

Twence General Terms and Conditions of Purchase

ICT Addendum

Visiting address: Boldershoekweg 51; 7554 RT Hengelo, the Netherlands
Postal address: PO Box 870; 7550 AW Hengelo
Tel: (074) 240 4444
Fax: (074) 240 4333
Email: info@twence.nl
Internet: www.twence.nl
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Introductory Provisions

Article 41 Applicability of this ICT Addendum – Performance and definitions

- 41.1 This Addendum to the Twence General Terms and Conditions of Purchase, version of January 2024, supplements the Twence General Terms and Conditions of Purchase. The terms and conditions in this Addendum additionally govern all requests, offers, orders, order confirmations, the Agreement entered into or to be entered into, and any other documents relating to an ICT Performance to be provided by the Supplier, as referred to in Article 43(d) of this Addendum.
- 41.2 Terms used in this Addendum that are defined in Chapter I and Chapter II of the General Terms and Conditions of Purchase have the same meaning in this Addendum as that given to them in the General Terms and Conditions of Purchase. The following additional definitions are furthermore used:
- General Terms and Conditions of Purchase: the provisions of Chapter I and Chapter II of Twence's General Terms and Conditions of Purchase referred to in Article 41.1;
 - Addendum: this addendum concerning the ICT Performance to be provided by the Supplier on behalf of Twence; and
 - Terms and Conditions of Purchase: the General Terms and Conditions of Purchase and this Addendum jointly.
- 41.3 Any provisions that deviate from this Addendum apply only if and insofar as Twence has accepted those deviations In Writing.
- 41.4 In the event of inconsistency, the provisions of the Agreement and the General Terms and Conditions of Purchase prevail over this Addendum.

Chapter III: Additional Conditions Regarding ICT Performance

Article 42 Applicability

- 42.1 The terms and conditions of this Chapter III govern all Agreements in which Twence acts as the principal in the provision of an ICT Performance by the Supplier, whether or not in combination with the Performance.
- 42.2 In addition to these terms and conditions, the terms and conditions of Chapter I and Chapter II of the General Terms and Conditions of Purchase also apply to the Agreements referred to in Article 42.1, unless the terms and conditions of Chapter III or other provisions are expressly deviated from In Writing or unless otherwise apparent from the nature of the articles.

Article 43 Additional definitions

- Source Code: the program instructions as a whole, in their original programming language, including associated ICT Documentation, intended for execution by a computer, in such a form that a programmer with knowledge and experience of the programming method and technique used can use it to modify the Software;
- Cloud Service: the remote provision and maintenance by the Supplier of a cloud service or other service for Twence, including the IaaS (Infrastructure as a Service), PaaS (Platform as a Service) and SaaS (Software as a Service) services. The Cloud Service comprises a specific and standardised ICT Performance that is made available via the Internet or another network, without any physical data carrier being provided to Twence, as well as additional related services, such as the storage of data and the making of backups;
- ICT Documentation: system and user manuals belonging to the ICT Performance, Goods, equipment, Software, Cloud Services and courses/training to be provided by the Supplier;
- ICT Performance: all Goods and Services in the field of information and communication technology provided by the Supplier, including the delivery, conversion, installation, implementation, maintenance, repair and manufacture of and advice on software, hardware or IT systems, or parts thereof, all the above with accompanying materials, tools, replacement parts and ICT Documentation, the granting of user rights to software and hardware, the maintenance and hosting of software, networks (and parts thereof) and websites, the registration of domain names, and the design of websites and web applications. The ICT Performance also includes the provision of Cloud Services and Software (Customised and other) as well as all Services in that context.
- Implementation: the actions and measures as a whole that are necessary to make Twence's organisation suitable for the agreed use of the ICT Performance, the equipment, the Software and the Cloud Services.
- Customised Software: the result of the ICT Performance whereby software is developed and implemented specifically for Twence, or changes are made to standard software specifically for Twence, with the associated ICT Documentation and materials.

- g. Software: the set of program rules to be delivered by the Supplier that can be processed, directly or indirectly, by a computer to achieve a certain, specified, result, with associated new versions, improved versions, ICT Documentation and materials. This term includes Customised Software.

Article 44 General obligations of the Supplier

- 44.1 The Supplier must familiarise itself with Twence's objectives regarding the Agreement, Twence's intended use of the ICT Performance, and Twence's organisation (insofar as relevant to the Agreement).
- 44.2 The Supplier must inform Twence correctly and completely about the work to be performed in respect of the ICT Performance.
- 44.3 The Supplier must keep Twence informed of any developments and changes that are or may be relevant to the performance of the Agreement.
- 44.4 In respect of the ICT Performance to be provided, the Supplier must fully cooperate in any security procedures and company rules of Twence, insofar as the ICT Performance is provided at Twence. Twence will make the company rules and security rules that apply at Twence known to the Workers engaged by the Supplier before the work is commenced.
- 44.5 As part of the performance of the Agreement, the Supplier must take measures aimed at ensuring that Twence can use the ICT Performance as agreed. This quality assurance forms part of the Agreement.
- 44.6 The Supplier bears the risk of the selection of the products to be delivered in respect of the ICT Performance.
- 44.7 The Parties will appoint contacts for the purpose of the performance of the Agreement. The Parties will inform each other of the appointed contact for the Agreement.
- 44.8 At Twence's request, the Supplier must participate in consultations with other counterparties and suppliers of Twence designated by Twence if it becomes apparent at any time that the ICT Performance does not function properly together with other software, cloud services, equipment or products used or to be used at Twence, or if the ICT Performance is meant to function together with them.
- 44.9 Communications within the framework of the Agreement and its performance – including further agreements and undertakings – will bind the Parties only if they are made or confirmed In Writing by a duly authorised person.

Article 45 Warranties

- 45.1 The Supplier warrants that the ICT Performance will comply with the agreements made in the Agreement and the specifications communicated by Twence to the Supplier, and with the specifications otherwise recorded between the Parties.
- 45.2 The Supplier warrants that it will engage only Workers who have the agreed skills and diplomas/qualifications or those required for the provision of the ICT Performance. The Supplier also warrants that the skills and qualifications of any third party that it engages will at least match those of the Supplier and that the Supplier will comply with all other standards and warranties that are customary in its branch of industry and that may be expected of a skilled and diligent supplier under the given circumstances, with due observance of normal attentiveness and with normal professional knowledge and normal professional practice.
- 45.3 The Supplier furthermore warrants that the ICT Performance is efficient, coherent and sound, that the ICT Performance can be used without any changes, that it is and will remain fully compatible with the ICT infrastructure present at Twence, and that the ICT Performance has no defects when used together with other cloud services, software, equipment and products present at Twence.
- 45.4 The Supplier warrants that the ICT Performance does not contain any security measures or extraneous elements other than those referred to in the ICT Documentation.
- 45.5 The Supplier warrants that the ICT Performance will comply with the agreements made in the specifications communicated by Twence to the Supplier, with the specifications otherwise recorded between the Parties, and with the Agreement, also during peak loads.
- 45.6 The Supplier warrants that – for a period of twelve (12) months after acceptance of the ICT Performance – it will repair any defects at its own expense, without prejudice to Twence's other rights under the Agreement. If Twence invokes this warranty, it will notify the Supplier accordingly In Writing and, in urgent cases, by telephone. The Supplier will repair any defects without delay – and at the latest within two (2) weeks after notification – whereby consultation with Twence will take place if necessary.
- 45.7 If the Supplier fails to comply in a timely manner with its obligation to repair defects with respect to the ICT Performance, Twence may, after Written notification and at the Supplier's expense, repair such defects itself or have them repaired by third parties, without prejudice to its other rights. The Supplier must cooperate in this regard and must provide Twence with the necessary information at its first request.
- 45.8 The Supplier warrants that it will repair any defects – that were established by Twence during the acceptance procedure but that were no reason for Twence not to accept the Delivery – as soon as possible after acceptance and at its own expense.

- 45.9 If the Supplier makes a temporary solution in the implementation of the warranty referred to in Article 45.6, it must reimburse any loss consequently incurred by Twence. Article 18 of the General Terms and Conditions of Purchase regarding liability will apply mutatis mutandis in this respect.
- 45.10 If within a period of twelve (12) months after acceptance – or the warranty period applied by the Supplier, whichever is longer – the ICT Performance does not comply with the provisions of this article or the other warranties recorded in these Terms and Conditions of Purchase or otherwise, the Supplier must at Twence's first request immediately – and at the latest within two (2) weeks – repair or replace the ICT Performance at its own expense, without prejudice to Twence's other rights under the Agreement.
- 45.11 The Supplier warrants that it will maintain, manage and support the ICT Performance for a period of five (5) years from the date of acceptance at market rates.
- 45.12 The Supplier warrants that – if the nature of the ICT Performance so requires – new and/or improved versions and updates of the ICT Performance will regularly be released and that it is possible to deliver at a reasonable price (equivalent, interchangeable and functionally similar) parts, components and extensions as available (and/or announced) at the time of the signature of the Agreement. Twence will have the right, but will not be obligated, to put the new and/or improved versions and updates to use.
- 45.13 If the Supplier is of the opinion that Twence cannot invoke the warranty provisions – because a defect is unrelated to the warranted properties or because a defect is due to other causes, not attributable to the Supplier – the burden of proof in this regard is on the Supplier.
- 45.14 The Supplier warrants that it will at all times comply with all national and international laws and regulations relevant to the Agreement and the ICT Performance (including EU regulations), also if such laws and regulations are not expressly referred to in the Agreement or in these Terms and Conditions of Purchase.

Article 46 ICT Documentation

- 46.1 The ICT Documentation must be drawn up in such a way that the ICT Performance can be properly used and maintained by Twence and third parties. The ICT Documentation must provide an accurate, complete and detailed description of the ICT Performance and its functions. It must furthermore enable Twence and its users to test the ICT Performance or have it tested, and to maintain it or have it maintained, and to easily make use of all the possibilities offered by the ICT Performance.
- 46.2 The Supplier warrants that all the ICT Documentation will always be delivered in time, but in any event before or at the same time as the delivery of the ICT Performance or test versions of the ICT Performance.
- 46.3 The ICT Documentation must be drawn up in Dutch and/or English.
- 46.4 Twence may reproduce, alter and publish the ICT Documentation for use within its organisation without any additional fee being due.
- 46.5 The Supplier must ensure that new versions of the ICT Documentation referred to in Article 46.1 are sent to Twence. The Supplier must notify Twence In Writing as soon as possible of any inaccuracies or incompleteness in the ICT Documentation and must in that case adjust, alter or replace the ICT Documentation free of charge.

Article 47 Delivery, Installation and Implementation

- 47.1 Everything that is to be delivered by the Supplier to Twence under an Agreement must first be subjected to an acceptance test within the agreed periods and in the manner described for that purpose.
- 47.2 Implementation and installation must take place in accordance with the provisions of the Agreement. The ICT Performance must be implemented or installed by the Supplier together with the ICT environment already present at Twence and with due observance of the working hours, protocols and house rules that apply at Twence.
- 47.3 As soon as the Implementation or installation has been completed in the Parties' opinion, a certificate of Implementation or installation will be drawn up and signed by the Parties. This certificate does not imply acknowledgement that the ICT Performance provided complies with the Agreement, with these Terms and Conditions of Purchase, with the warranties referred to in Article 13 of the General Terms and Conditions of Purchase, and with Article 45 of this Addendum.
- 47.4 Twence may make full operational use of the materials made available for that purpose during an acceptance test. If any defects are established during any acceptance test, the Supplier must remedy such defects as soon as possible and must offer the complete product again for acceptance by Twence. If Twence again established defects during the second acceptance test, Twence may dissolve (ontbinden) the Agreement in question in whole or in part with immediate effect, without any further notice of default being required and without prejudice to its other rights. The above is without prejudice to the rights vested in Twence by virtue of the Supplier's exceeding of any term of delivery or other term set out in the Agreement. This does not affect Twence's right to claim damages or its option to allow the Supplier to repair the defects at its own expense.
- 47.5 Minor defects, at Twence's discretion, will not stand in the way of acceptance, without prejudice to the Supplier's obligation to remedy such defects as soon as possible free of charge. Acceptance of the ICT Performance will not affect Twence's other rights.

- 47.6 If the goods delivered do not comply with the warranties referred to in Article 13 of the General Terms and Conditions of Purchase and Article 45 of this Addendum, the Supplier must within a reasonable period of time take all necessary measures, carry out all necessary activities and provide alternatives so that the goods delivered do comply with the Agreement. If the Supplier fails to fulfil its obligation to do so, Twence may, notwithstanding all the other rights vested in it, take or commission all necessary measures, and carry out or commission activities at the Supplier's expense, so that the delivery does comply with the Agreement.
- 47.7 The acceptance test by or on behalf of Twence does not constitute any acknowledgement that the ICT Performance provided meets the warranties referred to in Article 13 of the General Terms and Conditions of Purchase and Article 45 of this Addendum.
- 47.8 Without prejudice to the provisions of Article 7 of the General Terms and Conditions of Purchase, if the ICT Performance consists of the delivery of hardware, ownership of that hardware will pass to Twence after acceptance by Twence in accordance with the provisions of this article.

Article 48 Determination of acceptance; acceptance test

- 48.1 Acceptance of the ICT Performance by the principal will take place only after an acceptance procedure in accordance with the provisions of the Agreement and this article.
- 48.2 Twence may assess by means of an acceptance test whether and to what extent the ICT Performance delivered actually complies with the provisions of the Agreement and/or meets the specifications and/or requirements communicated by Twence In Writing beforehand.

Acceptance test

- 48.3 The design of the actual procedure regarding the acceptance test – including the exact nature and scope, the starting date and the exact timeframe of the acceptance test – will be detailed in the Agreement or in an annex to the Agreement.
- 48.4 If the first acceptance test reveals that the ICT Performance contains errors or defects and has therefore not resulted in Twence's approval of the ICT Performance, the Supplier must remedy the defects established as soon as possible, after which the acceptance test will be repeated. The possible solutions proposed by the Supplier must be submitted to Twence before they are implemented.
- 48.5 It will be recorded in a second acceptance test report or other test report whether the defects included in the first acceptance test report or other test report have been remedied and whether the ICT Performance has subsequently been approved by Twence.
- 48.6 If Twence again rejects the ICT Performance after the second acceptance test, Twence may dissolve (ontbinden) the Agreement in whole or in part without any judicial intervention or further notice of default being required. This does not affect Twence's right to claim damages or its choice to allow the Supplier to repair the defects at its own expense.
- 48.7 Minor defects, which include defects that by their nature or number do not reasonably stand in the way of operational commissioning, will not be reason for withholding Twence's approval, without prejudice to the Supplier's obligation to repair such defects free of charge within a term to be agreed.
- 48.8 The results and approval, if any, of the acceptance test by Twence must be recorded In Writing in the test report that must be signed by both Parties. The ICT Performance is deemed accepted between the Parties if the errors and/or defects described in the acceptance test report or other test report have been repaired.
- 48.9 If Twence approves the ICT Performance, the date on which the acceptance test report is signed by Twence constitutes the date of acceptance of the ICT Performance by means of which the ICT Performance was delivered.
- 48.10 Acceptance of the ICT Performance means that the Supplier has fulfilled its obligations concerning the delivery of the ICT Performance and, if installation or Implementation of the ICT Performance by the Supplier has also been agreed, its obligations concerning installation and Implementation.
- 48.11 Twence is not liable for any payment to the Supplier before acceptance of the ICT Performance has taken place. Payment to the Supplier does not imply acceptance. Payments made before acceptance are always subject the condition precedent of acceptance.
- 48.12 If the ICT Performance is conditionally accepted, the acceptance date is the date on which all the conditions attached by Twence to the conditional acceptance have been met. Twence will give Written notice of the moment these conditions have been met.
- 48.13 If the ICT Performance is delivered and tested in phases and/or parts, the non-acceptance of a certain phase or part does not affect the acceptance of an earlier phase or another part.

Article 49 Intellectual Property and other (similar) rights relating to the ICT Performance

- 49.1 Unless otherwise agreed In Writing, all intellectual property rights (IP Rights) that may be exercised in respect of the ICT Performance in any place and at any time are vested in:
 - a. Twence insofar as an ICT Performance is involved that has been specifically provided for Twence or

- produced under its supervision/management and on the basis of its instructions; or
- b. the Supplier in all other cases.
- 49.2 The IP Rights (referred to in Article 49.1(a)) are transferred to Twence on signature of the Agreement. Insofar as a further deed or other formalities are required for the transfer, the Supplier hereby grants its cooperation and irrevocably authorises Twence in such future event to draw up such a deed and/or to complete the required formalities, all the above without prejudice to the Supplier's obligation to cooperate in the transfer of the IP Rights at Twence's first request. Insofar as necessary, the Supplier hereby also irrevocably authorises Twence to register or arrange for the registration of the transfer of the IP Rights in the relevant registers.
- 49.3 The Supplier acknowledges that, as a result of the transfer referred to in the preceding paragraph, Twence has become or will become exclusively and fully entitled to the IP Rights. The IP Rights must be unencumbered. Insofar as all or some of the IP Rights cannot be transferred, the Supplier hereby waives the right to invoke them against Twence. The Supplier may not use the IP Rights (independently or otherwise) without Twence's prior Written consent.
- 49.4 If the IP Rights (referred to in Article 49.1(b)) are vested in the Supplier, the Supplier warrants that Twence will be granted a non-exclusive, perpetual and irrevocable right to use the ICT Performance, as well as the new and/or improved versions, that suffices for the performance of the Agreement.
- 49.5 If Twence has been granted a right of use of the ICT Performance, that right will in any event include, without any additional fee being payable by Twence:
- a. the right to use all the functionalities of the ICT Performance accessible to Twence, also if they are not referred to in the ICT Documentation;
 - b. the right to make, store, regularly test and keep hot standby copies of the ICT Performance. Twence will not remove any copyright notices when reproducing the ICT Performance;
 - c. the right to use the ICT Performance for testing and development purposes; and
 - d. the right to use the ICT Performance without any restriction or limitation in terms of place, equipment, number of users, duration or other, including its use by third parties for Twence.
- 49.6 Until the moment of acceptance of the ICT Performance, the Supplier must grant Twence a non-exclusive right to use it for installation and testing purposes.
- 49.7 The Supplier hereby waives – also on behalf of its personnel and any third parties engaged by it – any moral rights to which it is entitled within the meaning of Article 25(1)(a) to (c) of the Auteurswet (Copyright Act), insofar as such waiver is permitted under those regulations. The Supplier warrants to Twence that the Supplier is authorised to waive these rights also on behalf of its personnel and any third parties engaged by it.
- 49.8 The Supplier warrants that the ICT Performance does not infringe any third-party IP Rights, including third-party personality rights, and indemnifies Twence against any third-party claims related to any infringement or alleged infringement of IP Rights of those third parties and any related or connected rights, such as personality rights, including similar claims of third parties regarding know-how, unlawful competition, etc.
- 49.9 In the event of alleged infringement of a third-party IP Right, the Supplier must at its own expense take all measures that may contribute to the prevention of stagnation of Twence's business operations and to the limitation of the extra costs and loss consequently incurred by Twence. At Twence's first request, the Supplier must file a defence in any proceedings that may be instituted against Twence in respect of the ICT Performance for infringement of third-party IP Rights. The Supplier also indemnifies Twence against all loss and costs that Twence may be ordered to pay in such proceedings, as well as the costs of the actual proceedings.
- 49.10 Without prejudice to the provisions of this article, Twence may dissolve (ontbinden) the Agreement in whole or in part out of court if third parties take it to court with respect to infringement of IP Rights, without prejudice to its further rights in relation to the Supplier, including but not limited to any right to damages.
- 49.11 In the event of a difference of opinion between the Parties regarding IP Rights in all or parts of the ICT Performance, it will be assumed – subject to evidence to the contrary – that those rights are vested in Twence. Twence may continue the use provided for in the Agreement regardless of the outcome of that dispute.

Third-party software

- 49.12 If the Cloud Services, Software and connections to be provided by the Supplier consist of or include third-party software, the Supplier must expressly specify this in the offer. In that case the Supplier must make available any applicable licensing conditions.
- 49.13 In the case referred to in Article 49.12, the Supplier must also specify to what extent it is possible to acquire the third-party software in question elsewhere and to what extent the decision to do so has consequences for the Supplier's offer.
- 49.14 If and insofar as the ICT Performance depends on third-party software, the Supplier must expressly specify this in the offer. The Supplier must make it clear where such dependence lies and what effects it has on the ICT Performance to be provided by the Supplier and the quality of the ICT Performance.
- 49.15 As part of the maintenance, the Supplier must release improved versions and new versions in good time in order to continue to warrant compatibility with third-party software on which the ICT Performance depends.
- 49.16 If and insofar as the Supplier proves that a defect in the ICT Performance is due to an error in third-party software, the defect in question will not be regarded as a defect, unless the Supplier should have been aware

of the relevant error in the third-party software and the effect of the relevant error in its own ICT Performance could reasonably have been avoided. This article applies to Implementation, acceptance and maintenance.

- 49.17 The provisions of the preceding paragraph are without prejudice to the fact that the Supplier, where appropriate, must make every reasonable effort within the scope of maintenance to remedy the defect as soon as possible, for instance by working around the defect in the third-party software in its own ICT Performance and/or by providing Twence with improved versions and/or new versions of the ICT Performance and/or the third-party software as soon as possible.
- 49.18 The provisions of Article 49.16 apply only if the Supplier has complied with the information obligations referred to in Article 49.12 to 49.14.
- 49.19 The licence conditions included in the context of paragraph 12 will prevail over the provisions of the Agreement, but only insofar as the third-party software is concerned.

Access to data, authorisations and backups

- 49.20 During the term of the Agreement, the Supplier must enable Twence to gain access at all times to the data processed with the ICT Performance for Twence, as well as to the authorisations set up for that purpose and the relevant settings.
- 49.21 The Supplier may fulfil the obligation described in the preceding paragraph by, among other things:
- I) providing Twence with links and the associated ICT Documentation to enable Twence to retrieve the data/authorisations through the links; and
 - II) providing Twence with an accurate, complete and detailed description of the data models underlying the ICT Performance to enable Twence to unlock the data itself.
- 49.22 If and insofar as, by granting access to the stored data, a certain security measure (including authorisations) is circumvented, the Supplier must inform Twence accordingly and expressly warn Twence.
- 49.23 Twence may make copies of Software supplied by the Supplier for back-up purposes. If it is unable to do so due to security measures, the Supplier must make sufficient back-up copies available free of charge on request.

Escrow

- 49.24 If the Supplier makes Software and/or Cloud Services available to Twence that already existed before the Agreement was entered into, the Supplier must, if it is authorised to dispose of the Source Code of that Software and/or Cloud Services, at Twence's first request enter into an escrow agreement with Twence regarding that Source Code and all necessary technical ICT Documentation, which will give Twence the right to demand immediate surrender of that Source Code and technical ICT Documentation if:
- a. a petition in bankruptcy or for a suspension of payment is filed against the Supplier, if the Supplier is declared bankrupt or is granted a suspension of payment, or if the company with which the Agreement has been entered into is dissolved; or
 - b. the Supplier fails to fulfil any obligation it is under in relation to Twence regarding the aforesaid Software and/or Cloud Services.

Article 50 Maintenance and support

- 50.1 If Twence so wishes, the Supplier must maintain the ICT Performance in accordance with Article 45.11 of this Addendum and the provisions of the Agreement.
- 50.2 If no maintenance has been agreed, the Supplier must within reasonable limits provide all cooperation to enable Twence itself, or a third party engaged by it, to maintain the ICT Performance. The Supplier must provide the necessary information to Twence or a third party engaged by it on request.
- 50.3 The Supplier must – on request – familiarise Twence and its personnel with the use of the ICT Performance, which includes training users and administrators of the ICT Performance. If the Supplier has also been involved in the Implementation or installation of the ICT Performance, such support must, in principle, be provided by experts and/or the workers who have been involved, or by experts and/or workers of a similar level.
- 50.4 The Supplier must perform maintenance as from the moment stated in the Agreement and after the expiry of the warranty period in accordance with the provisions of Article 45 of this Addendum. Agreements on the exact nature, scope, duration and (if applicable) costs of the Supplier's maintenance obligations in respect of the ICT Performance will be stated separately in the Agreement.
- 50.5 The Supplier must perform the maintenance from its site. Only if reasonably necessary will the Supplier perform the maintenance on Twence's site. In principle, maintenance that may lead to disruption of any business process at Twence must be performed outside Twence's customary working hours. If such disruption of business processes is unavoidable in light of the importance of immediate repair of the defect, the Supplier must notify Twence accordingly in good time before the start of the maintenance.
- 50.6 Twence may have the maintenance on which it has agreed with the Supplier in the Agreement performed (with retention of rights) by a third party only if the Supplier is in default in the performance of its obligations under that Agreement or if the Supplier gives Twence permission to do so.
- 50.7 The Supplier may install any temporary solution only with Twence's Written consent. Unless the Parties agree

otherwise in a specific case, the Supplier must replace a temporary solution with a permanent solution as soon as possible.

- 50.8 If the maintenance obligation regarding the ICT Performance consists of or includes maintenance of the equipment, hardware and/or other products, and the Supplier keeps them in its possession for maintenance work, the Supplier bears the risk of loss, theft or damage of the equipment, hardware and/or other products in question.
- 50.9 Maintenance in any event includes the preventive avoidance of defects, the detection and repair of defects, the provision of patches and improved versions of the ICT Performance and, if agreed, the provision of new versions of the ICT Performance. The Supplier must ensure that improved and new versions are made available in a timely manner. Twence is not obligated to commission new versions.
- 50.10 The result of the maintenance to be performed by the Supplier may be subjected to a test by Twence. Twence may test (or arrange for a test) whether a defect has actually been remedied. The Supplier must cooperate in such a test. If the test shows that a defect has not been properly remedied, Twence may recover the costs of the test from the Supplier.

Article 51 Security

- 51.1 The Supplier must take reasonable measures to prevent and limit the consequences of breakdowns, defects in the ICT Performance, mutilation or loss of data, or other incidents and, if necessary, take additional measures. The Supplier declares that it is willing to cooperate with any additional measures requested by Twence in this context.
- 51.2 The data security to be organised by the Supplier with respect to the ICT Performance must comply with the security specifications agreed In Writing between the Parties. That security must furthermore in any event be effective in light of the state of the art and the sensitivity of the data. The Supplier furthermore warrants that it will continue to comply with the applicable regulations in the field of data security.

Article 52 Exit clause

- 52.1 If the Agreement ends (prematurely or otherwise) for any reason, the Supplier must, at Twence's first request, do what is reasonably necessary to allow another party or Twence itself to continue the performance of the Agreement without any impediments.
- 52.2 The Supplier must furthermore, if applicable, immediately return to Twence all ICT Documentation, data, documents, books, records and other goods, including data and information carriers, made available to it by Twence.
- 52.3 The reasonable measures referred to in paragraph 1 in the context of switching to another supplier or other ICT system in any event include (at Twence's discretion):
- a. the provision of the data stored in the ICT Performance in a format readable by Twence;
 - b. the provision of the specific settings/design of the ICT Performance;
 - c. the destruction of the data for which Twence is responsible (while submitting proof of destruction); and
 - d. the technical unbundling and dismantling of all or part of the ICT Performance.
- 52.4 The Supplier must perform the activities referred to in the preceding paragraph at the rates and conditions set out in the Agreement or, in their absence, at the rates and conditions generally applied by the Supplier and to be agreed on. Contrary to the preceding sentence, those activities must be performed free of charge in the event of breach by the Supplier. The activities referred to in paragraph 3(c) must in any event be performed free of charge on request.

Limited continuation of ICT Performance

- 52.5 The Supplier hereby declares that it is willing on termination of the Agreement(s) – on any ground – at Twence's first request:
- a. to grant user rights to the Software or similar software that will enable (or continue to enable) Twence to access the data stored with the Software; and
 - b. to provide (or continue to provide) a limited form of maintenance of the Software (namely within the framework of the limited functionality referred to in the preceding paragraph).
- 52.6 The duration and costs of the rights of use and related maintenance referred to in the preceding paragraph will be determined in consultation, on the understanding that:
- a. the rights of use and the related maintenance can be of at least such a duration that Twence can meet its statutory accounting obligations; and
 - b. the cost of the limited user rights and limited maintenance is reasonably proportionate to the original cost of the entire ICT Performance (in proportion to the reduced functionality).
- 52.7 Paragraph 5 does not apply in the case of hosting.

Chapter IV: Additional Software Conditions

Article 53 Applicability

- 53.1 The terms and conditions of Chapter IV govern all Agreements under which Twence acts as the principal in the provision of an ICT Performance regarding Software by the Supplier, whether or not in combination with the Performance.
- 53.2 In addition to these terms and conditions, the terms and conditions of Chapters I to II of the General Terms and Conditions of Purchase, as well as the introductory provisions and Chapter III of this Addendum, will also apply to the Agreements referred to in paragraph 1 of this article, unless otherwise expressly provided In Writing in the terms and conditions of Chapter IV or elsewhere, or otherwise apparent from the nature of the articles.

Article 54 Day-to-day management and supervision

- 54.1 The Supplier conducts the day-to-day management and supervision of the provision of the ICT Performance concerning the realisation and/or development and possibly the installation and Implementation of Software.

Article 55 Delivery, development, installation and Implementation of Customised or other Software

- 55.1 Without prejudice to the provisions of Article 47 of this Addendum, the development, delivery, installation and/or Implementation as well as acceptance of the Software (developed or to be developed) will take place in accordance with the provisions of this article and the Agreement and/or the specifications agreed between the Parties.
- 55.2 The Supplier must deliver the Software (developed or to be developed) to Twence – in accordance with the provisions of the Agreement – at the agreed online or other location, at the agreed time, in accordance with the agreed delivery conditions, and on the agreed type of data carriers.
- 55.3 The delivery of Customised Software takes place in Source Code and object code.
- 55.4 The Supplier must inform Twence in a timely manner of the delivery, installation and/or Implementation of the Software (developed or to be developed).
- 55.5 If agreed In Writing in the Agreement and/or the specifications, the Supplier must additionally install and/or Implement the developed Software.
- 55.6 All Software (developed or to be developed) to be delivered by the Supplier to Twence must first be subjected to an acceptance test in accordance with the provisions of Article 48 of this Addendum, with due observance of the other provisions of these Terms and Conditions of Purchase and the Agreement regarding the actual procedure of the acceptance test, including the exact nature and scope, the date of commencement and the exact timeframe of the acceptance test.
- 55.7 In the case of development of Customised or other Software, the Parties will record In Writing in the Agreement and/or the specifications which Customised or other Software will be developed and in what manner.
- 55.8 In the case of development of Customised or other Software, the Parties may each appoint a project leader and record the duties, responsibilities and powers of that project leader in the Agreement.
- 55.9 If the Parties agree on project phasing when developing Customised or other Software, the various project phases must be named, specified and worked out in the Agreement.

Article 56 Warranties and quality

- 56.1 The Supplier warrants, in addition to the provisions of Article 45 (Warranties) of this Addendum, that the Software delivered and/or developed by the Supplier is suitable for the purpose intended by Twence and the agreed use, provides the agreed functionalities, can be used without modifications, and is and will remain fully compatible with Twence's existing ICT environment.
- 56.2 The Supplier warrants that the Software delivered and/or developed is efficient, coherent and sound, and complies with the Agreement and/or Twence's Written specifications.
- 56.3 The Supplier warrants that the Software delivered and/or developed does not contain any technical facilities, security measures or other foreign elements (such as logic bombs, viruses and worms) other than those specified in the ICT Documentation that may at any time prevent the agreed use.
- 56.4 The Supplier must make every effort to ensure that errors, defects and/or faults in the Software are immediately rectified. In consultation with Twence, repair of defects may be postponed until a new version of Software is put to use. A temporary solution may furthermore be provided with Twence's written consent.
- 56.5 In the case of delivery of standard Software, the Supplier warrants that it is the rightful owner with regard to the standard Software or that it is authorised on behalf of the rightful owner to grant these rights of use to third parties.
- 56.6 The Supplier must restore any data that have been mutilated or lost.
- 56.7 If the Software does not comply with the warranties referred to in Article 45 of this Addendum and this

article, the Supplier must immediately take all necessary measures and perform all necessary work to ensure that the Software does comply with the Agreement. If the Supplier fails to fulfil this obligation, Twence may, notwithstanding all the other rights to which it is entitled, take all necessary measures and carry out or commission all necessary work at the Supplier's expense to ensure that the Software does comply with the Agreement.

Article 57 Use of open source Software

- 57.1 If the Supplier makes use, or joint use, of open source Software within the framework of the ICT Performance, it must ascertain beforehand its quality and closely examine whether and, if so, by whom and with what result intellectual property claims have been made or are expected to be made in respect of that open source Software.
- 57.2 If the Supplier uses open source Software, it must comply with the applicable licence conditions and inform Twence In Writing beforehand of the applicable provisions of the open source licence conditions that will apply to Twence. The Supplier must also send a copy to Twence.

Article 58 Software maintenance and support

- 58.1 The warranty in Article 45.11 of this Addendum that the Supplier can maintain, manage and support the ICT Performance for a period of at least five (5) years after acceptance in accordance with these provisions applies in full to maintenance of the Software, also if Twence does not wish to purchase new and/or improved versions of the Software.
- 58.2 If Twence has also agreed on maintenance with the Supplier, the Supplier must carry out the maintenance specified and detailed in the Agreement with regard to the Software at the agreed location and as from the agreed time.
- 58.3 The Software maintenance to be carried out by the Supplier must in any event include:
- the preventive avoidance of errors, defects and faults in the Software (preventive maintenance);
 - the detection and repair of errors, defects and faults in the Software (corrective maintenance); and
 - the making available of patches and new and/or improved versions of Software (innovative maintenance).
- 58.4 Twence will notify the Supplier in detail of any errors, defects or faults found in the Software. After receiving the notification, the Supplier must ensure that such errors, defects or faults are rectified as soon as possible and at the latest within two (2) weeks.
- 58.5 Temporary solutions of the errors, defects or faults in the Software or program workarounds or restrictions to avoid the problem are permitted only with Twence's Written consent. The Supplier must replace a temporary solution with a definitive solution as soon as possible.
- 58.6 Twence will notify any failures of the Software and prioritise such failures in the manner prescribed in the Agreement. After such notification by Twence, the Supplier must ensure that the failure is remedied immediately – and at the latest within two (2) weeks – whether or not in the form of a temporary solution.
- 58.7 Any agreements regarding the service level of maintenance of the Software to be realised by the Supplier (the service levels) must be made In Writing between Twence and the Supplier. The Parties will draw up a Service Level Agreement (SLA) for that purpose, with agreements on compliance with the agreed service levels.
- 58.8 The Supplier must make every effort to achieve the service levels specified in the Agreement with regard to Software maintenance. The consequences of failure to do so will be regulated in the Agreement.
- 58.9 If Twence maintains the Software itself or has it maintained by a third party, the Supplier must support Twence in doing so at its request and at a competitive fee. On request, the Supplier must provide Twence or a third party engaged by it with the information (or additional information) required for that purpose. This also applies to support and management activities with respect to Software that Twence itself carries out or commissions to a third party.
- 58.10 If the maintenance relates to Software not supplied to Twence by the Supplier itself, Twence will, if necessary, make available the Source Code and the technical development and other ICT Documentation of the Software (including data models, designs, change logs, etc.). Twence will hand these over only if it is entitled to do so. Twence grants the Supplier the right to use and modify the Software, including the Source Code and technical development and other ICT Documentation of the Software, with a view to the carrying out of the agreed maintenance.
- 58.11 If Twence has also made agreements with the Supplier regarding support for users and/or administrators of the Software, the Supplier must provide the support detailed in the Agreement with regard to the Software at the agreed location and from the agreed time.
- 58.12 Support will in any event include advising – in the manner specified by Twence – on the use and functioning of the Software. The Parties will make further arrangements in the Agreement regarding the qualifications of the workers hired by the Supplier and the number of persons at Twence who are eligible for support.

Chapter V: Additional Conditions for Cloud Services

Article 59 Applicability

- 59.1 The terms and conditions of Chapter V govern all Agreements in which Twence acts as the principal in the provision of an ICT Performance regarding the delivery of Cloud Services by the Supplier, whether or not in combination with the Performance.
- 59.2 In addition to these terms and conditions, the terms and conditions of Chapters I and II of the General Terms and Conditions of Purchase, as well as Chapters III and IV of this Addendum, also govern the Agreements referred to in paragraph 1 of this article, unless otherwise expressly provided In Writing in the terms and conditions of Chapter V or elsewhere, or otherwise apparent from the nature of the articles.

Article 60 Services

- 60.1 The Supplier must provide Twence with the Cloud Services specified in the Agreement. Twence and the Supplier will specify their agreements regarding the exact services, the exact service level and additional operational agreements in the Agreement.
- 60.2 The Supplier must provide the Cloud Services at the request of and in accordance with any instructions given by Twence.
- 60.3 The Agreement includes the provision of backup and disaster recovery services or data conversion, unless otherwise agreed in writing.
- 60.4 The Supplier undertakes to provide the agreed Cloud Services with care, in accordance with the agreements and procedures made with Twence and recorded In Writing in the Agreement.
- 60.5 The Supplier must ensure that the Cloud Service is faultless and functions without interruptions, unless otherwise agreed in an SLA.
- 60.6 The Supplier is aware of Twence's dependence on the availability and proper functioning of the Cloud Service. The Supplier therefore may not impede or block the use of the Cloud Service by technical measures.
- 60.7 In light of the continuity risk in the event of incidents and calamities presented by Cloud Services, the Supplier must – in the event of incidents and calamities – arrange for a suitable solution to safeguard the availability of the data and the continuity of the Cloud Services for Twence.
- 60.8 To safeguard the continuity, availability and use of the Cloud Services, as well as access to the data stored there by Twence, the Supplier hereby declares its willingness in such future event to make additional agreements with Twence in the Agreement to reduce these risks.
- 60.9 To safeguard Twence's information and data processed as part of the Cloud Service, the Supplier must arrange for at least a daily back-up copy of those data and the underlying database structures on a server designated by Twence for that purpose. Twence may furthermore make copies of the Cloud Service and the data on the server for back-up purposes.
- 60.10 The Supplier may put the Cloud Service out of operation in full or in part for preventive, corrective or innovative maintenance in accordance with Article 61 of this Addendum only with Twence's prior Written consent. Before the start of the maintenance work, the Supplier must state how long that work will take and must coordinate this with Twence.
- 60.11 The Supplier may not allow the period of inactivity of the Cloud Service to last longer than necessary. The Supplier must furthermore arrange for the period of inactivity to occur at times when the Cloud Service is usually used least intensively.
- 60.12 The Supplier warrants that the Cloud Service will comply with the relevant laws and regulations and that the Cloud Service will be adapted in a timely manner to changes in these laws and regulations.
- 60.13 If the Supplier provides Services to Twence under the Agreement with regard to a domain name, such as its application, renewal, disposal of or transfer to a third party, the Supplier must observe the rules and procedures of the authority in question. The Supplier warrants that the domain name desired by Twence will be applied for and registered.

Article 61 Maintenance, management and support of Cloud Services

- 61.1 The Supplier must carry out the maintenance, management and support specified and detailed in the Agreement in respect of the Cloud Service at the agreed location (online or other) and as from the agreed time.
- 61.2 The maintenance to be carried out by the Supplier with regard to the Cloud Service must in any event include:
- preventive maintenance: establishing and maintaining the best possible availability of connections that can be made to the internet via the Cloud Service; providing sufficient human and machine capacity for the best possible operation of the Cloud Service;
 - corrective maintenance: fixing disruptions and ensuring the best possible availability of the Cloud Service;
 - innovative maintenance: implementing changes to the Cloud Service so that the Cloud Service complies with the relevant laws and regulations and any changes in those laws and regulations; and continuing to

implement and providing adequate security to protect the availability of the Cloud Service as well as the integrity and confidentiality of Twence's data processed in the context of the Cloud Service.

- 61.3 Twence will give notice of the start and end of any disruptions in the availability of the Cloud Service and will prioritise these disruptions in the manner prescribed in the Agreement.
- 61.4 After the notice by Twence referred to in paragraph 3, the Supplier must ensure that all disruptions with regard to the Cloud Service are repaired and remedied without delay and at the latest within two (2) weeks.
- 61.5 With Twence's prior Written consent, the Supplier may implement temporary solutions or problem-avoiding restrictions in the Cloud Service. The Supplier must replace a temporary solution with a definitive solution as soon as possible.
- 61.6 The Supplier may make changes in the content or scope of the Cloud Service as part of innovative maintenance, whether or not at Twence's request. If changes result in a change of the processes or procedures that apply at Twence, the Supplier must notify Twence accordingly in a timely manner. In that case Twence may terminate the Agreement In Writing as from the date on which the change takes effect.
- 61.7 The Supplier must provide Twence with the user support detailed in the Agreement with regard to the Cloud Service. As part of that support, the Supplier must advise by telephone or e-mail on the use and functioning of the Software referred to in the Agreement and on the use made of the Cloud Service. Unless otherwise agreed In Writing, support will be provided only during normal business hours.
- 61.8 Specific work and any additional work will be agreed on between the Parties before the provision of Services.
- 61.9 Additional requests for Services, including requests for advice, functional questions and access, information or support requests, may be submitted to the Supplier and will be handled on an ad hoc basis in consultation with Twence.
- 61.10 Any further agreements regarding the service level of maintenance to be carried out by the Supplier with respect to the Cloud Service (the service levels) must be agreed In Writing between Twence and the Supplier. Where appropriate, the Parties will draw up a Service Level Agreement (SLA) containing agreements on compliance with the agreed service levels.

Article 62 Obligations of Twence

- 62.1 Twence must adequately secure its own systems and infrastructure and keep them free of viruses at all times.
- 62.2 If the Supplier provides a Cloud Service on the basis of data to be supplied by Twence, Twence will provide those data in accordance with the conditions set by the Supplier.
- 62.3 Twence is responsible for the instruction of and the use made by users, regardless of whether those users are in a relationship of authority to Twence.

Article 63 Warranties

- 63.1 In addition to the provisions of Article 45 (Warranties) of this Addendum, the Supplier warrants that it will make every effort to ensure that the Cloud Service it provides will be faultless and will function without interruption. The Supplier must ensure that disruptions in the Cloud Service are repaired within a reasonable period if and insofar as a Cloud Service is involved that was developed by the Supplier itself. The Supplier must also ensure that disruptions in a Cloud Service not developed by the Supplier itself can be remedied. The Supplier may at any time arrange for temporary solutions, program bypasses or problem-avoiding restrictions in the Cloud Service.
- 63.2 The Supplier must restore data that have been mutilated or lost.

Article 64 Security

- 64.1 With regard to the Cloud Service to be provided, the Supplier undertakes to provide adequate security to safeguard the availability and continuity of the Cloud Service as well as access to the Cloud Service(s) and the confidentiality of Twence's data that are processed as part of the Cloud Service. The security measures to be taken by the Supplier in that context must in any event include:
 - a. measures to combat unauthorised access and modification of data, accidental or unlawful destruction, loss, accidental alteration, unauthorised or unlawful storage, access or disclosure of data;
 - b. the provision of back-ups of Twence's systems and data in its possession; and
 - c. the provision of measures to identify vulnerabilities with regard to data processing in the systems deployed for the provision of Cloud Services to Twence; and
 - d. the provision – at Twence's Written request – of fall-back services if use of or access to the Cloud Service is temporarily or permanently impossible due to any other cause.