancer or self-employed worker without employees or an agent hired from a third party by HJMG who are deployed by HJMG for the benefit of the Client or who perform activities for the Client.

**Module:** a module of these General Terms and Conditions containing provisions relating to a specific area of activity.

**Project:** the work carried out by HJMG on behalf of the Client, as described in the quotation and/or Agreement.

**Project Management System:** electronic system that can be used for the management of the Project and for communication between HJMG and the Client about the implementation of the Agreement.

**Results:** the results of the activities carried out by HJMG under the Agreement.

**Specifications:** the functional and technical description of the Project.

### Article 24 - ICTWaarborg modules

24.1 The following parts of the ICTWaarborg B2B modules apply to the Agreement, depending on the specific area of activity:

Module A: General;

Module B: Development of web and other applications;

Module C: Hosting / SaaS

Module H: Maintenance and Support

24.2 If Module B, C or H applies, it will take precedence over Module A. If Module A does not conflict with the applicable provisions from Module B, C or H, Module A will also apply.

### Article 25 - Module A / General

#### Article A.2. Implementation of the Project & provision of information

A.2.1 Following conclusion of the Agreement, the Client will carry out the Project as soon as possible, in accordance with the offer, taking into account any reasonable wishes of HJMG. HJMG will endeavour to carry out the Project to the best of its ability, exercising due care

and professionalism. The Client is obliged to enable the Project to be implemented correctly and in a timely manner. In particular, the Client shall ensure that all information, which HJMG has stated to be required or with regard to which the Client can reasonably understand that it is required for the implementation of the Project, is made available to HJMG in time. The necessary commitment on the part of the Client should be of adequate quality and timely. This applies both to the support provided by the contact persons and to the planned deployment of Project staff on the Project activities.

A.2.2 If the Client fails to do the above, HJMG is entitled to charge extra costs and it is possible that the Project will overrun. Any delay to the Project caused by the Client is reported via the Project Management System or, if no Project Management System is being used for the Project, by email, or, in the absence of functioning email correspondence, by another means in Writing. If this situation arises, HJMG will inform the Client of any extra costs to be charged.

#### Article A.3. Duration, termination and dissolution

A.3.1 If the Agreement concerns the development of particular Materials, the Agreement will be deemed to have been concluded for the period specified therein. If no term is specified in the Agreement, the Agreement will be deemed to have been terminated when the services stipulated therein have been provided by both parties.

A.3.2 If the Agreement is a continuing performance agreement, the Agreement will be deemed to have been concluded for a minimum period of twelve (12) months, unless agreed otherwise In Writing. If the Agreement is not terminated In Writing subject to a notice period of three (3) months, it will be renewed automatically each time for the same period, unless agreed otherwise In Writing.

A.3.3 Unless agreed otherwise In Writing or stipulated otherwise in these General Terms and Conditions, the Client can terminate the Agreement prematurely by making a buyout payment. The amount of the buyout payment will be equal to the remaining fees that would have been owed if the Agreement had not been terminated prematurely. HJMG will be able to claim the buyout payment from the Client immediately.

#### Article A.4. Procedure upon termination of the Agreement

A.4.1 Upon termination of the Agreement, the parties are mutually obliged to immediately return any property in their possession which the other party owns or is entitled to. Certain goods, such as data (and data carriers) may be erased or destroyed instead of being returned, if the entitled party has given consent to this in Writing. A.4.2 All data provided or entered by HJMG remains its property at all times. The Client only receives a non-exclusive, transferable licence which is necessary to implement the Agreement.

#### Article A.6. Terms of payment

A.6.1 HJMG will send the Client an invoice for the amount payable by the Client. If the Project is delivered in phases, HJMG is entitled to invoice at the completion of each phase, monthly or based on hours worked (at HJMG's discretion).

#### Article A.10. Intellectual property rights

A.10.1 HJMG or its licensors hold all intellectual property rights to all of the Materials developed or made available within the context of the Project.

A.10.2 The Client will acquire the exclusive user rights and powers explicitly assigned in Writing under these General Terms and Conditions, the Agreement or otherwise, and in all other respects the Client will not reproduce or publish the software, Services or other Materials.

A.10.3 The Client is not permitted to remove or modify any markings relating to copyrights, trademarks, trade names or other intellectual property rights from the Materials, including markings relating to the confidential nature and secrecy of the Materials.

A.10.4 HJMG is permitted to take technical measures to protect the Materials, for example with passwords or encryption. If HJMG has used technical measures to protect the Materials, the Client is not permitted to remove or circumvent the relevant protection.

A.10.5 Any use, reproduction, or publication of the Materials falling outside the scope of the Agreement or the rights of use granted will infringe the intellectual property of HJMG or its licensors.

A.10.6 The Client will pay HJMG a penalty of EUR 5,000 due and payable immediately for each act of infringement and EUR 25,000 for each deliberate act of infringement, without prejudice to HJMG's right to receive compensation for the damage/losses it incurs as a result of the infringement or to allow other legal action to be taken for the purpose of terminating the infringement and/or recovering the damage/losses. After the elapse of one working day after HJMG has informed the Client of an

infringement, a penalty of EUR 5,000 will also be payable by the Client for each day that the infringement has not been brought to an end.

#### **Article A.11. Processing personal details**

A.11.1 If, in performing the Services, HJMG is to process personal data, under the General Data Protection Regulation ("GDPR"), HJMG and the Client are required to assume obligations in respect of the data processed by HJMG for the purpose of safeguarding the technical and organisational protection measures pertaining to the data to be processed. In the absence of a separately agreed, detailed 'data processing agreement' the provisions set out in this article apply as obligations within the meaning of the GDPR.

A.11.2 For duration of the Agreement, HJMG solely processes the personal data under the supervision of Client and solely for the purpose of making available its Services. Client shall be regarded as the controller, and HJMG as the processor.

A.11.3 The personal data, of the data subjects, that can be processed by HJMG in this regard, are further specified within the Agreement. A.11.4 In case, within the meaning of these General Terms and Conditions, or within the Agreement, the Wbp is referred to, from the 25th of May 2018 onwards, the corresponding provisions of the General Data Protection Regulation ("GDPR") are meant.

A.11.5 HJMG shall, to the best of its ability, make reasonable efforts to have sufficient technical and organisational measures in place with regard to the processing of personal data, and will endeavour to meet the security at a level that is not unreasonable, considered the state of the technology, the sensitivity of the data and the costs involved in making the security arrangements.

A.11.6 HJMG shall ensure that all persons acting under its authority, insofar as they have access to personal data from Client, will only process such personal data on the Client's instructions.

A.11.7 HJMG is allowed to process the personal data in countries within the European Union. In addition, Client grants HJMG its approval to process the personal data within a country outside the European Union, in compliance with the relevant applicable laws and regulations. Upon request, HJMG shall notify Client as to which country or countries outside the European Union the personal data is being processed in.

A.11.8 Client, hereby, grants HJMG its approval to engage third parties for the processing of personal for performance of the Services, considering the relevant applicable laws and regulations. Upon request of Client, HJMG shall in any event ensure that such third parties will be obliged to agree in Writing to the same duties that are agreed upon between Client and HJMG, and will take care of correct authorizations. HJMG shall inform Client upon request about the third parties engaged. Client has the right to object against any, by HJMG, engaged, third parties. In case of objection by Client, Client and HJMG will try to come to an agreement to solve this situation.

A.11.9 The Client guarantees and warrants that it will enter personal data or otherwise make it available to HJMG only in a manner that is fully compliant with the applicable laws and regulations and does not infringe any rights of a third party. In this context, Client indemnifies HJMG of all claims and actions related to the processing of personal data. If HJMG should nevertheless be held liable, HJMG has the right of recourse against the Client for the entire amount paid by it, including interest and costs.

A.11.10 If the Client is required by a legal obligation or exercise of the legal rights by one of the data subjects, to extract, adjust, transfer, delete or hand over personal data stored in HJMG's systems, HJMG will facilitate this activity to the best possible extent. The costs for the relevant activities may be invoiced separately. Where a data subject directly submits a request to HJMG to exercise one of its legal rights, HJMG will forward this request to Client. Client will then deal with this request independently.

A.11.11 Client has the right to conduct an audit, by an independent third party who shall be bound to confidentiality, to control compliance of HJMG with this article A.11. This audit may only be undertaken when there are specific grounds for suspecting the misuse of personal data by HJMG. The by Client initiated audit, will take place two weeks after Client has provided HJMG with written notice about this. The costs of the audit will be borne by Client.

A.11.12 All personal data received by HJMG from Client and/or compiled by HJMG for performance of the Services is subject to a duty of confidentiality vis-à-vis third parties. This duty of confidentiality will not apply in the event that Client has expressly authorised the furnishing of such information to third parties, where the furnishing of the information to third parties is reasonably necessary for performance of the Services, or if there is a legal obligation to make the information available to a third party. If HJMG is legally required to provide information to a third party, HJMG shall inform Client of this immediately to the extent permitted by law.

A.11.13 The Client, as the controller within the meaning of the GDPR, is

at all times responsible for reporting a data breach (by which is meant: a security breach of personal data that leads to a serious risk of adverse effects, or has serious negative consequences for the protection of personal data) to the relevant supervisory authority(ies) and/or the data subjects. In order to enable the Client to comply with this legal obligation, HJMG shall inform the Client as soon as possible and ultimately within forty-eight (48) hours after discovery of the data breach. If there is any legal obligation or requirement for HJMG to assist Client, HJMG will assist Client in informing the relevant supervisory authority and/or data subjects.

A.11.14 The duty to report the data breach includes in any event the duty to report the fact that a breach has occurred including, for as far as known by HJMG, the following details:

- the date at which the breach has occurred (the period in which the breach occurred suffices in case HJMG is unable to determine the exact date at which the breach occurred);
- the (suspected) cause of the breach;
- the date at which the breach has become known by HJMG, or by any engaged third party;
- the number of individuals who are or may be affected by the breach (a minimum and maximum number of affected individuals suffices in case the exact number cannot be determined);
- a description of the group of individuals who are or may be affected by the data breach, including the type of personal information which has been breached;
- whether the personal data has been encrypted, hashed or in any manner has been made incomprehensible or inaccessible to unauthorized individuals;
- the proposed and or taken measures to end the breach and to limit its consequences;
- information about the first point of contact regarding the notification.

A.11.15 Upon expiration of the Agreement, HJMG shall delete or return the personal data referred to in this article A.11.3, upon choosing of Client.

#### **Article A.12. Staff**

A.12.1 Where an Employee has to perform activities at the Client's site for the performance of the Agreement (unlike where the Client and HJMG enter into an Agreement for the secondment of an Employee), the following provisions shall apply.

A.12.2 The Client shall provide HJMG's Employee who, for the purposes of performing the Agreement, is performing activities at the Client's site, with all the support necessary for the performance of the activities. The Client shall be obliged to do everything that is necessary to enable the Employee to carry out his work properly and safely. A.12.3 HJMG shall undertake to ensure that the Employee has the correct job description and skills. The Client may not select specific Employees unless this has been agreed expressly. HJMG shall be entitled to exchange an Employee for an Employee with comparable skills and a comparable job description.

A.12.4 The Client may not limit access to certain Employees only. Nor is there any guarantee that the Client will be able to have a permanent team of Employees, where such is relevant.

A.12.5 During the term of the Agreement and for two (2) years after its end, the Client shall not be permitted to employ Employees of HJMG, enter into direct or indirect business relationships with them or arrange for them to perform activities other than within the framework of the Agreement without the Written consent of HJMG, such being subject to a contractual penalty due and payable immediately of €10,000 per breach, plus €500 for each day that this breach continues, which penalty amounts shall be payable to HJMG. This article shall also apply where the Client and Contractor have entered into an agreement for the secondment of an Employee.

#### **Article A.13. Confidentiality**

A.13.2 HJMG will not access the information stored by the Client and/or distributed via HJMG's Services unless this is required for the proper performance of the Agreement or for the quality of the Projects, or if HJMG is obliged to do so pursuant to a legal provision or an injunction. In that case, HJMG will undertake to limit access to the information as far as possible, to the extent that this is within its power.

A.13.3 This obligation remains in force after termination of the Agreement irrespective of the reason, and for as long as the party providing the information can reasonably claim that the information is confidential.

#### **Article A.15. Settlement of disputes**

A.15.2 All disputes, including those which are only deemed by one party to be a dispute, which arise from or are connected with this Agreement and its implementation and/or with other agreements ensuing from or related to this Agreement will be settled through the mediation offered by

ICTWaarborg (hereinafter referred to in this article as Mediation).

A.15.3 The parties undertake to cooperate with each other on settling disputes through Mediation and commit themselves to each bearing half of the Mediation costs.

A.15.4 Mediation comprises two phases. In the first phase the parties seek a possible solution with which they can both agree. If agreement can be reached, the mediator will put that which has been agreed into a settlement agreement. If it proves impossible to reach an agreement that is acceptable to both parties in the first phase, the process will go into a second phase. In the second phase the mediator will work out an agreement that is binding upon both parties and then set this out in a settlement agreement.

A.15.5 Parties shall at all times have the right to submit their disputes to the legally competent Dutch court, in accordance with the provisions of Article 19 of these General Terms and Conditions.

#### **Article A.16. Concluding provisions - General Module**

A.16.4 The version of any communications received or stored by HJMG (including log files) shall be regarded as authentic, subject to proof to the contrary to be produced by the Client.

A.16.5 For the purpose of promoting its services, HJMG has the right to show third parties which Projects it provides the Client, unless reasonable interests on the Client's part render this unacceptable or it has been agreed otherwise in Writing.

A.16.7 HJMG and the Client may transfer their rights and obligations under the Agreement to third parties, provided the other party consents to the transfer in Writing beforehand.

#### **Article 26 - Module B. Development web and other applications**

Module B applies to custom work delivered by HJMG to the Client, for example the design and/or development of (web) applications, software, advice, reports or other specific content-related works.

##### **Article B.1. Completion & acceptance**

B.1.1 HJMG shall make every effort to deliver the Materials in accordance with the Specifications for acceptance by Client.

B.1.2 When the Materials have been delivered to the Client for acceptance, the Client will subject these to an Acceptance test at his own expense and under his own responsibility during the acceptance period of one week. By accepting the Materials, the Client will discharge HJMG from all obligations concerning the Results.

B.1.3 If Client does not reject the Materials (wholly or partially) within the period mentioned in paragraph 2, they are deemed to have been accepted and delivered.

B.1.4 The Client will also be deemed to have accepted the Materials if the Client has started to use the Materials or if the Client has not informed HJMG in Writing, within ten days after delivery at the latest, that and for what reason he does not accept the Materials.

B.1.5 If Materials are not accepted, HJMG shall specify which adjustments will be made, along with the time or costs involved. The Client shall subsequently indicate whether it agrees to the said adjustments and the corresponding time and costs or whether it rejects them. HJMG will make every effort to remedy the Defects identified by the Client and capable of being reproduced within the period agreed by the parties and, failing that, within a reasonable period.

B.1.6 The implementation of adjustments following a rejection of a Material can take place in a production environment or in an acceptance environment. This is at the discretion of HJMG.

B.1.7 If the Client has accepted the Results (with the exception of Defects in functionalities and external appearance; minor Defects), the guarantee period of 30 days will commence. Within this period, the Results will be deemed accepted, but it is possible to report Defects that could not reasonably have been discovered during the Acceptance Test. HJMG will specify and supplement any Defects with the expected time and, if the Defects cannot be easily remedied within 30 days, any additional costs for modification of those parts. This guarantee period is therefore not to be regarded as an extended Acceptance Test and does not provide any more guarantees than those provided for in this paragraph.

B.1.8 Minor Defects, including Defects which, by their nature and/or number, do not reasonably prevent the Commercial use of the Materials, shall not be a reason for withholding acceptance, without prejudice to the HJMG's obligation to remedy such Defects. Parties shall consult with each other in this respect.

B.1.9 If the Project is performed in phases, Client shall approve or disapprove the Materials of that phase upon completion of each phase and the procedure set forth above shall also apply. Client may not base an approval or disapproval of the Materials of a later stage on items approved

in an earlier stage.

B.1.10 HJMG is entitled to wait with the start of a new phase until Client has explicitly accepted the old phase.

B.1.11 HJMG does not guarantee that what the Client aims to achieve with the work developed or to be developed by HJMG will actually be achieved.

B.1.12 HJMG shall make every effort to develop and make available its products/works as well and as error-free as possible.

B.1.13 HJMG is entitled to set up temporary solutions, whereby certain functionalities are limited in order to prevent serious errors.

##### **Article B.2. Progress**

B.2.1 The Client and HJMG will agree on the phases, completion dates and deadlines specific to the Project in mutual consultation, for example in the Quotation or the Agreement.

B.2.2 HJMG will keep Client informed of the progress of the Project at least once every fourteen days by e-mail, telephone or the Project Management System.

##### **Article B.3. Specifications & (source) materials**

B.3.1 The Parties will specify in Writing which Services will be developed, the requirements it must meet and the manner in which it will be developed. The Contracted Party will carry out the development with due care on the basis of the information to be provided by the Client. The Client warrants the accuracy, completeness, consistency and timeliness of its instructions and information.

B.3.2 A Written Specification as referred to in Article 3.1 is not required if the Client has expressed the wish to offer HJMG a high degree of freedom in developing the Services and the manner in which this is done.

If the development has taken place in this manner, the Client may not subsequently invoke Specifications that have been drawn up in Writing and to which HJMG has not agreed.

B.3.3 HJMG is entitled, but not obliged, to examine the correctness, completeness or consistency of the (source) Materials, requirements or Specifications made available to him and, upon discovery of any imperfections, to suspend the agreed work until Client has eliminated the imperfections concerned.

B.3.4 If any (source) Materials provided by the Client to HJMG are protected by any intellectual property rights, the Client guarantees that he has at his disposal at all times all licences necessary for the provision to and the intended use by HJMG in the context of the Agreement.

B.3.5 Unless otherwise agreed, HJMG has the right to use images, software and components of third parties, including open source software, in the development of the Services. After delivery, the responsibility for correct compliance with the relevant third-party licences when using the developed Services lies with the Client. HJMG

will adequately inform the Client about the applicable licensing conditions. Costs related to the licenses, which are necessary for the execution of the Agreement, will be charged to Client. This will be specified in the quotation.

B.3.6 The Client is responsible for ensuring that its own applications, Services and infrastructure to keep it up to date for interoperability with the products and the Service of HJMG. This is in connection with any links. Applications may not work properly if this is not the case.

B.3.7 HJMG is not liable for the Project/Service being unusable if the unusability is caused by the Client's failure to migrate in good time (on the instructions of HJMG) to current standards or use of standards that are no longer supported in the industry. A standard introduced 24 months ago is no longer considered current by HJMG. This exclusion of liability also applies if the Client works with a version of an internet browser, the use and support of which is no longer guaranteed due to a new version of that internet browser.

##### **Article B.4. Licence conditions for development**

B.4.1 HJMG grants Client the right to reproduce and distribute developed Materials for the purposes intended by Client when entering into the Agreement provided that HJMG has agreed to this in Writing.

B.4.2 HJMG thereby never transfers any intellectual property rights (such as copyright) to the Client, unless explicitly agreed otherwise in Writing.

B.4.3 The source code of software supplied by HJMG, which is not open source software, and the technical documentation produced during the development of the software may and shall never be made available to the Client, nor may the Client make any changes thereto, unless expressly agreed otherwise in Writing.

B.4.4 HJMG grants the Client the non-exclusive right to use the Service/ Software developed for the Client. The Client shall at all times strictly observe the restrictions on use agreed upon between the parties. The right of use granted is non-transferable.

B.4.5 The Client is not permitted to sell, rent out, sub-license or alienate the developed works or to grant limited rights to them or to make them available to a third party in any way or for any purpose whatsoever, not even if the third party in question uses the software exclusively for the benefit of the Client, unless agreed otherwise in Writing or in the event of and in combination with a sale of the Customer's relevant business units or activities.

#### **Article 27 - Module C. / Hosting - SaaS**

This module applies to the data and/or applications/web applications made available and retained as such (hosting) by HJMG to the Client 'remotely' via the Internet or another network (known as hosting), without providing the Client with a physical carrier with the relevant software. This includes the registration and management of domain names.

#### **Article C.1. Execution**

C.1.1 Following conclusion of the Agreement, HJMG will perform the Service as soon as possible, in accordance with the offer, taking into account any reasonable wishes of the Client.  
C.1.2 The Agreement specifies when HJMG will start with the installation of the application/web application.  
C.1.3 HJMG will endeavour to ensure that the application/web application can be ideally configured and managed, exercising due care and professionalism.  
C.1.4 The Client is obliged to do and arrange for third parties to do everything that is necessary to enable the application/web application to be installed correctly and on time. In particular, the Client will ensure that all data and facilities which HJMG indicates are necessary, or which the Client should reasonably understand are necessary, for the installation of the application/web application are provided to HJMG in good time.

#### **Article C.2. Term of the Agreement**

C.2.1 The Agreement is entered into by the Client for a minimum term of twelve (12) months. After that the Agreement will be continued indefinitely. At the end of the minimum term, the Agreement may be terminated by either party giving notice of at least one (1) month. Notice to terminate the Agreement given by either the Client or HJMG must be given in Writing.

#### **Article C.3. Rules of conduct**

C.3.1 The Client will refrain from storing and/or distributing or commissioning the distribution of material in contravention of the provisions of Dutch law, in any case including but not confined to: material that is insulting, defamatory, offensive, racist, discriminatory or that incites hatred; material that is erotic or pornographic (unless explicitly permitted in the offer); material that infringes third-party rights, in any case including but not confined to copyright, trademark rights and portrait rights; material that violates the privacy of third parties, in any case including but not confined to distributing third-party personal data without permission or necessity, or repeatedly harassing third parties with unwanted communications, hyperlinks, torrents or similar information of which the Client is aware or should be aware that it concerns material that infringes third-party rights, contains unsolicited commercial, charity-related or ideals-related communications, or contains malicious content, such as viruses or spyware.  
C.3.2 The Client will refrain from obstructing other clients or Internet users or inflicting damage on HJMG's servers. The Client is prohibited from starting up processes or programs via the server or otherwise of which the Client is aware or can reasonably assume that these will obstruct or inflict damage on HJMG, other clients or Internet users. HJMG will advise the Client of any measures taken.  
C.3.3 In addition to the legal obligations, any damage arising as a result of incompetence on the Client's part, or as a result of the Client not acting in accordance with the points stated above will be payable by the Client.  
C.3.4 To prevent the aforementioned problems such as damage and security risks, HJMG is entitled at its own discretion to restrict the Client's management capabilities so that all management is carried out by HJMG.

#### **Article C.4. Licence**

C.4.1 The Client hereby grants HJMG an unlimited licence to distribute, store, forward or copy all Materials supplied by the Client for HJMG's Services, in a manner deemed appropriate by HJMG, but solely to the extent this is reasonably required for HJMG to fulfil the Agreement.

#### **Article C.5. Indemnification**

C.5.1 The Client indemnifies HJMG against all legal claims made by third parties relating to the use of the Services by the Client. HJMG is not responsible for data/Services/software called via a link. If HJMG should

nevertheless be held liable, HJMG has the right of recourse against the Client for the entire amount paid by it, including interest and costs.  
C.5.2 If, pursuant to an authorised order from a government agency, or in connection with a legal obligation, HJMG is required to perform activities involving information relating to the Client, its Employees or Users, all costs attached to these activities will be chargeable to the Client.

#### **Article C.6. Provisions of services and availability**

C.6.1 All of HJMG's Services will be performed on the basis of a best-efforts obligation, unless and to the extent that HJMG has pledged an explicit result in the Agreement and the relevant result has also been adequately described.  
C.6.2 Electronic transmission of the Client's data as part of the Services, by whatever method, is for the Client's account and risk. C.6.3 HJMG is never obliged to also provide the Client with a physical data carrier (for instance a CD or USB stick) containing the remote applications that it has made available.  
C.6.4 If the Services are (also) provided via HJMG's Services and/or networks, HJMG will undertake to ensure that downtime is kept to a minimum.  
C.6.5 HJMG provides no guarantee of the exact amount of uptime unless otherwise agreed in the offer by means of an SLA in which uptime is specified. To the extent not provided for otherwise in an applicable SLA, the provisions of this article apply.  
C.6.6 Subject to proof of the contrary, the availability and service levels measured by HJMG will serve as complete proof.  
C.6.7 HJMG will undertake to ensure that the Client can make use of the networks that are either directly or indirectly connected to HJMG's network. However, HJMG cannot guarantee that these networks will be available at any particular time. Legal and contractual conditions may be attached to use of networks by third parties. HJMG will undertake to inform the Client of this in good time.  
C.6.8 If, in HJMG's opinion, the functioning of the Services, HJMG's network, third-party networks and/or service provision via a network is at risk, in particular as a result of sending excessive amounts of e-mail or other data, inadequately protected Services or activities of viruses, Trojan horses and similar software, HJMG has the right to take all reasonable measures it deems necessary to prevent such risk.  
C.6.9 HJMG has the right to take the Services or parts thereof temporarily out of operation for the purpose of maintenance, adjustment or improvement. HJMG will endeavour to ensure that as far as possible any such period of inactivity only takes place outside office hours, and will undertake to inform the Client in good time of the scheduling of periods of inactivity. However, HJMG is never obliged to pay compensation for any damage/loss arising from taking the Services out of operation for the above purposes unless expressly agreed otherwise in Writing, for instance in an SLA.  
C.6.10 HJMG is only obliged to have an alternative centre or other alternative facilities at its disposal if expressly agreed in Writing. C.6.11 Unless provided for otherwise in the Agreement, HJMG is not obliged to make copies (backups) of the data stored by the Client on HJMG's Services. Any backups made may be destroyed at any time after termination of the Agreement. It is the Client's responsibility to request a backup in the event the Agreement is terminated or dissolved.

#### **Article C.7. Changes**

C.7.1 HJMG has the right to adapt the applications made available as it sees fit throughout the duration of the Agreement. If an adjustment causes a considerable change in functionality, HJMG will undertake to inform the Client of this. The Client may continue to use an older version of the application on request, only if this is technically feasible and does not require a disproportionate effort on the part of HJMG. HJMG may charge additional costs for providing this option.

#### **Article C.8. Storage and data limits**

C.8.1 HJMG may impose a maximum limit on the amount of storage space or data traffic the Client may use each month within the framework of the Service. The Client will not exceed the limits unless the consequences thereof are expressly laid down in the Agreement. In the event this maximum is exceeded, HJMG is authorised to charge an additional amount in accordance with the amounts charged for additional storage space or data traffic as specified in the Agreement. If no storage and/or data limits have been agreed, HJMG's fair use policy applies.

#### **Article C.9. Procedure upon termination of the Agreement**

C.9.1 HJMG will ensure that, upon termination of the Agreement, the Client is given a reasonable opportunity to transfer its data that are stored in



HJMG's systems to its own systems or to the systems of a new supplier. To this end, HJMG will endeavour to be able to provide the data in a standard file format.

#### Article 28 - Module H. Maintenance and Support

This Module applies to Services comprising the installation, configuration and/or maintenance of Materials and Services such as software, applications, websites, etc.

##### Article H.1. Implementation

H.1.1 Maintenance shall mean ensuring the functioning of existing or new (newly developed) Materials in accordance with the offer or more detailed agreement, and more generally the remedying of defects. Support shall mean offering assistance, whether or not remotely, with the maintenance of the Materials or working with them.

H.1.2 Once the Agreement is concluded, HJMG shall carry out the activities as soon as possible, in accordance with the offer, taking into account any reasonable wishes of the Client.

H.1.3 The Agreement specifies the remuneration HJMG will receive when it starts to perform the Services and activities. There may be fixed fees, but also activities based on hourly rates and subsequent calculations. The Agreement will specify clearly which activities are performed for which sums.

H.1.4 All Services supplied by HJMG shall be performed on the basis of a best efforts obligation unless and insofar as HJMG has expressly promised a result in the Written Agreement and the result concerned is also described in a sufficiently precise way.

H.1.5 HJMG provides no guarantees concerning results unless agreed otherwise in the offer by means of a Service Level Agreement (SLA) in which results are specified. To the extent not provided for otherwise in an applicable SLA, the provisions of this article shall apply. HJMG shall undertake to ensure that requests of the Client are executed as quickly as possible, but cannot give any firm deadlines. This shall apply to a deadline for scheduling and performing planned activities and also to response times and times for repairs where there is a request for the adjustment, repair and/or improvement of a Service and/or Materials.

##### Article H.2. Term

H.2.1 The Agreement shall be entered into by the Client for a minimum term of twelve (12) months. Hereafter the Agreement shall be continued indefinitely. At the end of the minimum term, the Agreement may be terminated by either party giving at least one (1) month's notice. Notice to terminate the Agreement given by either the Client or HJMG must be given in Writing.

##### Article H.3. Specifications and Client Cooperation

H.3.1 If agreed, HJMG shall install and configure the Materials on hardware and networks to be indicated by the Client. The Client shall be obliged to do everything that is reasonably necessary and desirable to enable the timely and proper installation and functioning of the Materials. In particular, the Client shall ensure that all information which HJMG has stated to be required or with regard to which the Client can reasonably understand that it is required for the supply of the Materials, is made available to HJMG in time.

H.3.2 At HJMG's request, the Client shall allow Employees and agents of HJMG all necessary access to the computer systems concerned to facilitate installation, configuration, maintenance and adjustments of the Materials. Physical access to those systems shall take place only where such is necessary, and only after prior consultation with the Client.

H.3.3 The selection, purchase and management of the hardware and networks to be used is the sole and complete responsibility of the Client. HJMG shall give instructions regarding the configuration required. If the designated hardware and networks do not meet HJMG's requirements, HJMG shall be entitled to refuse installation or configuration.

##### Article H.4. Updates and improvements

H.4.1 Only where such is part of the Agreement will HJMG undertake to ensure that the Materials are adjusted from time to time to improve functionality and remedy faults, whether or not on the basis of instructions and requests of the Client or at its own initiative, where such is specified in the Agreement.

H.4.2 Only where such is part of the Agreement will HJMG undertake to ensure that the Materials are kept up-to-date. However, HJMG will in many cases be reliant on its supplier or suppliers and third parties. HJMG shall be entitled not to install certain updates or patches if it believes such will be detrimental to the proper functioning of the software or will not be in the interest of the Service.

H.4.3 HJMG shall undertake to ensure that the changes and new functionality requested by the Client are added to the Materials. HJMG shall at all times be entitled to refuse any such request where it believes such to be impracticable or liable to impede the proper functioning or availability of the Materials. Costs are associated with the Client's request to have changes and new functionality added to the Materials. HJMG shall notify the Client of those costs in advance. H.4.4 Where an application, update or patch results in changed functionality within a Service or Project already developed which has a major impact on the functioning of other Materials, systems, etc., HJMG and the Client shall discuss the consequences thereof. If a decision is made to implement that change, update or patch, HJMG shall be entitled to invoice the hours spent separately based on actual costs.

H.4.5 Where the Client wishes to implement a change to the Materials independently, such shall take place entirely at the Client's own risk and responsibility. In such a case, HJMG shall not have to, or shall no longer have to, undertake to ensure that bugs or errors are remedied. All the foregoing applies unless the Client has notified HJMG of the change required in advance and HJMG has approved it in Writing. HJMG may attach conditions to that approval.

H.4.6 Unless agreed otherwise, the provision of support to end users (customers of the Client) shall not be included.

##### Article H.5. Remote support

H.5.1 Remote support is supplied by telephone, email and other channels to be agreed jointly.

H.5.2 At the Client's request, HJMG shall suggest software that enables computers to be accessed remotely. It is the Client's responsibility to ensure that its network and security environment allows such software to work.

H.5.3 Where it turns out that remote support is not resulting in a satisfactory solution or is impracticable in view of the nature of the problem, HJMG shall enter into consultations with the Client to find a solution on site.

H.5.4 HJMG may be contacted between 08:00 and 16:30 on working days (Monday to Friday inclusive, with the exception of public holidays recognised in the Netherlands and official holidays) for remote support (and also for scheduling maintenance and remedying faults), unless otherwise stated in the applicable SLA.

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