

ICT Purchasing Conditions Eurailscout

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Art. 1. Definitions	1a.	Eurailscout: Eurailscout Inspection & Analysis B.V. and its related companies.
	1b.	Contractor: the natural or legal person with which Eurailscout entered into the Agreement.
	1c.	Client: Eurailscout's client.
	1d.	Agreement: the Agreement between Eurailscout and the Contractor for the performance of activities and/or the supply of goods and/or services by the Contractor to which these general terms and conditions have been declared applicable.
	2	Cloud Service: the remote (online) provision of Software and/or Documentation by the Contractor to Eurailscout. This includes the activities "Software as a Service" (SaaS), "Application Service Provider" (ASP), "Platform as a Service" ("PaaS") and "Hosting" (making available from a computer server) services.
	3	Documentation: all documents provided by the Contractor to Eurailscout in connection with the Software and/or Hardware, including (if applicable) third-party documents, which include the technical and/or functional specifications, including AutoCAD and/or EPLAN printouts and files, of the Software and/or Hardware and/or the manual for use with the Software and/or Hardware.
	4	Executables: computer files that can be run by a computer, other than source codes.
	5	Hardware: computers and related equipment, such as but not limited to PLCs, IO cards, (switched) cabinets, instrumentation, panels, motors, sensors, cabling and related Documentation, accessories, components and Updates.
	6	New Version: a modified and/or improved version ("upgrade") of the Software and/or Hardware which increases or changes the functionality or data structure of the Software and/or Hardware.
	7	Licence: Eurailscout's right, unlimited in time and scope, to use the Software provided by the Contractor to Eurailscout in the widest possible sense.
	8	Custom software: Software developed by the Contractor for the benefit of Eurailscout.
	9	Defects: any deviations, errors or shortcomings in the Software and/or Hardware that cause the Software and/or Hardware to not or no longer comply with the Specifications.
	10	Agreement: the Agreement between Eurailscout and the Contractor for the performance of activities and/or the supply of goods and/or services and/or the provision of Licences by the Contractor to which these general terms and conditions have been declared applicable.
	11	Software: computer programs in any form (including source code, Executable, scripts, etc.), including software built into hardware (including operating software, firmware, etc.), and all New Versions, Updates, extensions, changes and improvements thereto respectively.
	12	Specifications: all technical and functional properties of the Software and/or Hardware contained in the Documentation and/or in another document prepared or approved by Eurailscout.
	13	Updates: a modified version of the Software and/or Hardware, which by means of 'patches' rectifies Defects in the Software and/or Hardware, improves security or improves the logical coherence of the Software and/or Hardware.
	14	Goods: products, including Software, Hardware and Documentation.
	15	Acceptance test: the test procedure(s) to demonstrate that the ICT Products and ICT Services meet the agreed Specifications in combination with each other and in combination with the ICT Infrastructure present at Eurailscout, as well as containing the guaranteed features.
	16	Right of use: the right to use Software in accordance with the agreed usage, including all reasonably necessary copies and publications, whether temporary or not.
	17	ICT Infrastructure: Eurailscout's physical and ICT environment, in combination with which the ICT Products and ICT Services should function.
18	ICT Services: activities and/or works to be carried out by the Contractor, other than products, including but not limited to: software development, consultancy, (technical) installation and commissioning, support, Cloud Services, training, secondment and maintenance work related to Software and Hardware.	
19	ICT Products: the ICT products to be delivered and/or developed by the Contractor, consisting of Equipment and/or Software, and/or the results of the ICT Services.	
20	Information security incident: any action contrary to the established information security policy (of the Contractor and/or Eurailscout), or an event, with potentially adverse consequences for the availability and/or confidentiality of systems and information, which fall under the responsibility and/or management of Eurailscout and/or the Contractor.	
Article 2. Governance and Integrity	1	The Contractor shall be deemed to comply with all relevant laws and regulations in its business operations in general and in the performance of the Agreement in particular, including expressly, but not limited to provisions relating to competition, the environment, personal data (GDPR) and working conditions. The Contractor will also endeavour to contribute to corporate social responsibility.
	2	For the implementation of the Agreement, the Contractor shall be deemed to comply with the standards laid down in the Code of Conduct for the Integrity of Business by Eurailscout or to apply a Code of Conduct which as a minimum meets the requirements of the above Code of Conduct. Eurailscout's Code of Conduct for the Integrity of Business can be requested from Eurailscout or downloaded from the website www.Eurailscout.nl .
	3	For the implementation of the Agreement, the Contractor shall be deemed to observe the standards laid down in Eurailscout's CSR code of conduct for suppliers. Eurailscout's CSR code of conduct for suppliers can be requested from Eurailscout or downloaded from the website www.Eurailscout.nl .
	4	If a CO2 emissions inventory (CO2 footprint) is required by the Client and/or Eurailscout, the Contractor will, at Eurailscout's request, provide the requested information or supply pertinent information in this respect. The CO2 footprint should preferably be verified by a certified institution.
Article 3. Outsourcing	1	The Contractor is not allowed to have the Agreement or part thereof performed by third parties without prior written permission from Eurailscout.
	2	The Contractor indemnifies Eurailscout for all claims and actions by third parties as a result of the Contractor having the Agreement, or part of it, implemented by third parties.
Article 4. Obligation to warn	1	The Contractor is obliged to warn of obvious errors and uncertainties in documents and/or other media, in so far as they have been made available by Eurailscout.
	2	If timely performance by the Contractor is or threatens to become impossible, the Contractor should immediately inform Eurailscout.
Article 5. Guarantees	1	The Contractor guarantees that the activities carried out and/or the goods and/or services supplied are of proper and sound quality and that they meet the purpose of the contract, without any rights, claims, charges, encumbrances and/or limitations being vested in third parties or the Contractor.
	2	The Contractor guarantees the absence of any visible or invisible shortcomings.
	3	This guarantee will be at least valid for the agreed warranty period or, in the absence thereof, the usual warranty period in the industry with a minimum of 24 months.
	4	If a defect arises during the warranty period, Eurailscout is entitled either to return the goods/services and to demand immediate repayment of the payment made for those items, or to require that the Contractor, upon Eurailscout first giving notice, rectify at its own expense and risk all defects occurring during the warranty period and/or replace the items or defective parts thereof, without prejudice to Eurailscout's right to compensation for further damage and for damage suffered by third parties. All costs incurred to remedy the defect will be borne by the Contractor.
	5	In the absence of proper observance of the Contractor's rectification obligation and/or its observance within the prescribed period, as well as in urgent cases, Eurailscout has the right itself to perform the work needed or to have such carried out by third parties at the expense and risk of the Contractor and Eurailscout will inform the Contractor accordingly in a prompt manner.
Article 6. Insurance	1	At its own expense and risk, the Contractor will take out insurance which provides cover for its liability and possible costs and damage. These include:
	1a.	Corporate liability with a minimum coverage of EUR 5,000,000 per event and conditions that meet at least Dutch Bourse Policy for Liability (NBA 2014) including cover for employers' liability and environmental degradation.
	1b.	Statutory compulsory insurance such as but not limited to WAM (legal liability motor vehicles) and medical expenses.
	1c.	Passenger liability insurance (SVI). The policy must not contain any restriction for non-economic damages.
	2	The Contractor's insurances have primary coverage. If damage can be recovered under both the Contractor's policy and an insurance from Eurailscout, the Contractor's insurance always takes precedence. The Contractor will indemnify Eurailscout for all claims of third parties arising from or related to the Agreement.
	3	Insurers must be sufficiently solvent. Their rating according to Standard & Poor's (or equivalent) is at least A-.
	4	Changes to the Contractor's insurance policies, including a reduction in the rating referred to above, changes to the terms and conditions resulting in a reduction in coverage as well as termination, must be reported immediately and in writing by the insurance broker or insurers to Eurailscout. The absence of cover under the insurances to be concluded by Contractors does not alter the Contractor's liability under the law or the Agreement. The same is true for the excesses that apply to the insurances. The Contractor will indemnify Eurailscout against the consequences of non-compliance with the Contractor's obligations under this article and under the insurances it has entered into.
5	Within 14 days of the signing of the Agreement, the Contractor will send a declaration from its insurance broker or insurer to Eurailscout showing that its insurance does comply with the provisions of this insurance article and that the premium has been paid. If the declaration is not made available or is made available too late, Eurailscout's payment obligation to the Contractor will be suspended.	

Article 7. Payments	1	The agreed price is fixed for the duration of the Agreement.
	2	Unless expressly stated otherwise, the agreed price includes travel and subsistence expenses.
	3	If the Contractor, to the satisfaction of Eurailscout, has fulfilled all its obligations under the Agreement, it must invoice the agreed price to Eurailscout as soon as possible and no later than within 30 days. Invoices must be sent to Eurailscout in duplicate and with slips signed by an appropriate representative of Eurailscout.
	4	Workslips or delivery slips issued or signed by Eurailscout will have no effect beyond recognition that the stated activities were performed or the stated deliveries took place. In particular, they will not be deemed to include an acknowledgement that the item complies with the Agreement, or that an order for work or additional work has been given or a purchase made in this respect.
	5	The invoice must comply with the legal requirements under the Turnover Tax Act.
	6	Unless otherwise agreed, payment will be made within 60 days after the Contractor has fulfilled its obligations to the satisfaction of Eurailscout and the invoice has been received by Eurailscout.
	7	If Eurailscout exceeds the payment term for an invoice on the grounds of alleged material inaccuracy or attributable failure to comply with the Agreement, this does not give the Contractor the right to suspend its obligations. Eurailscout will report material inaccuracies in invoices to the Contractor as soon as possible but within a maximum of 30 days following their discovery.
	8	Eurailscout is entitled to set off sums due and/or to be claimed in connection with the Agreement against those sums of whatever nature that Eurailscout can claim from and/or is owed by the Contractor.
	9	The Contractor's right to claim sums due from Eurailscout lapses and expires 1 year after the day that a written document has established that the activities and/or goods and/or services supplied represented by those sums have been completed.
	10	Late payment surcharge by the Contractor is excluded.
	11	All payments prior to payment of the final settlement will be considered as advances. Thus they do not imply acknowledgement of the accuracy of the invoices to which they relate nor of any claim outstanding at the time of payment.
	12	Payment by Eurailscout does not imply acknowledgement that the activities and/or supplies carried out comply with the provisions of the Agreement.
	13	Eurailscout will inform the Contractor in writing when it intends to submit its final settlement to the Client. The Contractor will then submit to Eurailscout, within two weeks of receipt of this communication, its account for any sums it is still owed.
	14	The Contractor is always obliged to provide on request the personal or business security required by Eurailscout.
	15	Eurailscout will be entitled to offset the damage suffered by Eurailscout as a result of the failure of the Contractor and the damage caused by a possible dissolution of the Agreement, as well as the amount that Eurailscout has to claim from the Contractor on account of the reimbursement obligation stemming from the dissolution, against payments that Eurailscout may owe to the Contractor.
	16	All Eurailscout's obligations to make any payments of whatever nature will be suspended until it is established what sums as referred to in paragraph 10 Eurailscout has to recover from the Contractor.
	17	The Contractor waives any right of retention which it can enforce against Eurailscout.
Article 8. Environment	1	The Contractor must clear up material residues, packaging, packing materials and contamination arising from the Contractor's activities, and unless otherwise agreed dispose of them. Unused chemical materials such as paints, adhesives, solvents and any other environmentally harmful materials, including the associated packing materials, should be collected by the Contractor itself and disposed of by the Contractor in accordance with the legal requirements.
Article 9. Confidentiality	1	The Contractor will not provide any information to third parties that was provided by Eurailscout prior to or during the performance of the Agreement or after termination of the Agreement without the prior written consent of Eurailscout.
	2	The Contractor, its staff and/or third parties engaged by it are required to maintain strict confidentiality with regard to all information relating to Eurailscout which it may obtain in connection with the Agreement or its implementation.
	3	The Contractor will hold third parties involved in the performance of the Agreement to the same obligation of confidentiality in writing.
Article 10. Intellectual Property	1	The Contractor guarantees that the performance of the Agreement will not infringe intellectual property rights and/or other rights of third parties.
	2	The Contractor indemnifies Eurailscout against claims arising from any infringement of the rights referred to in the preceding paragraph and will compensate Eurailscout for any damage resulting from any infringement.
	3	Drawings, designs, specifications, manuals, specific software etc., as provided by Eurailscout or produced by the Contractor on behalf of Eurailscout, will remain the property of Eurailscout and may be used by Eurailscout as it sees fit. The documents referred to above will not be copied by the Contractor without prior written consent.
Article 11. Prohibition of assignment, pledging	1	Without Eurailscout's consent, the Contractor is prohibited from assigning, pledging or transferring under any title any claim arising from the Agreement with Eurailscout to a third party or from establishing, or causing to be established, any limited right thereto. This prohibition is a stipulation within the meaning of Article 3:83(2) DCC. The prohibition has effect under property law.
Article 12. Dissolution	1	Without prejudice to the provisions of the other articles of these general terms and conditions, Eurailscout is entitled to terminate the Agreement without notice and/or judicial intervention, in whole or in part, with immediate effect:
	1a.	if an application for bankruptcy is lodged against the Contractor, it applies itself for bankruptcy, is declared bankrupt, has requested suspension of payment, suspension of payment is granted to it, its undertaking or part thereof is liquidated, it offers an arrangement to its creditors or it appears to be insolvent in some other way;
	1b.	if the Contractor invokes force majeure in the event of a failure to perform;
	1c.	if the Agreement between the Client and Eurailscout is terminated or suspended;
	1d.	if control in the Contractor's undertaking transfers to another party, unless the Contractor is able to demonstrate that the performance of the Agreement will not be hindered or adversely affected;
	1e.	if the Contractor or its staff or third parties engaged by it are in breach of article 2.
	2	Dissolution is without prejudice to any guarantee obligations. In the event of dissolution as referred to in paragraph 1(a), Eurailscout is entitled to a sum equal to a minimum of 5% of the total price or contract sum as compensation for the fact that the Contractor will no longer be able to fulfil its guarantee obligations.
	3	In the event of dissolution as referred to in paragraph 1, Eurailscout will never be subject to any form of compensation. The Contractor is bound to indemnify Eurailscout in respect of claims by third parties arising as a result of the dissolution.
	4	In the event of dissolution, Eurailscout will, without prejudice to its rights under the law, have the following rights in respect of the goods not supplied and/or the activities not performed and for that part of the Agreement which has already been implemented but which cannot be used effectively as a result of the dissolution of the Agreement:
	4*	* the right to return to the Contractor at the Contractor's own expense and risk the goods already delivered and the right to the reimbursement of payments made by Eurailscout for them;
	4*	* the right to reimbursement by the Contractor of the additional costs which Eurailscout must incur for the (renewed) purchases of goods and/or services not yet delivered or a reasonable replacement of goods and/or services not received and/or retained by Eurailscout;
	4*	* the right to have third parties carry out the activities still outstanding under the Agreement at the expense of the Contractor.
	5	Any claims that Eurailscout may have or acquire on the Contractor under this article will be immediately and fully due and payable.
6	If, in Eurailscout's opinion, there is a valid reason to fear that the Contractor will not fulfil its obligations to Eurailscout properly or in a timely manner, the Contractor is obliged, at the request of Eurailscout, to furnish sufficient security immediately for the due performance of all its obligations in an appropriate form as required by Eurailscout.	
7	Without prejudice to the provisions of the previous paragraphs, Eurailscout is entitled to terminate the Agreement in whole or in part at any time. In such case, Eurailscout will only reimburse the Contractor for the costs incurred prior to the termination, supplemented by an amount to be determined by Eurailscout for overhead and profit.	
Article 13. Disputes, applicable law	1	All disputes, including those which are regarded as such by only one of the parties, which may arise under the Agreement between Eurailscout and the Contractor, will be referred to the civil courts.
	2	By way of derogation from paragraph 1, Eurailscout will always be entitled to have a dispute settled by the authority as provided for in the Agreement between the Client and Eurailscout.
	3	The Agreement is governed by Dutch law. The applicability of the Vienna Sales Convention is expressly excluded.
	4	If the English version of these conditions applies to an Agreement, the Dutch version is decisive in the event of differences of interpretation.
AIV ICT - ACQUISITION OF SOFTWARE		
Article 14. Licence	1	Insofar as the intellectual property rights to the Software are vested in the Contractor, the Contractor automatically and immediately grants Eurailscout a non-exclusive, transferable, perpetual Licence for use of the Software, without charging additional costs for this.
	2	Insofar as the Contractor itself does not own the intellectual property rights to the software to be supplied by it to Eurailscout, it will notify Eurailscout clearly and in time before the conclusion of the Agreement and the Contractor guarantees that it has acquired the right to sublicense the relevant software to Eurailscout.
	3	The Licence or Sublicence is to include the permission for an indefinite period of time to perform or cause to perform all copyrighted authorizations related or ancillary to the use of the Software by or for the benefit of Eurailscout, in any manner and in any form, (including lending out and renting out), regardless of location and regardless of the hardware being used. The right to use will also include the management of the Software by third parties in the context of outsourcing.
	4	Eurailscout is authorized to produce, or have produced on its behalf, copies of the Software for backup purposes. If it is unable to do this due to security measures, the Contractor will, on request, make available to it the desired number of copies of the Software free of charge for backup purposes.

Article 14. Licence	5	In the event the Contractor is declared bankrupt and the administrator terminates the existing Agreement between the Parties, the parties already agree now that Eurailscout is entitled to continue to use the Software and Documentation pursuant to Article 45j of the Copyright Act. Parties already agree now that the use envisaged for the Software includes at least: a. The right to install the Software on an unlimited number of computers; b. The right to use the Software indefinitely in an unlimited number of locations and by an unlimited number of users of Eurailscout; c. The right to have the Software maintained by Eurailscout and/or by a third party.
Article 15. Software Guarantees	1	Without prejudice to the provisions of article 9, the Contractor guarantees for the entire duration of the Agreement that:
	1a.	the Software has - even during peak load - the agreed properties as laid down in the Agreement and complies with the agreed functional and technical specifications;
	1b.	the Software was written in a thoroughly efficient and coherent manner;
	1c.	the Software does not lead to a higher load on Eurailscout's hardware under consistent conditions;
	1d.	the Software complies with the ISO 25010 standard.
Article 16. Source code	1	As far as the Software is concerned in respect of which the Contractor holds the intellectual property rights, the Contractor declares that it is prepared to conclude an escrow agreement for the source code of these ICT products, at its expense and at the request of Eurailscout, with an independent company in the Netherlands nominated by Eurailscout that specialises in source code escrow, subject to written conditions to be further agreed in detail that guarantee business continuity for Eurailscout.
	2	The agreement referred to in paragraph 1 should comply with what is customary on the Dutch market at the time of its conclusion and should include all undisclosed information that Eurailscout reasonably needs to correct, maintain and manage the Software so that it can continue to make use of the Software in the agreed manner.
Article 17. Delivery, implementation and acceptance	1	The Contractor will supply the Software to Eurailscout by means of delivery against receipt and will implement it on the agreed hardware, unless Eurailscout has expressly indicated that it will do this itself. The Contractor will implement the Software in coherence with the ICT Infrastructure already present at Eurailscout. If Eurailscout has expressly indicated that it will take care of implementation itself, the Contractor will make the necessary manuals and technical documentation available to Eurailscout in a timely manner in the form desired by Eurailscout.
	2	As part of the implementation, the Contractor will perform an internal business test for each phase which enables the Contractor to establish for itself that the Software works properly, both independently and in coherence with the Software already implemented at Eurailscout.
	3	As soon as in the opinion of both parties the implementation has been completed, a proof of implementation will be drawn up and signed by the parties. This proof is without prejudice to the provisions of these ICT Conditions regarding acceptance and warranty.
	4	This article is not applicable in the case of cloud services.
	5	After the Software has been developed by the Contractor, the Contractor will first test the Software for itself in order to establish that the Software fully complies with the Specifications and contains no Defects. The Contractor will then make the Software available to Eurailscout and, if desired, install and implement it on the instructions of Eurailscout, after which Eurailscout itself will subject the Software to an acceptance test. If Eurailscout discovers defects in the Software during the acceptance test, it will inform the Contractor in writing in a manner that is as detailed as is reasonably possible. Defects that in Eurailscout's reasonable opinion do not impede the operation or use of the Software will not be a reason for withholding acceptance by Eurailscout, without prejudice to the Contractor's obligation to rectify such Defects as quickly as possible but within no more than fifteen (15) working days. At the end of the acceptance test, Eurailscout will inform the Contractor in writing as to whether or not the Software has been accepted. If Eurailscout withholds its acceptance due to identified and reported Defects, the Contractor will rectify such Defects as quickly as possible – but within no more than five (5) working days – and Eurailscout will repeat the acceptance test at least once more. If Eurailscout again discovers Defects and reports them to the Contractor, Eurailscout is entitled – but not obliged – to dissolve the relevant Agreement, in so far as it relates to the Software in question, and Eurailscout is entitled itself to rectify, whether or not by engaging third parties, the Defects at the Contractor's expense. If Eurailscout does not then dissolve the Agreement, the Contractor will rectify the Defects as quickly as possible – but within no more than five (5) working days – and again offer them to Eurailscout for acceptance.
Article 18. Cloud services	1	If the Software and/or the Documentation is made available to Eurailscout or is put into service in the form of Cloud Services, the provisions of these General Purchasing Conditions will remain in full force, provided in that case delivery takes place through the Contractor enabling Eurailscout to actually use the Software and/or Documentation on the agreed delivery date.
	2	The Contractor's Cloud Services will comply with the certification standards set by Eurailscout upon entering into the Agreement (e.g. ISO27001). The Contractor will hand Eurailscout a copy of the existing certificates and will update this certification regularly and again hand the renewed certificates to Eurailscout.
	3	Eurailscout remains the owner at all times of all data that Eurailscout makes available to the Contractor for the Cloud Services. The Contractor will treat these Eurailscout data as confidential information. Eurailscout grants the Contractor a limited Licence for the duration of the Agreement to use Eurailscout's data purely and simply, and only to the extent necessary, to perform the Cloud Services. Any other use of the data by the Contractor is expressly prohibited and the Contractor acknowledges that a breach of this obligation would result in irreparable damage for Eurailscout and constitute damage for which the Contractor would be liable. The Contractor will make these data available to Eurailscout on request. Upon termination of the Cloud services, the Contractor will make available in the agreed data formats all Eurailscout's data that are present on the Contractor's systems or those of a third party it has engaged. The data in question are to be documented in such a way that Eurailscout is able to give itself access to the data. After the aforementioned provision of all data to Eurailscout upon termination and following confirmation of receipt of all data by Eurailscout, the Contractor is to destroy all data remaining in its systems and document the destruction operations and keep this documentation available to Eurailscout for up to 5 years after the end of the Agreement. Without prejudice to the provisions of article 14.5, the Contractor will also ensure that in the event of the Contractor's bankruptcy the data in question do not form part of the liquidation assets. If the Contractor stores Eurailscout's data outside the Netherlands, it will need prior written permission from Eurailscout for this. In all cases, the Contractor bears sole responsibility for compliance with the laws and regulations applicable in the Netherlands and in any other country (in the case of data storage abroad) relating, inter alia, to the processing of personal data. The Contractor indemnifies Eurailscout against all claims and damages in that regard.
	4	Unless expressly agreed otherwise, the Contractor will ensure backups are taken of Eurailscout's data with due observance of the agreed periods, in the absence of which the Contractor will take a full backup of Eurailscout's data once a day. The Contractor will specify to Eurailscout the server location at which Eurailscout's data will be stored prior to the Agreement. In the case of a public and/or private cloud server, the Contractor will inform Eurailscout about the applicable security measures (staff, key regime) prior to the conclusion of the Agreement. The Contractor will enable Eurailscout to comply with its obligations, including those relating to retention, under applicable laws and regulations.
	5	The Contractor will provide individual users, in particular for authentication purposes, with an individual login name and an individual password. These login names and passwords should be stored by the Contractor using at least Advanced Encryption Standard (AES) 256-bit encryption. The Contractor will ensure that the login name and password are made available in such a way as to prevent theft and/or misuse. The Contractor will ensure acknowledgement by individual users that they have received the passwords in good order. Passwords will always be provided via appropriately secured connections and never to third parties. The Contractor will be responsible for the proper administration of the accounts it provides to users. The Contractor will immediately inform Eurailscout when unauthorized use of an account and/or password is discovered, and will indemnify Eurailscout against any damage and expense incurred by Eurailscout (and/or individual users) as a result of such unauthorized use, without prejudice to the obligation of the Contractor to restore the required level of security immediately and to inform Eurailscout in writing of the measures taken.
	6	The Contractor will use what is referred to as "Two-step verification" in the Cloud Services to ensure access security.
	7	The Contractor will provide the connection with encrypted protocols with the highest possible encryption key available in the market.
	8	The Contractor will have the Cloud Services tested regularly (at least 2 times a year) by experts through e.g. manual attack and PEN tests for "state of the art security" after which the Contractor will take appropriate measures based on the outcome.
	9	The Contractor will also be responsible for intrusion detection: recognizing activities that are characteristic of hackers.
	10	The Contractor will apply a consistent version policy and ensure the timely availability of New Versions and Updates of the applicable Software for the implementation of the Cloud Services. If the Contractor wishes to apply New Versions and Updates of the applicable Software for the implementation of the Cloud Services, the Contractor will consult with Eurailscout about this in advance. The Contractor will always test New Versions and Updates extensively in a test environment and prepare the approved Software therein before, in consultation with Eurailscout, applying these to the production environment; in so doing, the Contractor will do everything within its ability to ensure that there will be no disruptions to the Cloud Services. Only if it is necessary (maintenance) and agreed in advance, may the Contractor temporarily suspend all or part of the Cloud Services for maintenance purposes in close consultation with Eurailscout. The costs for the aforementioned maintenance (including the New Versions and Updates) will be included in the costs for the Cloud Services unless the parties have agreed otherwise in writing.
	11	Hosting:
11a.	If on the instructions of Eurailscout, the Contractor provides Services relating to hosting, the provisions in this article 18.11 will also apply;	
11b.	Eurailscout will have full access to the servers related to the management of the websites. The Contractor will provide Eurailscout with all relevant usernames and passwords;	
11c.	The Contractor will make available the relevant Hosting Services, in accordance with the (service level) Agreement established between the parties and in accordance with the service levels and rates laid down therein, as well as discounts in case the guaranteed availability percentages are not achieved by the Contractor. If and to the extent that the parties have not agreed on the aforementioned service levels, then the usual service levels between professional parties in the relevant sector apply and the Contractor will perform the Hosting Services in accordance with the requirements of excellent workmanship, and using all (technical) possibilities that could reasonably be expected by Eurailscout;	
11d.	The Contractor will only deploy qualified personnel for the Hosting Services;	
11e.	The Contractor undertakes to take measures of an organisational and technical nature in respect of Eurailscout in order to secure carefully and sufficiently Eurailscout's data that is stored on or able to be consulted via the websites hosted by the Contractor.	

Article 18. Cloud services	12	Personal data:
	12a.	In the case of the processing of personal data, the Contractor is only entitled to use a third party in that processing (subprocessor) if it has the prior written consent of Eurailscout. Eurailscout is entitled to attach further conditions to this permission.
	12b.	The Contractor guarantees that it will at all times comply with all applicable laws and regulations in the field of personal data protection (including but not limited to the General Data Protection Regulation);
	12c.	The Contractor recognizes that Eurailscout has the right at any time to verify whether the Contractor is complying with the obligation under article 18.12a. and the Contractor will cooperate fully in such verification free of charge;
12d.	Without prejudice to the provisions of article 6, the Contractor indemnifies Eurailscout against all damages, costs (including reasonable lawyer fees) incurred by Eurailscout as a result of a breach by the Contractor of article 18.12a. and against claims and penalties from third parties (including from the Dutch Data Protection Authority) based on a breach of privacy laws and regulations (including the GDPR) in relation to the Cloud Services. The Contractor must also be adequately insured against this risk.	
AIV ICT - DEVELOPMENT OF SOFTWARE		
Article 19. Software changes and additional work	1	Eurailscout has the right to require changes in the nature and scope of the Software to be delivered and/or the ICT Services to be performed by the Contractor. Eurailscout will inform the Contractor in writing of such a change, after which the Contractor must inform Eurailscout within five (5) working days of receipt of the requested change whether and to what extent this will affect the agreed delivery time and price. If, in the view of the Contractor, it involves additional work, the Contractor will provide Eurailscout with a written quotation for the additional work within the aforementioned period of five (5) working days. The additional work in question can only be carried out after written acceptance by Eurailscout of the aforementioned quotation for the additional work. In any event, no additional work is involved if the change in the nature or scope of the work in question was reasonably foreseeable for the Contractor when entering into the Agreement or is otherwise reasonably regarded as being for its account. If and insofar as Eurailscout does not wish to accept the aforementioned quotation, Eurailscout will have the right to dissolve the Agreement, in which case Eurailscout is only required to reimburse the reasonable costs actually incurred by the Contractor to the extent such costs were directly related to the performance of the Agreement, up until the time of the dissolution.
Article 20. Software Development	1	The parties will specify in writing which Software the Contractor will develop for the benefit of Eurailscout and how this will be done.
	2	For each new version/release of the Software, the Contractor will specify what has been changed and what effect this has on the use of the Software, as well as an explanation of any modified settings.
	3	The Contractor is responsible for the development of secure Software which in any case complies with the standard NCSC ICT Security Guidelines for Web applications, or their logical successors.
Article 21. Delivery, implementation and acceptance	1	The Contractor will supply the Software to Eurailscout by means of delivery against receipt and will implement it on the agreed hardware, unless Eurailscout has expressly indicated that it will do this itself. The Contractor will implement the Software in coherence with the ICT Infrastructure already present at Eurailscout. If Eurailscout has expressly indicated that it will take care of implementation itself, the Contractor will make the necessary manuals and technical documentation available to Eurailscout in a timely manner in the form desired by Eurailscout.
	2	As part of the implementation, the Contractor will perform an internal business test for each phase which enables the Contractor to establish for itself that the Software works properly, both independently and in coherence with the Software already implemented.
	3	As soon as in the opinion of both parties the implementation or one of its phases has been completed, a proof of implementation will be drawn up and signed by the parties. This proof is without prejudice to the provisions of these Conditions regarding acceptance and warranty.
	4	When the Software is accepted after development, articles 17.5 and 19 will apply mutatis mutandis.
Article 22. Source code	1	Simultaneously with the implementation of Customization Software, the Contractor will make the source code available to Eurailscout. If the Contractor changes this source code at any time, the Contractor will also immediately make such changed versions available to Eurailscout. Both with regard to the original source code and with regard to the modified source code, Eurailscout will have the same rights as set out in this provision.
	2	At the time of making the source code available, the ownership of the data carrier(s) on which the source code is recorded will be transferred to Eurailscout to its fullest extent. Should the source code made available to Eurailscout, or the data carrier on which the source code is recorded, be damaged or lost for whatever reason, the Contractor will immediately make available a new version of the source code.
	3	Eurailscout is entitled at any time it wishes to instruct a third party to examine the version(s) of the source code of the Software made available to it. This third party is authorized to investigate whether a correct machine version can always be generated from the source code, such as in use with Eurailscout, and whether the source code is complete and suitable for continuous and efficient maintenance and/or modifications to the Software by a party other than the Contractor, and whether the source code is free from viruses or other extraneous elements. The Contractor declares that it agrees to this investigation and will provide the necessary cooperation for that purpose. The costs of the investigation will be borne by Eurailscout. However, if this investigation shows that the source code is not suitable for generating the correct machine version of the Software as in use with Eurailscout, or if it appears that the source code is not complete or not suitable for continuous and efficient maintenance and/or modifications to the Software by a party other than the Contractor, and if the source code is not free from viruses or other extraneous elements, the costs of that investigation will be borne by the Contractor, to the extent that Eurailscout has informed the Contractor of the costs involved in this investigation. In this case, the Contractor will also immediately replace and/or supplement the non-usable (sub) components of the source code.
AIV ICT - ACQUISITION OF HARDWARE		
Article 23. Order	1	Eurailscout's order letter concerning the order and delivery of the hardware acts as confirmation of the ordering of the hardware.
	2	The Contractor is not entitled to supply hardware other than the hardware ordered without the prior written permission of Eurailscout. Eurailscout will not withhold its consent if: it is demonstrated by the Contractor to the satisfaction of Eurailscout that the other hardware it proposes meets the same quality and capacity requirements, does not involve any restrictions in use or application possibilities, nor involve such restrictions for other hardware or Software that Eurailscout has, and/or does not involve higher operating and/or maintenance costs.
	3	If the other hardware proposed by the Contractor has a lower, generally applicable selling or rental price, the purchase or rental price will be reduced accordingly, without prejudice to Eurailscout's right to agreed discounts.
Article 24. Delivery, installation and acceptance	1	The Contractor is responsible for packing and transporting the hardware in the proper fashion. A packing list will be provided for the hardware that is to be delivered, indicating Eurailscout's order number(s) as well as the item number(s), quantity, and description(s).
	2	Immediately after delivery of the hardware (or parts thereof), a proof of delivery will be drawn up and signed by the parties.
	3	The Contractor will start the installation immediately after the delivery of the hardware, unless Eurailscout has expressly indicated that it will carry out the installation itself or arrange for such to be carried out. The Contractor will install the hardware in coherence with the ICT Infrastructure already present at Eurailscout. If Eurailscout has expressly indicated that it will take care of implementation itself or arrange for such to be carried out, the Contractor will make the necessary manuals and technical documentation available to Eurailscout in a timely manner in the form desired by Eurailscout. As part of the installation, the Contractor will perform an internal business test which enables the Contractor to establish for itself that the hardware works properly, both in terms of its separate components and as a whole.
	4	As soon as the installation has been completed in the opinion of the parties, a proof of installation will be drawn up and signed by the parties.
	5	Any Hardware to be delivered by the Contractor to Eurailscout may, if Eurailscout so wishes, first be subject to an inspection and/or an acceptance test. The inspection and/or acceptance by or on behalf of Eurailscout will not constitute recognition that the supplied product complies with the guarantees referred to in article 25.
Article 25. Hardware guarantees	1	The Contractor guarantees that: the Hardware is fully compliant with the Specifications; the Hardware complies with (international) technical standards; the Hardware does not contain any security measures that have not been agreed, and that the Hardware does not contain any extraneous elements; the response times specified in the Agreement and/or Specifications are met and all of the Hardware's built-in functionalities are described in the Documentation. The guarantee also covers the free rectification of Defects in accordance with the terms of these General Purchasing Conditions.
	2	Unless otherwise agreed in writing, the guarantee period is 24 months after delivery, or - if an acceptance test has been agreed - after the acceptance test has been completed.
	3	If, in the opinion of Eurailscout, Hardware provided by the Contractor during the duration of the guarantee contains Defects, Eurailscout will inform the Contractor within a reasonable time. Immediately upon receipt of the notification in question, the Contractor will proceed non-stop with the rectification of the Defects. Defects that prevent the operation of the Hardware are to be resolved by the Contractor within four (4) office hours after Eurailscout's notification, without prejudice to the obligation of the Contractor to rectify the Defects as soon as possible. Defects that disrupt the operation of the Hardware are to be resolved by the Contractor within twenty-four (24) office hours after Eurailscout's notification, without prejudice to the obligation of the Contractor to rectify the Defects as soon as possible.
	4	The Contractor guarantees that it will carry out the work under the relevant Agreement, as well as maintenance in accordance with the (technical) norms and standards which apply to the most recent and properly constituted ICT practice.
Article 26. Hardware changes and additional work	1	When circumstances arise that lead to changes and additional work related to the realization of Hardware, article 32 applies mutatis mutandis.
AIV ICT - MAINTENANCE		
Article 27. Time period commitment	1	The Agreement will be entered into for the period agreed between the Parties, in the absence of which a period of one year will apply.
	2	The duration of the Agreement will be implicitly extended for the original period, unless one of the Parties terminates the Agreement in writing subject to a notice period of three months before the end of the period in question. However, the Contractor may terminate the Agreement only after the initial period referred to in the first clause of the article has expired.

Article 28. Maintenance	1	We understand maintenance to mean:
	1a.	Maintaining ICT products by taking preventive measures to facilitate the functioning of ICT products in accordance with the Agreement for the duration of the Agreement.
	1b.	Corrective maintenance: detecting and rectifying Defects in ICT Products, after they have been reported by Eurailscout or otherwise become known to the Contractor, by providing improved versions.
	1c.	Modification of the ICT Products, including making available new versions of the Software, by the Contractor after written permission from Eurailscout, in order to increase their reliability, change functions or add new features and/or resolve problems that affect their use.
	1d.	Support: the provision of assistance, help and advice in detecting Defects, as well as providing telephone advice on the use and functioning of ICT products.
	1e.	Training: the provision of training courses on the use of ICT products to Eurailscout staff.
Article 29. Obligations	2	The Service Levels agreed between the parties are set out in a Service Level Agreement. These Service Levels will be achieved by the Contractor during the execution of the maintenance. The consequences for non-compliance with the Service Levels are set out in the Service Level Agreement.
	3	The Contractor is not allowed to make functional changes to the Software unless these result from legal obligations and after Eurailscout has been informed. In all other cases, Eurailscout must have given prior written consent or have explicitly requested the functional change.
	5	The Contractor undertakes to perform the agreed maintenance for the duration of the Agreement.
Article 30. Version control	1	The Contractor undertakes to perform the agreed maintenance for the duration of the Agreement.
	2	The activities will be carried out continuously and on the agreed days and completed as soon as possible.
	3	The Contractor will report to Eurailscout on the progress of its activities in the manner laid down in the Agreement. This reporting will provide insight into the course and state of the Contractor's activities, the number of hours spent and other matters relevant to the implementation.
Article 31. Third party maintenance	4	The Parties will discuss the progress of the activities as often as necessary.
	5	The Contractor will ensure adequate recording and archiving of the causes of malfunctions and the results of maintenance and, if necessary, adapt the documentation.
	1	The Contractor is responsible for a consistent version policy. The basic premise is that improved and new versions will be made available in time. The Contractor is to regularly investigate the need to release such versions and inform Eurailscout as soon as possible about the results of its investigation.
Article 32. Changes and additional work	2	Interim changes to Software due to Corrective Maintenance are to form part of improved and new versions as far as possible.
	3	On request, the Contractor will provide Eurailscout with a copy of a new version free of charge for testing and evaluation purposes. Eurailscout is not obliged to put new versions into operation.
	1	If the Contractor does not fulfil its obligation to maintain, or fails to do so completely or in good time, Eurailscout will, without prejudice to its further rights, be entitled after prior written notification to have the maintenance or any part thereof carried out at the Contractor's expense either by itself or by third parties. The Contractor is obliged to provide its cooperation in this regard. In this case, the Contractor is also obliged to provide necessary information on request.
Article 33. Provision of ICT services	1	For the execution of maintenance and/or modifications, the Contractor uses a change management process which focuses on preventing security incidents, malfunctions or interruptions during the implementation of changes. The Contractor is responsible for administering all changes and uses an acceptance process.
	2	The Contractor will inform Eurailscout within a reasonable period of time about forthcoming changes, taking into account weekends, public holidays and holiday periods.
	3	Before making any change that could impact Eurailscout, the Contractor will determine the impact of the change by carrying out an impact analysis and submitting the result to Eurailscout for approval. This impact analysis will specifically include the impact on information security. The Contractor will implement additional measures to minimise possible negative impact on information security.
	4	If, in the view of the Contractor, it involves additional work, the Contractor will provide Eurailscout with a written quotation for the additional work within the aforementioned period of five (5) working days. The additional work in question can only be carried out after written acceptance by Eurailscout of the aforementioned quotation for the additional work. In any event, no additional work is involved if the change in the nature or scope of the work in question was reasonably foreseeable for the Contractor when entering into the Agreement or is otherwise reasonably regarded as being for its account. If and insofar as Eurailscout does not wish to accept the aforementioned quotation for additional work, Eurailscout will have the right to dissolve the Agreement, in which case Eurailscout is only required to reimburse the reasonable costs actually incurred by the Contractor to the extent such costs were directly related to the performance of the Agreement, up until the time of the dissolution.
AIV ICT - SERVICE PROVISION		
Article 34. Staff	1	All obligations of the Contractor will have the character of a result obligation, unless a specific performance to be carried out by the Contractor is otherwise expressly agreed in writing between the parties.
	2	The Agreement will specify the ICT Services and the period for which this Agreement is entered into and the results to be produced.
	3	Activities outside the agreed hours – if carried out at the written request of Eurailscout – will be charged to Eurailscout at the Contractor's customary rates.
	4	If access to Eurailscout's ICT infrastructure is required for the provision of ICT services, Eurailscout may impose further conditions on such access, in which case access will only be granted after the Contractor has signed the relevant terms and conditions to indicate its acceptance of such.
Article 35. Storage restrictions, free movement of data in the EU	1	The Contractor will keep sufficient, qualified staff available to carry out the Agreement. Each Agreement may specify the qualifications the Contractor's staff have to meet.
	2	The Contractor will be entitled to replace its deployed staff (only occasionally and with the prior written consent of Eurailscout) temporarily or permanently. Eurailscout will not withhold its permission on unreasonable grounds and is entitled to attach conditions to this permission. As far as possible, the same persons will be deployed by the parties to maintain continuity.
	3	The hourly rates applicable to the original staff of the Contractor will not be increased if they are replaced.
	4	Any replacements for the staff provided by the Contractor will have to be made available without it leading to higher costs for Eurailscout, and the Contractor's replacement staff must be of at least the same quality as the Contractor's originally deployed staff in terms of expertise, level of education and experience. Requests to replace the Contractor's staff with persons less qualified will only be possible by exception, supported by written reasons. In this case, the hourly rate will be reduced to the generally applicable level for these Contractor staff.
	5	All induction costs and related travel and subsistence expenses of replacement staff will be borne by the Contractor.
	6	The Contractor is required to replace its staff who are unable to perform activities due to illness within (5) working days of notification of the illness at the request of Eurailscout.
	7	If Eurailscout considers that a Contractor's employee does not or no longer meets the agreed qualifications or does not meet them sufficiently, or is not willing or able to perform the activities properly, Eurailscout is entitled to require the Contractor to replace said Contractor's employee within five (5) working days. A further reason for this would be if the Contractor's employee in question has acted contrary to the customary house rules or has in any other way violated Eurailscout's trust.
1	Organisations may use, collect, transmit or manage non-personal data using data centres or cloud services anywhere in the EU. In this regard, the Contractor will be guided by the SWIPO code of conduct for the storage of company data. In exceptional cases, EU countries may restrict the place where you may store the data but only if necessary for reasons of public security. This applies, for example, to data on ongoing terrorist investigations and air traffic control data (where data loss could lead to an air crash).	