

PORT OF ROTTERDAM AUTHORITY GENERAL TERMS AND CONDITIONS OF PROCURING GOODS AND SERVICES (in force since 1 October 2025)

In addition to these general terms and conditions of procuring goods and services, the parts mentioned below will apply additionally:
 PART A. SPECIAL TERMS AND CONDITIONS FOR THE HIRING OF TEMPORARY WORKERS AND SECONDED WORKERS
 PART B. SPECIAL TERMS AND CONDITIONS FOR THE PROVISION OF ICT AND APPURTENANT SERVICES

Article 1 - Definitions

In these general terms and conditions, the following definitions apply:

Agreement	:	any agreement between the Port of Rotterdam Authority and the Contractor, including framework agreements, regarding the purchase of Goods and/or the acquisition of Services by the Port of Rotterdam Authority from the Contractor, including any approved amendment or addition thereto, as well as any (legal) acts related to the foregoing;
Assignment	:	any Assignment by the Port of Rotterdam Authority for the delivery of Goods and/or the rendering of Services, in any form or manner whatsoever;
Business code	:	the most recent business code of the Port of Rotterdam Authority, in which the rules of conduct regarding (un)desired behaviour, integrity and Business Principles have been elaborated (to be consulted at: www.portofrotterdam.com);
Contractor	:	any natural or legal person who supplies Goods to the Port of Rotterdam Authority or renders Services (including making available Temporary Workers or Seconded Workers), as well as any natural or legal person with whom the Port of Rotterdam Authority enters into an agreement, or is still negotiating an agreement, regarding the delivery of Goods and/or the rendering of Services;
General terms and conditions	:	these Port of Rotterdam Authority General Terms and Conditions of Procuring Goods and Services;
Goods	:	items of property or proprietary rights;
Hiring desk	:	the digital service desk where suppliers of Temporary Workers and/or Seconded Workers should apply to the Port of Rotterdam Authority for obtaining temporary assignments;
Personal data	:	all information that can be traced directly or indirectly to a natural person, as referred to in Article 4(1) of the General Data Protection Regulation (GDPR), and specifically include the data processed by the Contractor as part of the performance of the Agreement with the Port of Rotterdam Authority;
Sanctioned Person	:	any natural or legal person, organisation, (governmental) body or agency or legal entity that (i) is either specifically the subject of a Sanction, (ii) is associated with a Sanctioned Person, (iii), or is, on an aggregate basis, directly or indirectly, owned for 50% or more by a Sanctioned Person or is directly or indirectly otherwise controlled by a Sanctioned Person or (iv) acts on behalf of or at the instigation of a Sanctioned Person;
Sanctioned Transaction:	:	any form and type of business transaction prohibited under the Sanctions;
Sanctions	:	sanctions, both (i) the restrictive measures imposed by the European Council of the European Union based on Section 215 of the Treaty on the Functioning of the European Union and (ii) the measures imposed under the Dutch Sanctions Act 1977;
Seconded Worker	:	any natural or legal person who is not employed by the Contractor and who is temporarily made available to the Client by the Contractor, with the consent of a third party;
Services	:	all activities performed by the Contractor for or on behalf of the Port of Rotterdam Authority, whether or not in connection with the delivery of Goods;
Special Terms and Conditions	:	the special terms and conditions which, if applicable, apply additionally to the General Terms and Conditions. Part A regards the special terms and conditions for the hiring of temporary workers and seconded workers. Part B regards the special terms and conditions for the provision of ICT and appurtenant services;
Port of Rotterdam Authority	:	the public limited liability company Port of Rotterdam Authority, established in Rotterdam;
Temporary Worker	:	any natural person, working for the Contractor on the basis of an employment contract pursuant to Section 7:610 of the Dutch Civil Code or a temporary employment agency contract pursuant to Section 7:690 of the Dutch Civil Code, and who renders the Services for the Port of Rotterdam Authority as agreed on in the Agreement/Assignment.

Article 2 - Applicability of and amendments to the General Terms and Conditions

- 2.1 These General Terms and Conditions apply to all (quotation) requests, quotations, offers, Assignments, assignment confirmations, Agreements and other legal acts (including the performance of any additional work) relating to the delivery of Goods by the Contractor to the Port of Rotterdam Authority, the rendering of Services, the execution of Assignments and the performance of other activities. These General Terms and Conditions also apply to any additional, amended or follow-up agreements.
- 2.2 The Contractor's general terms and conditions, by whatever name, will expressly not apply - not even in addition to these General Terms and Conditions.
- 2.3 These General Terms and Conditions can only be deviated from or supplemented if and insofar as the Port of Rotterdam Authority has expressly accepted them in writing in advance.
- 2.4 The General Terms and Conditions and, if applicable, the Special Terms and Conditions and the Agreement together contain all that has been agreed on in relation to the Assignment.
- 2.5 In case the Agreement, in terms of content, differs from the content of these General Terms and Conditions, the content of the Agreement will prevail. If the general provisions of the General Terms and Conditions conflict with provisions in the Special Terms and Conditions, the provisions of the Special Terms and Conditions will prevail. In case of conflict between the Dutch text and any translation thereof, the Dutch text will be legally binding.
- 2.6 The invalidity, nullity or voidability of any provision of the Agreement or of these General Terms and Conditions will not affect the validity of the other provisions. In that case, a provision which, taking all circumstances into account, is acceptable and reflects the scope of the initial provision best, will apply between the parties.
- 2.7 Obligations under the Agreement and these General Terms and Conditions which by their nature are intended to endure even after the termination of the Agreement (on whatever grounds) will survive the termination of the Contract.

Article 3 - Conclusion of the Agreement

- 3.1 Insofar as no other period has been specified in the request for a quotation, a quotation or offer submitted by the Contractor must be honoured for a period of sixty (60) days. Unless explicitly agreed otherwise in writing, the period indicated in the previous sentence commences the moment the quotation or offer by the Contractor has reached the Port of Rotterdam Authority.
- 3.2 Quotations, offers etc. made by the Contractor are irrevocable, unless the quotation, offer etc. unambiguously shows that it is without obligation.
- 3.3 An Agreement between the Port of Rotterdam Authority and the Contractor will not be concluded until the Port of Rotterdam Authority has confirmed a written offer by the Contractor by means of a written and explicit Assignment. If the Contractor performs or prepares to perform activities before having received the Assignment in writing, they will do so at their own risk and expense.
- 3.4 If the Port of Rotterdam Authority sent the Assignment after expiry of the period referred to in the first paragraph of this article, the Agreement will be concluded, unless the Contractor rejects the Assignment in writing within fourteen (14) days of the date of the Assignment.
- 3.5 If the Contractor has not made an offer or an oral offer, the Agreement will be concluded as a result of the Contractor accepting a written Assignment by the Port of Rotterdam Authority in writing within fourteen (14) days of the date of the Assignment. The Port of Rotterdam Authority is entitled - without being obliged to pay any compensation - to cancel the Assignment up until the moment the Contractor has accepted the Assignment.
- 3.6 All costs involved in preparing a quotation or making an offer will be borne by the Contractor.

Article 4 - Changes

- 4.1 Even after the conclusion of the Agreement, the Port of Rotterdam Authority will be authorised to change the volume and/or characteristics of the Goods to be supplied and/or the Services to be rendered and to modify drawings, specifications and the like.
- 4.2 If, in the opinion of the Contractor, a change has consequences for the agreed price, delivery time and/or quality, the Contractor will, before complying with the change, inform the Port of Rotterdam Authority about this in writing as soon as possible, but no later than eight (8) days of being notified of the requested change. If, in the opinion of the Port of Rotterdam Authority, such consequences for the price, delivery time and/or quality would be unreasonable considering the nature and scope of the change, the Port of Rotterdam Authority will be entitled to terminate the Agreement by giving the Contractor notice in writing, unless this would be manifestly unreasonable considering the circumstances. A termination under this paragraph does not entitle either party to compensation for damages.
- 4.3 Changes will only be effective if they have been agreed on in writing and signed by persons of the Port of Rotterdam Authority and the Contractor who are authorised to do so.

Article 5 - Additional work

- 5.1 Additional work will not include additional activities that the Contractor could or should have foreseen or that are at their risk and expense, in order to be able to deliver in accordance with the agreed requirements. Nor will additional work include activities resulting from incorrect and/or incomplete documentation underlying the activities, if such documentation has been prepared by or on behalf of Contractor or has been accepted by Contractor.
- 5.2 Prior to commencing the additional work, the Contractor will provide a written quotation in relation to the extent of the additional work the Contractor expects. The Contractor will not commence the additional work until they have obtained written approval from the Port of Rotterdam Authority. Additional work will not be reimbursed without the prior written approval of the Port of Rotterdam Authority. Additional work that was given approval for, will be reimbursed at the usual fee, unless agreed otherwise in writing.

Article 6 - Prices

- 6.1 Unless expressly agreed otherwise in writing, agreed prices or rates are always set in Euros and inclusive of:
 - any costs, e.g. packaging, transport, insurance, travel and accommodation expenses;
 - all taxes and levies, e.g. import and export duties, with the exception of VAT.
- 6.2 If a fixed price is agreed on, it will relate to all activities to be performed by the Contractor under the Agreement. This will also include the making available of computers and auxiliary materials, the costs of packaging, insurance, travel and accommodation expenses of the Contractor's personnel, as well as the costs of third parties engaged by the Contractor after prior written permission from the Port of Rotterdam Authority.
- 6.3 To the extent that the Contractor is required to charge VAT, the amounts specified in the Agreement will be increased by the percentage of VAT applicable at the time of rendering the Services.
- 6.4 If it is agreed that the Contractor will render Services to be performed on subsequent costing basis, the hourly rates to be used in this regard will be agreed on in advance. The rates will include reasonable travel expenses for commuting and occasional short business trips for the purpose of executing the Contract/Assignment in question. Travel time will not be considered time actually worked and will not be reimbursed.
- 6.5 Prices are fixed and will not change, not even as a result of additional work, unless expressly agreed otherwise in writing. If the Contractor exercises a right vested in them under any statutory provision to increase prices, the Port of Rotterdam Authority will be entitled to terminate the Agreement (of which these General Terms and Conditions form an integral part) without notice of default and without being liable for compensation.

Article 7 - Method of delivery of Goods

- 7.1 Delivery of Goods will take place through the Contractor granting the Port of Rotterdam Authority possession of the Goods in question. Delivery of rights to be exercised against one or several specific persons will be made in accordance with Section 3:94(1) of the Dutch Civil Code through a designated deed and notifying those persons thereof. The Contractor will be obliged to perform the delivery fully and properly in accordance with the agreed specifications. The Contractor will deliver the Goods in the manner and at the time/within the periods as specified in the Assignment or Agreement.
- 7.2 Delivery will be DDP (delivered duty paid) within the meaning of Incoterms 2020 at the agreed address, unless expressly agreed otherwise in writing. Delivery will be completed once the Port of Rotterdam Authority has taken receipt of the delivered goods and signed in writing for approval of the delivery.
- 7.3 Delivery is also understood to mean the delivery of any appurtenant auxiliary materials and any appurtenant documentation such as drawings, certificates of quality, inspection and guarantee, as well as instruction books and manuals.
- 7.4 Delivering quantities exceeding or falling short of those ordered, will only be accepted if expressly agreed on in writing.
- 7.5 Unless agreed otherwise in writing, the Contractor will not be entitled to make partial deliveries. If making partial deliveries has nevertheless been agreed on, delivery will, for the purposes of these General Terms and Conditions, be understood to include a partial delivery.
- 7.6 The Contractor will not be entitled to suspend their delivery obligation in the event that the Port of Rotterdam Authority fails to fulfil (one of) their obligations.



Article 8 - Inspection and checking of Goods delivered and Services provided

- 8.1 The Port of Rotterdam Authority will at all times be entitled to subject the Goods delivered or to be delivered to an inspection, or have them subjected to an inspection, or to examine whether the Services provided have been performed in accordance with the Agreement and these General Terms and Conditions. The Contractor is obliged to give their full cooperation in this.
- 8.2 In the event of rejection, the Port of Rotterdam Authority will inform the Contractor accordingly. In the event of the Goods and/or the Services being rejected, the provisions stated below in paragraph 4 will apply with regard to the powers and rights of the Port of Rotterdam Authority.
- 8.3 The Port of Rotterdam Authority accepting the Goods delivered and/or Services provided will not relieve the Contractor of their liability for any visible or invisible defects in the Goods delivered and/or Services provided that were not detected upon inspection by the Port of Rotterdam Authority. Nor does inspection release the Contractor from their obligations under the guarantee granted by them under Article 16.
- 8.4 The Port of Rotterdam Authority will at all times be entitled to inspect the Goods ordered by them, or the manufacturing process of those Goods, in advance prior to delivery. Such inspection never leads to acceptance. To this end, the Contractor will grant access to the location where the Goods are manufactured or stored, respectively, and they will give their full cooperation in the desired inspection by the Port of Rotterdam Authority.
- 8.5 If the Port of Rotterdam Authority rejects or does not approve of the Goods delivered and/or Services provided, the Contractor will, at the Port of Rotterdam Authority's discretion, be obliged to
- (i) take back the rejected Goods at their own expense and deliver new Goods within ten (10) working days;
 - (ii) remedy any defects found in the Goods free of charge within five (5) working days, all this without prejudice to the Port of Rotterdam Authority's right to compensation.
- If the Contractor fails to comply with what is required, the Port of Rotterdam Authority will be entitled:
- (i) to terminate the Agreement in whole or in part; or
 - (ii) at the Contractor's risk and expense and without the Contractor's permission, (a) to remedy the discovered defects themselves or have them remedied by a third party, or (b) to return the Goods to the Contractor, or (c) - if the Contractor refuses to take receipt of the Goods - to either store, sell or destroy the Contractor's Goods, all this without prejudice to the Port of Rotterdam Authority's right to compensation.
- 8.6 The Contractor cannot derive any rights from the results of an inspection or examination as referred to in Article 8.1 nor from such results not being produced.

Article 9 - Packaging and shipment of Goods

- 9.1 The Contractor will pack and transport the Goods at their own risk and expense with due observance of the requirements imposed by applicable laws and regulations, and in a manner appropriate to the Goods. The Contractor is liable for any damage caused by insufficient or inadequate packaging.
- 9.2 Each shipment should be accompanied by a packing list.
- 9.3 The Contractor must take back packaging materials immediately should the Port of Rotterdam Authority so demand.
- 9.4 Any (loan) packaging will be returned at the Contractor's risk and expense to a destination to be specified by them.

Article 10 - Risk and ownership of Goods

- 10.1 The ownership and risk of Goods will be transferred from the Contractor to the Port of Rotterdam Authority at the moment of delivery, unless (i) otherwise agreed, or (ii) the Goods are rejected by the Port of Rotterdam Authority during or after delivery (pursuant to Article 8 of these General Terms and Conditions). The risk will not be transferred if the Goods do not comply with the Agreement or if the Goods are not accompanied by the relevant auxiliary materials and documentation, respectively.
- 10.2 In connection with the Agreement, the Port of Rotterdam Authority may make certain items available to the Contractor. Unless expressly agreed otherwise in writing, all items provided by the Port of Rotterdam Authority to the Contractor (including layouts, models, designs, sketches, drawings or other data owned by the Port of Rotterdam Authority) will remain the property of the Port of Rotterdam Authority. The Contractor is not allowed to use such items for the benefit of third parties or to make them available to third parties. Should the Port of Rotterdam Authority so demand, the Contractor is obliged to return such items immediately in the same condition as in which they were provided to them by the Port of Rotterdam Authority.
- 10.3 The Contractor hereby waives all rights and powers vested in them pursuant to the right of retention or the right of recovery.

Article 11 - Performance of Services

- 11.1 The Contractor will render the Services, or have them rendered, in the manner, within the period/at the time agreed on and, if applicable, by the third party, Temporary Worker or Seconded Worker agreed on. The Contractor will at all times be responsible for and will ensure or arrange for the provision of any necessary auxiliary materials.
- 11.2 The Port of Rotterdam Authority will give the Contractor or their employee(s) or the third party/parties, Temporary Worker or Seconded Worker engaged by them, access to the Port of Rotterdam Authority premises required for the purpose of performing the Services and, if necessary, will provide passes and any instructions.
- 11.3 The Contractor will comply with the applicable laws and regulations and safety requirements and take such measures in order to ensure a safe (working) environment. In the event of an industrial accident, the Contractor will notify the Port of Rotterdam Authority thereof as soon as possible.
- 11.4 The provision of the Services is completed once the Port of Rotterdam Authority has confirmed in writing that the Services performed have been rendered or has accepted the performed Services in writing. The Contractor cannot derive any right from this confirmation or acceptance, and the confirmation or acceptance therefore does not stand in the way of the Port of Rotterdam Authority (for instance) exercising their rights (inter alia) pursuant to a breach on the part of the Contractor.
- 11.5 Upon completion of the provision of services, the Contractor will return or destroy all data provided by the Port of Rotterdam Authority, both originals and copies, unless the Contractor is obliged under laws and regulations to archive such data or if the Port of Rotterdam Authority grants explicit permission to retain such data. The access pass and other items provided will be returned to the Port of Rotterdam Authority in a good state.
- 11.6 The Contractor will not be authorised to suspend the performance of Services if the Port of Rotterdam Authority fails to fulfil (one of) their obligations.

Article 12 - Rendering Services, or having them rendered

- 12.1 Insofar as not stipulated otherwise in the Agreement, the Contractor will not outsource the execution of the Agreement to third parties (such also including: providers of public AI systems, as referred to in Article 17.7), either in whole or in part, without the prior written permission of the Port of Rotterdam Authority.

- 12.2 The Contractor may make proposals to the Port of Rotterdam Authority to engage third parties (including subcontractors). The Port of Rotterdam Authority will not refuse such proposals on unreasonable grounds. The Contractor will not enter into agreements with third parties that contain provisions contrary to the Agreement and General Terms and Conditions.
- 12.3 If the Agreement is executed by a Temporary Worker or Seconded Worker, the Port of Rotterdam Authority will, prior to the conclusion of the Agreement, provide the Contractor with a specification of the activities, the position (job requirements), the scope of work, the hours of work (if applicable), the working hours, the workplace and the intended duration of the Assignment as well as the contact person. Where appropriate, the Port of Rotterdam Authority will also announce the grading in the remuneration scheme associated with the position.
- 12.4 The Contractor uses a meticulous selection procedure and guarantees that the third party, Temporary Worker or Seconded Worker engaged by them is professional and in possession of the right materials and sufficient qualifications (in terms of for instance training, expertise and experience) and complies with the work-specific requirements and work construction requirements set by the Port of Rotterdam Authority in order to render the Services properly to the best of their knowledge and with the required expertise. The Contractor will at all times be responsible for and vouch for the auxiliary materials to be used in rendering the Services. The Contractor will also vouch for the third party/parties, staff, Seconded Worker and/or Temporary Workers engaged by them rendering the Services in the same manner as the Contractor would have done themselves.
- 12.5 The Contractor further guarantees that the personnel, the Temporary Worker, Seconded Worker or the third party engaged who has to communicate with the Port of Rotterdam Authority for the purposes of the Agreement, has a sufficient understanding and command of the Dutch language.
- 12.6 At the request of the Port of Rotterdam Authority, the Contractor must carry out a Pre-Employment Screening, any costs of which are to be borne by the Contractor, unless otherwise agreed in the Agreement.
- 12.7 The Contractor will check references, diplomas obtained, certificates, proof of identity, residence permits and other required documents for authenticity and validity. This will not have any effect on the possibility of the Port of Rotterdam Authority carrying out their own checks in this respect.
- 12.8 The name of the Temporary Worker or Seconded Worker who will be performing the relevant activities will be stated in the Assignment/Agreement. If the Temporary Worker or Seconded Worker is absent and unable to perform the activities (e.g. due to incapacity for work), this must be reported to the contact person stated in the Agreement or, in their absence, their replacement/secretary, before 9 AM on the day in question.
- 12.9 If, during the life of the Agreement, it emerges that the Temporary Worker, Seconded Worker or third party/parties engaged (including subcontractors) does not perform to the Port of Rotterdam Authority's satisfaction, does not comply with the guarantee referred to in Article 12.4 or otherwise does not meet the Port of Rotterdam Authority's reasonable expectations, or if the person in question is temporarily incapable of carrying out the Assignment, and this lasts too long in the Port of Rotterdam Authority's opinion, the Contractor will be obliged to provide a skilled replacement at their own risk and expense immediately if the Port of Rotterdam Authority so demands. The Contractor will inform the Port of Rotterdam Authority about the replacement, including their qualifications. The Port of Rotterdam Authority is not obliged to accept the proposed replacement and also has the power to terminate the Agreement/Assignment in whole or in part in accordance with Article 24.
- 12.10 If the Contractor is unable to provide a replacement within a reasonable period to be determined by the Port of Rotterdam Authority, the Port of Rotterdam Authority will be entitled to terminate the Agreement/Assignment in whole or in part in accordance with Article 24.

Article 13 - Work permits for persons from outside the European Economic Area, taxes and social security costs and contributions

- 13.1 The Contractor is responsible for complying with the applicable income and VAT legislation, the Dutch Foreign Nationals (Employment) Act and social security legislation and any other obligations incumbent on them in accordance with relevant laws and regulations. The Contractor is also responsible for the Temporary Workers, Seconded Workers, third parties and/or subcontractors complying with such rules, laws and regulations. The Contractor guarantees that all (payment) obligations are met towards third party/parties, subcontractor(s), Temporary Worker(s) and Seconded Worker(s) engaged by them as well as towards all authorities. This includes the payment of income tax, VAT and national insurance contributions that are due.
- 13.2 The Contractor indemnifies the Port of Rotterdam Authority against any claims in respect of income tax, VAT and social security or other relevant laws and regulations or agreements that must be complied with in the context of the execution of the Agreement, as well as against any penalties pursuant to non-compliance with the Dutch Foreign Nationals (Employment) Act or other relevant laws and regulations. This obligation will survive the termination of the Contract.
- 13.3 If the Port of Rotterdam Authority so demands, the Contractor is immediately obliged to provide access to all relevant records/documents (including those of third parties/subcontractors) in order to demonstrate that they have complied with all the aforementioned obligations.
- 13.4 In the event that, contrary to the viewpoint and intention of the parties, the Dutch Tax Inspector, a court or the Implementing Body qualifies the legal relationship(s) between the Temporary Worker, Seconded Worker, third party/parties and the Port of Rotterdam Authority as described in the Agreement or the Assignment as a (notional) employment relationship/employment contract, and should the Port of Rotterdam Authority be obliged to the payment of income tax or VAT and/or national insurance contributions, the Port of Rotterdam Authority will be entitled to deduct them from the payments they are due, without prejudice to their rights towards third parties on that account. In addition, the Contractor is immediately obliged to repay the due amounts to the Port of Rotterdam Authority. The aforementioned amount is immediately payable without judicial intervention. The Contractor will owe statutory interest on the amount from the day the Port of Rotterdam Authority is held liable up to and including the day of payment in full.
- 13.5 In the event that, contrary to the viewpoint and intention of the parties, the Dutch Tax Inspector or the Implementing Body qualifies the legal relationship(s) as described in the Agreement or the Assignment as a (notional) employment relationship/employment contract, and the Port of Rotterdam Authority is under an obligation to the payment of employee insurance contributions and levies under the Dutch Healthcare Insurance Act, the Contractor will owe the Port of Rotterdam Authority a penalty in the amount of the employee insurance contributions and levies under the Dutch Healthcare Insurance Act to be paid, where applicable increased by statutory interest and penalties.
- 13.6 Without being obliged to pay any compensation to the Contractor, the Port of Rotterdam Authority will be entitled to terminate the Agreement with immediate effect and without judicial intervention, if the Contractor and/or the third parties/subcontractors or Seconded Worker engaged by the Contractor do not comply with the obligations under tax and social security laws and regulations and the Dutch Foreign Nationals (Employment) Act.
- 13.7 If the Contractor's workers are aliens within the meaning of the Dutch Aliens Act, the Contractor will be responsible for work permits for persons from outside the European Economic Area.

- 13.8 Once a year (unless the statements referred to show that the Contractor has not arranged for the payments referred to in this Article), the Contractor will during the life of the Agreement, at the request of the Port of Rotterdam Authority and without this involving any costs on the part of the Port of Rotterdam Authority, immediately send the Port of Rotterdam Authority a statement showing that the Contractor has paid the VAT due, as well as the income tax and social security contributions due for the Contractor's employees involved in the execution of the Agreement and that taxes and contributions have been paid for third parties, including their personnel, engaged by the Contractor in the execution of the Agreement. Said statements should not be older than three months.

Article 14 - Working in and on premises of the Port of Rotterdam Authority

- 14.1 If the Contractor requires auxiliary materials for the execution of an Agreement, which materials are delivered to the Port of Rotterdam Authority, the Contractor will inform the Port of Rotterdam Authority in writing of the date and time of delivery, no later than five (5) working days before delivery. Unless otherwise agreed, delivery of auxiliary materials can only take place during the opening hours of the existing loading and unloading area of the Port of Rotterdam Authority.
- 14.2 In the execution of the Agreement at the premises or in buildings of the Port of Rotterdam Authority, the Contractor will strictly observe the applicable instructions and internal regulations, including rules of conduct, house rules, the Business Code as well as internal statutory safety, health and environmental regulations or instructions regarding working conditions. The Contractor also guarantees that the third party/parties, Temporary Worker(s) or Seconded Worker(s) engaged by them will comply with the above, as well as with the Temporary Workers Declaration. In the execution of an Agreement, the Contractor will take all safety measures that are mandatory given the nature of the Agreement and according to generally accepted industry standards.
- 14.3 If the Contractor has to enter premises of the Port of Rotterdam Authority for the execution of an Agreement, the Contractor is obliged to leave the premises clean after the activities have been completed and in any case by the end of the working day. At their own risk and expense, the Contractor will dispose of waste and packaging materials immediately once they are released.

Article 15 - Invoicing and payment

- 15.1 The Contractor has to send their invoices digitally to the Port of Rotterdam Authority using the following e-mail address facturen@portofrotterdam.com. Invoices should be submitted no later than three (3) months after delivery of the Goods or completion of the Services. The Port of Rotterdam Authority is entitled to refuse payment of invoices received after the aforementioned periods have ended. In addition to the information made known to the Contractor by the Port of Rotterdam Authority, invoices must comply with the latest and applicable requirements which can be found on the following web page: <https://www.portofrotterdam.com/nl/over-het-havenbedrijf/leveranciers/algemene-informatie>.
- 15.2 Unless expressly agreed otherwise in writing, the Port of Rotterdam Authority will pay the invoice no later than thirty (30) days of delivery of the Goods or completion of the Services, respectively, and receipt of all documents, including the invoice, appurtenant to the delivery of the Goods or the performance of the Services, respectively, and provided that the Port of Rotterdam Authority has accepted the Goods and Services in accordance with Article 7.2 or Article 34B or Article 11.4, respectively. The aforementioned payment term will commence once the requirements mentioned in this paragraph of this article have been met.
- 15.3 Payment by the Port of Rotterdam Authority does not in any way imply a waiver of rights.
- 15.4 If the Contractor fails to fulfil any obligation under the Agreement or these General Terms and Conditions (in full), or if the Port of Rotterdam Authority disputes the accuracy of the invoice, the Port of Rotterdam Authority is entitled to suspend the payment obligation to the Contractor.
- 15.5 In case of subsequent costing, the Contractor will charge the costs incurred in a properly itemised manner to the Port of Rotterdam Authority. To the invoices, the Contractor will attach statements of actual and necessary time spent. The Contractor will also provide specifications of costs incurred by them under the Agreement, as well as submit documents substantiating the invoices.
- 15.6 The Port of Rotterdam Authority will at all times be entitled to set off amounts receivable by the Contractor from the Port of Rotterdam Authority against amounts receivable by the Port of Rotterdam Authority, on whatever account, from the Contractor or from enterprises belonging to the same group as the Contractor.
- 15.7 Exceeding a payment term by the Port of Rotterdam Authority or non-payment of any invoice on grounds of a substantive challenge of the invoice will never entitle the Contractor to suspend or terminate their performances. If the Port of Rotterdam Authority should be obliged to pay interest on account of exceeding a payment term, such interest will in no event exceed the statutory commercial interest rate pursuant to Section 6:119a of the Dutch Civil Code.
- 15.8 If the Port of Rotterdam Authority pays amounts to the Contractor before the Port of Rotterdam Authority has accepted the Goods delivered or Services rendered, the Contractor must, if the Port of Rotterdam Authority so requests, at their own expense and at the same time as such payment, submit to the Port of Rotterdam Authority a reliable bank guarantee to the amount of the sum to be paid by the Port of Rotterdam Authority. The text of such bank guarantee must be in accordance with the text approved by the Port of Rotterdam Authority.
- 15.9 The Port of Rotterdam Authority will at all times be entitled to have invoices sent by the Contractor checked for substantive correctness by a registered accountant to be designated by the Port of Rotterdam Authority. The Contractor will allow the registered accountant concerned to inspect the books and documents and they will provide all data and information required by the registered accountant. The audit will be confidential and will not extend beyond what is required for verifying the invoices. The registered accountant will issue their report to both parties as soon as possible. The costs of the audit will be borne by the Port of Rotterdam Authority unless the audit shows that the invoice was not entirely correct, in which case the costs will be borne in full by the Contractor.

Article 16 - Guarantee

- 16.1 The guarantee period is twelve (12) months, unless expressly agreed otherwise in writing. The guarantee period commences upon acceptance of the delivery of the Goods and rendering the Services.
- 16.2 During this guarantee period, the Contractor guarantees the soundness of the Goods to be delivered or the Services to be rendered by them and they guarantee that such Goods or Services comply with the Agreement and these General Terms and Conditions. This guarantee covers at least that:
- the Goods or Services are suitable for the purpose for which the Assignment was given, or the Agreement was concluded;
 - the Goods have the characteristics that were promised;
 - the Goods are new, of good quality and free from defects and third-party rights;
 - the Services will be rendered competently and uninterruptedly;
 - the Goods or Services comply with the requirements, including those in the field of quality, health, safety, environment and complaints as laid down by or pursuant to the law and/or the applicable European and national regulations and rules of self-regulation;
 - the Goods or Services bear an indication of the manufacturer or the party marketing the Goods and/or auxiliary materials; and
 - the Goods are provided with and include all details and instructions required for their correct and safe use.

- 16.3 Irrespective of the results of any prior inspections, if the delivered Goods prove not to comply with the provisions of paragraph 2 of this article, the Contractor will, at their own expense and at the discretion of the Port of Rotterdam Authority and immediately if the Port of Rotterdam Authority so demands, repair or replace the Goods or supplement that what is missing, unless the Port of Rotterdam Authority prefers to terminate the Agreement in accordance with the provisions of Article 24 of these General Terms and Conditions. All costs to be incurred in this connection (including the costs of repair and disassembly) will be borne by the Contractor.
- 16.4 In cases of urgency and in cases in which, after consultation with the Contractor, it must in fairness be assumed that the Contractor will fail to comply with their guarantee obligations as laid down in this Article 16, the Port of Rotterdam Authority will have the right to carry out repairs or replacements themselves or have such carried out by third parties, the expenses of which are to be borne by the Contractor. This will not release the Contractor from their obligations under the Agreement and these General Terms and Conditions.
- 16.5 An agreed guarantee period will start running anew once a repair carried out, to which the guarantee provisions apply, has been accepted.

Article 17 - Intellectual property

- 17.1 The Contractor guarantees that the use (including resale) of the Goods delivered, or Services rendered by them will not infringe any intellectual property rights or other (proprietary) rights of the Contractor and/or third parties.
- 17.2 The Contractor indemnifies the Port of Rotterdam Authority against any third-party claims arising from an infringement of the intellectual property rights of third parties stated in Article 17.1 and will compensate the Port of Rotterdam Authority for any damage resulting therefrom.
- 17.3 The drawings, materials and other auxiliary materials, information or Goods made available by the Port of Rotterdam Authority, or purchased or created by the Contractor at the expense of the Port of Rotterdam Authority, are the property of the Port of Rotterdam Authority and can at all times be claimed back immediately by the Port of Rotterdam Authority. The Contractor will manage all such auxiliary materials, information or Goods at their risk and expense and keep them in a good state. They will only use them in the context of and for the benefit of the Agreement with the Port of Rotterdam Authority and will not use or allow them to be used for third parties or otherwise make them available to third parties (such also including: providers of public AI systems, as referred to in Article 17.7), in whole or in part, without the prior written permission of the Port of Rotterdam Authority, or use them for purposes other than those for which the Port of Rotterdam Authority provided the Contractor with these auxiliary materials, information or goods.
- 17.4 Any intellectual property rights to the data, reports, documents, materials, methods, details, drawings, information, visual materials, software, customisation work, accounts, know-how, inventions, trade secrets, improvements, techniques and other results, as well as information contained therein and appurtenant documentation, produced by the Contractor in the context of the Assignment, and arising in connection with or as a result of any relationship (including the Agreement) between the Port of Rotterdam Authority and the Contractor, will as from the moment of their creation be vested exclusively in the Port of Rotterdam Authority. Insofar as necessary, the Contractor hereby unconditionally and for no consideration transfers any such property rights to the Port of Rotterdam Authority, which transfer is accepted by the Port of Rotterdam Authority. If a deed or other formal act is required for the transfer or entry in the relevant registers, the Contractor undertakes, should this situation arise, to give their unconditional cooperation in this matter, or hereby irrevocably authorises the Port of Rotterdam Authority to effect such transfer or entry (or other formal act).
- 17.5 Where required, the Contractor will at all times give their cooperation in acquiring, obtaining and/or registering any Intellectual Property Right resulting from the Services rendered by the Temporary Worker or Seconded Worker at the Port of Rotterdam Authority. If the Port of Rotterdam Authority so demands, the Contractor will immediately submit a written statement to the Temporary Worker or Seconded Worker in order to ensure or promote, insofar as possible and necessary, that any Intellectual Property Rights accrue or are transferred to the Port of Rotterdam Authority. However, the Port of Rotterdam Authority will in that regard also be free to have the Temporary Worker or Seconded Worker sign a statement to that effect directly.
- 17.6 In the event that the Contractor delivers Goods or renders Services, including the appurtenant documents, to which intellectual property rights apply of which the Contractor can prove that they already existed and were owned by the Contractor or third party/parties prior to the Agreement coming into force, or that such rights were developed independent of (the execution of) the Agreement, such intellectual property rights will be vested in the Contractor or the third party/parties in question. The Contractor grants to the Port of Rotterdam Authority, whether or not on behalf of the third party/parties in question, a non-exclusive, perpetual, irrevocable, worldwide and transferable right of use in respect of such intellectual property rights for any purpose related to the business or activities of the Port of Rotterdam Authority. This right of use of the Port of Rotterdam Authority also includes the right to grant such right of use to their (potential) buyers or to other third parties with whom they maintain relations in connection with operation of their business.
- 17.7 Any drawings, data or Confidential Information (as referred to in Article 18.1) that are made available to the Contractor by the Port of Rotterdam Authority, or that are purchased or created by the Contractor at the expense of the Port of Rotterdam Authority, may explicitly not be submitted into, generated by or otherwise processed by public artificial intelligence software, tools or technologies, including - but not limited to - natural language processing, deep-learning algorithms, machine-learning models or other AI systems as referred to in the Regulation EU 2024/1689 with regard to AI ('AI Systems') without the prior written consent of the Port of Rotterdam Authority. The Contractor may submit, generate or otherwise process the aforementioned information in or into private AI systems without the permission of the Port of Rotterdam Authority, provided that the Contractor ensures that:
- I) this does not constitute an infringement of the rights of the Port of Rotterdam Authority, its directors, employees and third parties,
 - II) the Port of Rotterdam Authority is able to fully and unrestrictedly dispose of the rights, as referred to in the current Article 17, to the information and/or results generated by way of the AI system,
 - III) the information from the Port of Rotterdam Authority is not used to train the AI system,
 - IV) this information can be removed from the AI system at the Client's first request; and
 - V) the AI system is not accessible to third parties who would otherwise not have access to that information.

Article 18 - Confidentiality

- 18.1 The Contractor, their personnel and third parties engaged by them (such including: providers of AI systems, as referred to in Article 17.7) are obliged, even after termination of the Agreement, to observe strict confidentiality with respect to any information (including but not limited to ideas, knowledge, trade secrets, data, procedures, substances, samples, personnel details, details of insured persons/pension beneficiaries, data that could infringe the privacy of persons, drawings, photographs, films, video recordings, descriptions, specifications, models, designs, constructions, diagrams, technical documents and other company information as well as know-how) regarding the business of the Port of Rotterdam Authority that has come to their attention in connection with the (execution of the) Assignment or the Agreement, including the nature, reason and result of the activities

- carried out by them, and that the Port of Rotterdam Authority has designated as confidential or the confidential nature of which the Contractor could in all fairness suspect ("**Confidential Information**"). The Contractor will restrict access to Confidential Information to those persons who need it for (the execution of) the Agreement. Unless they have the prior written permission from the Port of Rotterdam Authority, the Contractor will not publish or disclose any Confidential Information or any part thereof to any person, firm, company or other entity and the Contractor will not use the Confidential Information or any part thereof in any other way than for (the execution of) the Agreement.
- 18.2 The Contractor requires the prior written permission from the Port of Rotterdam Authority for providing information or other (public) communications to third parties (including the press) regarding an Agreement (including agreements and arrangements at the basis thereof, relating thereto or resulting therefrom) or any other legal relationship with the Port of Rotterdam Authority.
- 18.3 The obligation of confidentiality referred to in Article 18.1 does not apply to information of which the Contractor can prove on the basis written evidence that:
- prior to disclosure by the Port of Rotterdam Authority, it was in the Contractor's full possession without them being bound by an obligation of confidentiality towards the Port of Rotterdam Authority or a third party;
 - at the time of disclosure by the Port of Rotterdam Authority, it was already generally known or available, or had become so since, other than through an act or omission by the Contractor;
 - it was acquired by the Contractor from a third party who was not bound by an obligation of confidentiality in respect of that information;
 - it was developed independently by the Contractor without any use of information disclosed by the Port of Rotterdam Authority; or
 - it must be disclosed by the Contractor pursuant to the law, any rule or regulation of a body recognised by the government, or a decision by a court or other government body, which decision is binding and cannot be appealed. In that case, the Contractor will notify the Port of Rotterdam Authority of this in writing in good time, so that in consultation with the Port of Rotterdam Authority the scope of the disclosure by the Contractor can be limited to what is strictly necessary.
- 18.4 The Contractor is obliged to impose the same obligations as referred to in Articles 18.1 and 18.2 on their employees or the third parties they have engaged in the execution of the Agreement, and towards the Port of Rotterdam Authority they vouch for the compliance of such employees and third parties.
- 18.5 The Contractor requires the prior written consent from the Client (Communications & External Affairs department) for providing information or other (public) communications to third parties (including the press) regarding an Agreement (including agreements and arrangements at the basis thereof, relating thereto or resulting therefrom) or any other legal relationship with the Client.
- 18.6 All communications by the Contractor about the project in general ((professional) media) and with stakeholders (public administrators, residents, businesses and other organisations) are not permitted without coordination and (written) approval by the Client's Communications & External Affairs department. It regards communications in the widest sense: letters, websites, conferences, brochures, media publications, construction signs, etc.
- 18.7 Any contacts with representatives of (professional) media are conducted through the press officers of the Client;
- 18.8 Taking photographs, making films or video recordings and the like of the work, cooperating in doing so and giving publicity concerning the work requires permission from the Client (Communications & External Affairs Department).

Artikel 19 – Privacy

- 19.1 The Contractor will at all times comply with all applicable laws and regulations regarding the protection of Personal Data, including the General Data Protection Regulation (GDPR).
- 19.2 The Contractor will process Personal Data exclusively at the request of the Port of Rotterdam Authority, on the basis of a valid legal basis and exclusively for the purpose for which the data was provided.
- 19.3 The Contractor will not provide, disclose or otherwise make Personal Data available to third parties without the prior written consent and in accordance with the instructions of the Port of Rotterdam Authority, unless a mandatory legal obligation so requires. In such cases, the Contractor will inform the Port of Rotterdam Authority immediately.
- 19.4 The Contractor will take appropriate technical and organisational measures to protect the Personal Data against loss, unauthorised access or any other form of unlawful processing. These measures will comply with all applicable legal requirements and will be updated where necessary. At the request of the Port of Rotterdam Authority, the Contractor will provide access to the processing systems for the purposes of assessing compliance with these measures.
- 19.5 The Contractor guarantees that only authorised persons will have access to the Personal Data and those persons will process such data under the same conditions and obligations as those imposed on the Contractor under these General Terms and Conditions, an Agreement, an Assignment or the law.
- 19.6 The Contractor will provide the Port of Rotterdam Authority - upon reasonable notice - with a complete overview of all Personal Data the Contractor controls or processes on behalf of the Port of Rotterdam Authority, in a format reasonably requested by the Port of Rotterdam Authority.
- 19.7 In principle, the processing of Personal Data will take place within the European Economic Area (EEA). This may only be deviated from if the Port of Rotterdam Authority has granted prior express written consent and the Contractor complies with the requirements stipulated in the GDPR for processing outside the EEA. Upon request of the Port of Rotterdam Authority, the Contractor must demonstrate this.
- 19.8 The Port of Rotterdam Authority and the Contractor may conclude additional written arrangements on the protection of Personal Data and lay such arrangements down in a processing agreement. The processing agreement will then form an integral part of the Agreement.

Article 20 - Audit

The Port of Rotterdam Authority has the right to carry out risk-based audits of the Goods and Services provided to the Port of Rotterdam Authority. The Port of Rotterdam Authority will ensure that they notify the Contractor seven (7) days prior to the start of the intended audit that an audit is planned. For the purposes of this audit, the Contractor will allow inspection of all documentation (including source codes) as well as provide any additional data necessary for conducting the audit. The Port of Rotterdam Authority is entitled to have the audits carried out (in part) by independent experts. Any investigation as referred to in this Article will be of a confidential nature and will not extend beyond what is relevant to the check or audit. The costs of the check or audit will be borne by the Port of Rotterdam Authority unless the check or audit shows that the costs should in fairness be borne by the Contractor.

Article 21 - Liability and insurance

- 21.1 Any failure in the performance of the Contractor's obligations gives the Port of Rotterdam Authority the right to require the Contractor to remedy, in whole or in part, the failure and/or the consequences thereof at the Contractor's risk and expense.

- 21.2 The Contractor will be liable for any loss or damage suffered by the Port of Rotterdam Authority and/or third parties as a result of a failure in the performance of the Contractor's obligations and/or as a result of acts or omissions on the part of either the Contractor, their personnel, the third parties, the Temporary Workers or the Seconded Workers engaged by them. Liability is limited as follows, in which context related events will be considered as one event:

for assignments whose total value is less than or equal to EUR 50,000:	EUR 150,000 per event and EUR 300,000 per contract year (or part of a year) that the Agreement is in force;
for contracts whose total value exceeds EUR 50,000 but is less than or equal to EUR 100,000:	EUR 300,000 per event and EUR 500,000 per contract year (or part of a year) that the Agreement is in force;
for contracts whose total value exceeds EUR 100,000 but is less than or equal to EUR 150,000:	EUR 500,000 per event and EUR 1,000,000 per contract year (or part of a year) that the Agreement is in force;
for contracts whose total value exceeds EUR 150,000 but is less than or equal to EUR 500,000:	EUR 1,500,000 per event and EUR 3,000,000 per contract year (or part of a year) that the Agreement is in force;
for assignments whose total value exceeds EUR 500,000:	EUR 3,000,000 per event and EUR 5,000,000 per contract year (or part of a year) that the Agreement is in force;

- 21.3 The limitation of liability referred to in the previous paragraph will lapse:
- in case of claims for damages arising from death or injury; and/or
 - if intent or gross negligence applies on the part of the Contractor or its personnel; and/or
 - in case of breach of Article 17, Article 18; and/or
 - in case of breach of Article 19, including any processing agreement; and/or
 - in the event of failure to comply with the agreed Information Security Standard referred to in Article 40B.1; and/or
 - in case of indemnifications granted by the Contractor to the Port of Rotterdam Authority in these general terms and conditions and/or the Agreement.
- 21.4 The Contractor indemnifies the Port of Rotterdam Authority against any third-party claims in connection with the performance the Agreement by the Contractor. The indemnity also covers any loss or damage suffered and costs incurred in that connection by the Port of Rotterdam Authority.
- 21.5 The Contractor has, in any event a corporate liability insurance - and, if required by the Port of Rotterdam Authority, also a professional liability insurance - with a minimum cover that is in accordance with the maximum liabilities as set out in the table in Article 21.2, and shall maintain such insurance for the term of this Agreement on at least equal terms.
- 21.6 The Port of Rotterdam Authority will not be liable for any loss or damage suffered on the part of the Contractor, their personnel and/or third parties engaged by the Contractor, unless the loss or damage is the result of intent or wilful recklessness on the part of the Port of Rotterdam Authority's executive personnel.
- 21.7 Insofar as the Contractor processes personal data as part of the performance of this agreement and a processing agreement has been concluded with the Contractor for this purpose, the personal data processing liability provisions contained therein will apply.

Article 22 - Penalty

- 22.1 If the Agreement contains a penalty stipulation, this will not regard a fixed compensation and the penalty will accrue to the Port of Rotterdam Authority without prejudice to any other rights or claims, including:
- their claim for performance of the obligation to deliver Goods and/or Services that comply with the Agreement;
 - their right to compensation.
- 22.2 The penalty will be set off against the payments due by the Port of Rotterdam Authority, regardless of whether the claim for payment thereof has passed to a third party.

Article 23 - Force majeure

- 23.1 In the event of force majeure within the meaning of Section 6:75 of the Dutch Civil Code, the performance of the Agreement will be suspended in whole or in part for the duration of the period of force majeure, without the parties being obliged to pay each other any compensation. On submission of the necessary documentary evidence, the party pleading force majeure will notify the other party in writing of the force majeure situation, and to the extent possible give an estimate of the duration of the period of force majeure. If the force majeure situation lasts over thirty (30) days, the other party will be entitled to terminate the Agreement with immediate effect by registered letter, without judicial intervention being required and without any right to compensation arising.
- 23.2 Force majeure on the part of the Contractor will in any case not include lack or illness of personnel, strikes, non-performance by third parties engaged by the Contractor, failure of auxiliary materials, shortage of raw materials and liquidity or solvency problems on the part of the Contractor.
- 23.3 In case of force majeure, the ultimate day of delivering Goods, rendering Services, carrying out Assignments and performing other activities will be extended by the period of force majeure.

Article 24 - Notice of default; termination for breach

- 24.1 If the Contractor fails to comply with their obligations, the Port of Rotterdam Authority will give the Contractor written notice of default (which is also understood to mean by e-mail) granting the Contractor a reasonable period in which to comply with their obligations, except in cases in which the Port of Rotterdam Authority is not obliged under the law to send a notice of default/grant a reasonable term.
- 24.2 Even before expiration of the period set, the Port of Rotterdam Authority will, in urgent cases, be entitled to take such measures as they deem necessary for executing the Assignment, the expenses of which are to be borne by the Contractor. If the Contractor continues to be in breach of their obligations, the Port of Rotterdam Authority will be entitled to complete the Assignment, or have it completed, the expenses of which are to be borne by the Contractor, without prejudice to the Port of Rotterdam Authority's right to full or partial termination of the Agreement and compensation.

- 24.3 The Port of Rotterdam Authority is entitled, at their discretion and without them being obliged to pay any compensation, to suspend the execution of the Agreement in whole or in part or to terminate the Agreement in whole or in part with immediate effect for breach, by means of a written statement and without judicial intervention, in the event of:
- a) the (provisional) suspension of payments or a liquidation/bankruptcy order against the Contractor or an application to that effect;
 - b) the (partial) sale or other discontinuation of the Contractor's business;
 - c) a guardianship order or administration order against the Contractor;
 - d) the withdrawal of permits of the Contractor's that are required for the execution of the Agreement;
 - e) the death of the Contractor;
 - f) the attachment of a significant part of the Contractor's operating assets or goods intended for the execution of the Agreement;
 - g) failure of the Contractor to fulfil any obligation under the Agreement and/or these General Terms and Conditions and remedy no longer being possible or the Port of Rotterdam Authority having to infer from the Contractor's communications or conduct that the Contractor will continue to fail to fulfil their obligations;
 - h) the Contractor or the third party, Temporary Worker or Seconded Worker engaged by the Contractor not complying with the safety regulations and procedures;
 - i) the Contractor and/or the third parties engaged by them being in arrears with payments of VAT, income tax and social insurance contributions or in the event of penalties being due or violating statutory regulations or committing fraudulent acts; or
 - j) the Contractor making or holding out the prospect of a gift or promise to one of the staff members of the Port of Rotterdam Authority and/or to any other (legal) persons working on behalf of the Port of Rotterdam Authority in order to induce them to facilitate the formation of an Agreement.
- 24.4 Any claims the Port of Rotterdam Authority may have or acquire against the Contractor in the event of termination in accordance with this Article will be immediately due and payable in full.
- 24.5 At the discretion of the Port of Rotterdam Authority, termination for breach will not only extend to Goods that have not been delivered, but also to Goods that have already been delivered under the same agreement if such Goods can no longer be used effectively as a result of the non-delivery of the remaining Goods. In that case, the Port of Rotterdam Authority will be entitled to return the Goods already delivered, the expenses of which are to be borne by the Contractor. The Contractor will then be obliged to immediately repay any payments already made as well as to reimburse any (in)direct loss or damage (including substitute transaction and loss of profit) which the Port of Rotterdam Authority consequently suffers and will suffer.
- 24.6 If the Port of Rotterdam Authority terminates the Agreement in whole or in part for breach on the grounds of the provisions of this article, the Port of Rotterdam Authority will - without prejudice to their right to compensation - also be entitled to demand the surrender of data, documents and/or materials already developed by the Contractor on the basis of the Agreement for the benefit of the Port of Rotterdam Authority, as well as demand any other data required for the further development thereof by the Port of Rotterdam Authority or third parties. If the Port of Rotterdam Authority makes use of the powers under this paragraph, they will pay the Contractor a reasonable fee in that respect, unless it concerns data, documents and/or materials developed for the execution of a part of the Agreement that has not been terminated for breach.

Article 25 - Consequences of termination

- 25.1 In the event of the Agreement with the Contractor being terminated, irrespective of its cause or reason, the Contractor will render every assistance in the transfer of rights and/or data under the Agreement to the Port of Rotterdam Authority or a third party to be designated by the Port of Rotterdam Authority. The manner of executing this transfer will be put into writing by the Contractor within 30 days of a request for transfer and be submitted to the Port of Rotterdam Authority for written approval.
- 25.2 If, in the opinion of the Port of Rotterdam Authority, a proper and complete transfer can only take place if the Contractor continues their Services for a certain period of time, the Contractor will, at the request of the Port of Rotterdam Authority, continue their Services for a maximum of six (6) months following termination. The Port of Rotterdam Authority will pay the costs in connection therewith on the basis of the prices applicable to the Agreement.

Article 26 - Legal acts, transfer of rights and obligations

- 26.1 Subject to the Port of Rotterdam Authority's explicit prior written permission, the Contractor is prohibited from performing (legal) acts for the Port of Rotterdam Authority, binding the Port of Rotterdam Authority to third parties, as well as from receiving and spending funds for the Port of Rotterdam Authority or taking on commitments.
- 26.2 The Contractor will neither fully nor partially transfer their rights and obligations arising from the Agreement and these General Terms and Conditions to third parties without the prior written permission from the Port of Rotterdam Authority.
- 26.3 The Port of Rotterdam Authority will at all times be entitled to transfer the rights and obligations from an Agreement to its affiliate enterprises.

Article 27 - Environment

The Contractor recognises the environmental impact of its business activities and must ensure that it acts in a responsible manner. The Contractor will avoid or, if this is not possible, reduce emissions and waste resulting from its business activities. The contractor will have appropriate policies and programmes in place to achieve this.

Article 28 - Sanctions

- 28.1 The Contractor will comply with all Sanctions. An Agreement does not and cannot cause either party to the Agreement to act contrary to Sanctions.
- 28.2 The Contractor guarantees that (i) they, their shareholders and ultimate beneficial owners, managing directors, group companies or their employees or third parties engaged for the delivery are not Sanctioned Persons, and (ii) that they are not involved in Sanctioned Transactions.
- 28.3 If the Contractor reasonably suspects that the above-mentioned guarantee is no longer correct or will no longer be correct in the near future, they will notify the Port of Rotterdam Authority thereof as soon as reasonably possible and keep them informed of these developments. The Contractor will also inform the Port of Rotterdam Authority about changes in the control over their enterprise and the ultimate beneficial owners of their enterprise.
- 28.4 Upon written request by the Port of Rotterdam Authority, the Contractor will immediately – but in any case within ten (10) working days – send the Port of Rotterdam Authority all the information required to demonstrate that the above guarantees are true and correct.

Article 29 - Applicable law and competent court

- 29.1 The Agreement and these General Terms and Conditions are exclusively governed by Dutch law, to the exclusion of the Vienna Convention on Contracts for the International Sale of Goods.
- 29.2 Any disputes resulting from or relating to offers, agreements or deliveries to which these General Terms and Conditions apply, will be settled by the competent court in Rotterdam, the Netherlands. However, the Port of Rotterdam Authority will remain authorised to submit disputes to the court, which, if it were not for the provisions in the previous sentence, would have jurisdiction to hear the disputes between the parties.
- 29.3 The provisions in the previous paragraph are without prejudice to the parties being entitled to provide by agreement that a dispute can be submitted to arbitration or binding opinion.

PART A - SPECIAL CONDITIONS FOR THE HIRING OF TEMPORARY WORKERS AND SECONDED WORKERS

These special terms and conditions for the hiring of temporary workers and seconded workers apply in addition to the General Terms and Conditions of Procuring Goods and Services, which remain fully applicable.

Article 30A - Work arrangements for hiring external staff

- 30A.1 The Temporary Worker will perform the Services under the direction and supervision of the Port of Rotterdam Authority, without an employment contract pursuant to Section 7:610 of the Dutch Civil Code or a temporary employment agency contract pursuant to Section 7:690 of the Dutch Civil Code existing between the Port of Rotterdam Authority and the Temporary Worker. The employment contract or temporary employment agency contract between the Contractor and the Temporary Worker will remain in force.
- 30A.2 The working hours of the Temporary Worker are the same as the working hours in force at the Port of Rotterdam Authority, unless agreed otherwise in writing.
- 30A.3 If the Seconded Worker is a self-employed professional (without staff) ('ZZP'), that person will perform the activities entirely independently and at their own discretion, without any kind of direction and supervision. The Port of Rotterdam Authority and the Seconded Worker expressly do not intend to enter into an employment contract pursuant to Section 7:610 of the Dutch Civil Code. However, to the extent necessary for the performance of the Services, mutual coordination will take place. For example, in case of cooperation with third party/parties, in order for the cooperation to run in the best possible way. If necessary for rendering the Services, the Contractor will comply with the applicable working hours at the Port of Rotterdam Authority. The Port of Rotterdam Authority may also issue directions and instructions as referred to in Section 7:402 of the Dutch Civil Code in view of the result of the Services.
- 30A.4 The Contractor guarantees that if the Seconded Worker is a self-employed professional (without staff), they will always perform the Services independently and outside of employment. In that context, an intermediary agreement approved by the Dutch Tax Authorities will be concluded between the Contractor and the Seconded Worker, which, to the extent possible, will be in accordance with the Agreement, Assignment, General Terms and Conditions and these Special Terms and Conditions concluded between the Contractor and the Port of Rotterdam Authority. The maximum period of secondment is twelve (12) months.

Article 31A - Rates and invoicing

- 31A.1 The fee payable by the Port of Rotterdam Authority will be charged monthly in arrears and will in principle be calculated on the time effort as stated in the Agreement/Assignment. Invoices should be submitted before the end of the subsequent month.
- 31A.2 If the hours worked exceed or fall short of the hours stated in the Agreement, the approved hourly time sheet must be used.
- 31A.3 Work instructions, which are necessary for the performance of the Services may be charged as hours worked. Hours spent on education will not be charged and costs for training will be borne by the Contractor, unless agreed otherwise in writing.
- 31A.4 Overtime is not permitted and in principle will not be compensated unless prior written approval was obtained from the Port of Rotterdam Authority. In the latter case, overtime will be paid at the regular rate.
- 31A.5 The Temporary Worker's or Seconded Worker's days off, statutory or otherwise, or the days off made mandatory by the Port of Rotterdam Authority, are not eligible for remuneration.
- 32A.6 The remuneration amount has been fixed in the Agreement and cannot be adjusted during the life of the Agreement unless the Port of Rotterdam Authority and the Contractor have agreed otherwise in writing, or the Port of Rotterdam Authority has approved the indexation request on the part of the Contractor pursuant to Article 31A.7.
- 31A.7 Subject to the following conditions, the Contractor has the right to request indexation when the Assignment is extended:
- the initial Assignment had a minimum duration of twenty-four (24) months;
 - the extension of the Assignment has a minimum duration of six (6) months;
 - a request for indexation can only be made once every twelve-month (12) period;
 - the request for indexation should be made in writing no later than one (1) month prior to expiry of the contract period;
 - indexation takes place using the Service Price Index (SPI) in accordance with the current Service Price Index of CBS (Statistics Netherlands) - commercial services and transport;
 - the new rate is calculated by multiplying the current rate by the most recently adopted annual index number (SPI) and dividing it by the previous year's annual index number (SPI);
 - the calculation referred to in Article 31A.7(f) will be carried out by the Hiring Desk of the Port of Rotterdam Authority and applied accordingly;
 - an indexation will not be applied retroactively; and
 - the Port of Rotterdam Authority reserves the right not to honour a request for indexation.
- 31A.8 Incidental business expenses or travel expenses, which have not been taken into account in the Agreement and which are incurred by the Contractor, Temporary Worker or Seconded Worker for the execution of the Contract, will, upon prior written permission from the Port of Rotterdam Authority, be reimbursed in accordance with the Port of Rotterdam Authority mobility policy. In order to prevent such travel expenses, the Contractor is obliged to point out the means of transport made available by the Port of Rotterdam Authority to the Temporary Worker/Seconded Worker and to oblige them to make use of these means of transport as much as possible.
- 31A.9 Following on article 13, the Contractor guarantees that, where applicable, they will correctly determine, apply and pay the User Company Remuneration to the Temporary Workers. For this purpose, the Port of Rotterdam Authority will provide all relevant information to the Contractor.

Article 32A - Early termination by giving notice and regular termination

- 32A.1 Unless agreed otherwise explicitly and in writing, the Assignment or Agreement in respect of hiring Temporary Workers/Seconded Workers will be entered into for a definite period and will end by operation of law on the agreed end date.
- 32A.2 With due observance of a fourteen (14) calendar day period of notice of termination, the Port of Rotterdam Authority is entitled to early termination of the Agreement by giving notice in writing without stating reasons. Insofar as not otherwise agreed, the Temporary Worker must continue to perform the activities until the end date without the Port of Rotterdam Authority being obliged to pay any compensation in respect of early termination of the Agreement/Assignment by giving notice.
- 32A.3 With due observance of a one-month (1) period of notice of termination, the Contractor is entitled to terminate the Agreement/Assignment early for urgent reasons by giving notice. Urgent reasons are considered changed circumstances of such a nature that the Contractor, Temporary Worker or Seconded Worker cannot and may not in fairness be expected to continue the activities.

- 32A.4 In addition to article 24, the Agreement on the hiring of Temporary Workers or Seconded Workers may be terminated with immediate effect (in whole or in part) if:
- the Temporary Worker or Seconded Worker fails in the performance of the Services;
 - the Temporary Worker or Seconded Worker does not, or no longer fulfils the requirements and qualifications which the Port of Rotterdam Authority may reasonably expect or may set, for example with regard to performance, quality and conduct;
 - there are doubts as to the self-employed status of Seconded Worker or if the facts and circumstances on the basis of which the Seconded Worker's self-employed status was determined change; or
 - if an agency clause applies between the Contractor and the Temporary Worker, and the Temporary Worker reports that they are unable to perform the work due to incapacity for work.
- 32A.5 The Assignment/Agreement will end if the Contractor can no longer post the Temporary Worker/Seconded Worker as a result of the termination of the employment contract, temporary employment agency contract or contract for the provision of services. In such cases, the Contractor will be liable for the loss or damage the Port of Rotterdam Authority will suffer as a result.
- 32A.6 Termination of the Assignment means the end of the posting of the Temporary Worker or Seconded Worker.

Article 33A - Taking over a Temporary Worker

- 33A.1 The Assignment/Agreement concluded between the Port of Rotterdam Authority and the Contractor will state how many hours the Temporary Worker must have worked before the Port of Rotterdam Authority can take over the Temporary Worker without charge. If such period has not been agreed on in writing, a period of twelve (12) calendar months of being hired as a Temporary Worker will apply, after which period the Port of Rotterdam Authority has the opportunity to take over the Temporary Worker without charge, unless it regards a posting in accordance with the NBBU/ABU collective labour agreement. An earlier take-over at a reasonable fee is possible in joint consultation.
- 33A.2 The Port of Rotterdam Authority will at all times be authorised to conclude an Agreement directly with the Seconded Worker upon termination of the Agreement with the Contractor or in respect of other activities than those to which the Assignment relates, unless expressly agreed otherwise in writing.
- 33A.3 The Contractor guarantees that the Temporary Worker or Seconded Worker will not be bound by a noncompetition clause and/or non-solicitation clause preventing them from (in)directly carrying out activities for the Port of Rotterdam Authority. Any Temporary Worker or Seconded Worker may invoke this article by way of a third-party clause.

PART B - SPECIAL TERMS AND CONDITIONS FOR THE PROVISION OF ICT AND APPURTENANT SERVICES

These special terms and conditions for the provision of ICT and appurtenant services apply in addition to the General Terms and Conditions of procuring goods and services, which continue to be fully applicable.

Article 30B - Additional definitions

Acceptance test	:	the test (procedure), the purpose of which is to establish whether and to demonstrate that the Equipment and Software each individually, in relation to each other and together with the other equipment, system and application software to be used by the Port of Rotterdam Authority function in accordance with the agreed specifications, the intended purpose and the performance promised by the Contractor;
Cloud Computing	:	the whole of software, hardware and data input made available through the Internet;
Custom-Built Software	:	the software created in connection with or as a result of any relationship (including an Agreement) between the Contractor and the Port of Rotterdam Authority, including software or computer programmes to be developed and adapted by the Contractor for the Port of Rotterdam Authority, including the changes and/or additions to the Standard Software including the appurtenant Documentation, materials, object codes and source codes;
Data	:	all details, data, Confidential Information, personal data and other information entered, generated, enhanced, derived or otherwise processed by or for the Client, and that are hosted, stored or otherwise processed by the Contractor for the Client in the performance of the SaaS or Cloud computing services;
Documentation	:	all user-, operation- and technical manuals, flow charts, logical diagrams and tables, whether or not in an electronic form, and any other documents provided by the Contractor that are necessary or useful for the implementation, use, understanding and maintenance of the Equipment and/or Software and/or SaaS;
Equipment	:	equipment or hardware, including the appurtenant Documentation and materials, to be provided by the Contractor under the Agreement on the basis of which or in connection with which the Software is to be implemented by the Contractor and should function;
Information Security Standard	:	the applicable information security policy and information security standard of the Port of Rotterdam Authority, as included in the Information Security Policy & Standards (including the non-functional requirements) of the Port of Rotterdam Authority, or any other information security standard agreed in writing in the Agreement;
SaaS or Software as a Service	:	a Service consisting of software offered online, being end applications, the software being purchased per period from an application software provider for the purpose of Cloud Computing;
Security incident	:	any unauthorised and successful attempt to (i) access, use, steal, disclose, conceal, alter or destroy Confidential Information, Data and/or other information of the Port of Rotterdam Authority, or (ii) compromise the security, confidentiality, integrity or availability of such information. Examples of security incidents are: a successful malware infection, distributed denial of service attacks, unauthorised access, internal breaches, destructive attacks, loss or theft of equipment;
Service Level Agreement (SLA)	:	a Service Level Agreement (SLA) is an agreement between the Port of Rotterdam Authority and the Contractor in which measurable arrangements on the level of service regarding the Services to be provided have been laid down, as well as arrangements on level, quality, and speed of service. The SLA describes the following matters: the services, arrangements (KPI and standards), the quality level, the parties involved, the circumstances under which the services will be provided, the sanctions for not achieving the agreed service level and how the periodic service reports will be ensured. The KPIs focus on arrangements related to defining, developing, providing and maintaining the specific IT service;
Software	:	the whole of Standard and Custom-Built Software including appurtenant new and/or improved versions;
Special Terms and Conditions Part B	:	these present special terms and conditions for the provision of ICT and appurtenant services;
Standard Software	:	Software or computer programmes including appurtenant Documentation and materials as defined in the Agreement, which have not specifically been developed or adapted by the Contractor for the Port of Rotterdam Authority.

Article 31B - Software

- 31B.1 Unless agreed otherwise, the Contractor will ensure provision and operational installation or implementation of Software at the Port of Rotterdam Authority.
- 31B.2 Prior to an Agreement, the Contractor will, in case of Standard Software, provide information to the Port of Rotterdam Authority regarding in what way the functioning of the Standard Software deviates from specifications desired by the Port of Rotterdam Authority, insofar as such is known or should have been known to the Contractor.
- 31B.3 In case of Custom-Built Software, the Contractor will produce a detailed elaboration of the technical specifications of the Custom-Built Software, based on the desired functional specifications as laid down in the Agreement.
- 31B.4 Either at the Contractor's suggestion or not, a plan of action for the development and implementation of Custom-Built Software will be established. In such plan the parties will (at least) make arrangements regarding the delivery date, implementation date, development and/or implementation phases, as well as (interim) system and acceptance tests.
- 31B.5 For the purpose of Custom-Built software, the information carriers including the source codes and object codes, the Documentation and other materials appurtenant to the developed Custom-Built Software as well as the de facto ownership and intellectual property rights will be transferred by the Contractor to the Port of Rotterdam Authority upon delivery/completion and prior to conducting the Acceptance test.
- 31B.6 If and insofar as it is necessary to expand or change the Port of Rotterdam Authority's ICT infrastructure for the purpose of (maintaining) the functionality or problem-free (continued) operation of the Software, the Contractor will notify the Port of Rotterdam Authority thereof in good time and submit specific written proposals to that effect.

- 31B.7 In the event that the parties fail to reach agreement on expansions or changes with regard to Custom-Built Software as referred to in Article 31B.6, the parties will lay down their arguments in writing and submit them to one or more independent expert(s) and ask such expert(s) for a binding opinion. The party who will then be ruled against by the expert(s) will bear the costs of the expert(s) engaged.

Article 32B - The Port of Rotterdam Authority's Network

- 32B.1 If required for correctly carrying out the Assignment, the Port of Rotterdam Authority will provide the Contractor with sufficient knowledge of the Port of Rotterdam Authority's network (consisting of all software and equipment and the data flows that will be processed with it) in which the Software is going to be operational.
- 32B.2 If, for the performance of their activities, the Contractor deems it necessary to use their own equipment to gain access to the Port of Rotterdam Authority's network, the Contractor must say so in their offer.
- 32B.3 The Contractor will only be permitted to gain access to the Port of Rotterdam Authority's network using their own equipment (by means of telecommunication or otherwise) if the Port of Rotterdam Authority granted them prior written permission to do so. Conditions may be attached to such permission.

Article 33B - Documentation

- 33B.1 Documentation appurtenant to the Equipment and/or Software and/or SaaS, will simultaneously with their delivery be made available by the Contractor to the Port of Rotterdam Authority.
- 33B.2 The Documentation provides an accurate, complete and detailed description of the Equipment to be delivered or Software or SaaS to be made available by the Contractor, or of the maintenance of the Equipment and Software. The Documentation is suitable to enable (end) users to easily use the Software, Equipment and SaaS to their full extent. The Contractor will also provide Documentation on Software and Equipment necessary to enable any maintenance thereof by third parties.
- 33B.3 The Contractor will ensure that the Documentation supplied by them will be replaced, amended or adapted as soon as possible at their expense if the Port of Rotterdam Authority so demands, if at any time during the life of the Agreement and/or applicable guarantee period it should turn out that the Documentation contains incorrect information or is otherwise incomplete, inadequate, unclear or out of date.
- 33B.4 The Port of Rotterdam Authority is entitled to reproduce the Documentation for their own use.
- 33B.5 Unless expressly agreed otherwise in the Agreement, the Documentation appurtenant to the Software and/or Equipment and/or SaaS will always be drawn up in the Dutch or English languages.
- 33B.6 Prior to the execution of the Agreement, the Contractor will ascertain that the Port of Rotterdam Authority has made all relevant information (including documentation) available to them. If the Contractor requires additional information or documentation for the timely and correct execution of the Agreement, they will request such in writing from the Port of Rotterdam Authority as soon as possible. Unless otherwise agreed in writing, a request for additional information by the Contractor will have no effect on deadlines already agreed on.

Article 34B - Acceptance

- 34B.1 In the Agreement, the Port of Rotterdam Authority and the Contractor may lay down procedures regarding the method and the manner in which the Acceptance Test(s) is/are conducted. The specifications of the Acceptance Test(s) mentioned in the Agreement contain the agreed (system) characteristics that will be tested. Each (partial) delivery of Software and/or Equipment and/or SaaS will be subjected to an Acceptance Test as described in the Agreement.
- 34B.2 If no Acceptance Test has been agreed on, the Port of Rotterdam Authority will inform the Contractor in writing within four (4) weeks of delivery whether or not they accept the Software or Equipment or SaaS. If the Contractor has not received a written notification from the Port of Rotterdam Authority within said period, they should not assume that the Port of Rotterdam Authority has accepted the Software or Equipment or SaaS.
- 34B.3 The Port of Rotterdam Authority is entitled, upon prior written notice to the Contractor, to have the subject of the Acceptance Test(s) examined by an expert third party before accepting the subject of such Acceptance Test(s). The Contractor will be obliged to give their cooperation in this but may require that this third party declare beforehand that they will keep the data obtained from the examination confidential towards third parties.
- 34B.4 If the Software and/or the Equipment and/or the SaaS has been accepted by the Port of Rotterdam Authority in parts, an integral Acceptance Test will be conducted after the last conducted Acceptance Test in order to test the mutual relationship of the Software and/or the Equipment and/or the SaaS.
- 34B.5 During an Acceptance Test or Acceptance Tests, the Port of Rotterdam Authority is in fairness entitled to make operational use of what has been made available by the Contractor, if their business operations so require. Such operational use will never imply acceptance of what has been made available.
- 34B.6 If, during (an) Acceptance Test(s), it appears that the relevant Software and/or Equipment and/or SaaS does not comply in every essential respect with the agreed specifications, the intended purpose and the performance promised by the Contractor, the Port of Rotterdam Authority will notify the Contractor as soon as reasonably possible in writing of the fact that the Software and/or Equipment and/or SaaS has been rejected, and the Contractor will be obliged to remedy the defects at the shortest possible notice and to offer said package again to the Port of Rotterdam Authority, following which the Acceptance Test will be repeated. If the second Acceptance Test by the Contractor again shows a defect or defects, the Port of Rotterdam Authority will be entitled (at their exclusive discretion) to (i) demand that the defect be remedied again, after which the Acceptance Test will be repeated once more, or (ii) terminate the Agreement with immediate effect in whole or in part without further notice of default and without being liable for compensation, without prejudice to the other rights to which the Port of Rotterdam Authority is entitled by virtue of the Contractor exceeding any (delivery) period stipulated in the Agreement.
- 34B.7 Software and/or Equipment and/or SaaS has been accepted by the Port of Rotterdam Authority when the Port of Rotterdam Authority has communicated this unambiguously and in writing to the Contractor, stating imperfections, if any, that still need to be remedied. Acceptance of each (partial) delivery of the Software and/or Equipment and/or SaaS has no effect on the possibility of the whole being rejected on the basis of an integral Acceptance Test.
- 34B.8 After acceptance as described in Article 34B.6, the Contractor will not be obliged under these Special Terms and Conditions Part B to remedy defects in the Software and/or Equipment and/or SaaS, with the exception of those cases in which:
- the Port of Rotterdam Authority can claim rights under (the) guarantee(s) referred to in these Special Terms and Conditions Part B, an Assignment or an Agreement; and/or
 - the defects would not have occurred if the Contractor had properly complied with agreed maintenance obligations; and/or
 - the defects were hidden at the time of acceptance of the Software and/or Equipment and/or SaaS, or could not in fairness be detected by the Port of Rotterdam Authority.
- In that case, the Contractor will be obliged to remedy those defects in accordance with Article 34B.6 of these Special Terms and Conditions Part B.

Article 35B - Guarantees

- 35B.1 For the duration of three (3) years from date of Acceptance, the Contractor guarantees that:
- the Software and Equipment and SaaS (continue to) function;
 - in every essential aspect (also at peak load), the Software and Equipment and SaaS meet and continue to meet the agreed and promised requirements and specifications, functionalities, characteristics and performance requirements as contained in the Agreement, as well as what the Port of Rotterdam Authority may in fairness expect thereof;
 - the Software and Equipment and SaaS are free from defects and from "backdoors", "time bombs", "logic bombs", "Trojan horses", "worms", "drop-dead-devices", "viruses" or any other software routine intended or designed to allow access to or use of a computer system by an unauthorised person, or to render a computer system unusable, to damage or erase it or to interfere with or impair its normal use. The Contractor also guarantees that they, their employees or other personnel of the Contractor's or their subcontractors will not introduce any of what is mentioned in the previous sentence into the systems of the Port of Rotterdam Authority;
 - in connection with the network, (new versions of) the existing (underlying) system and the Software of the Port of Rotterdam Authority, the Software and Equipment and SaaS will (continue to) function fully and without any further investment;
 - the Software and Equipment and SaaS have been manufactured efficiently, soundly and in an interrelated manner;
 - the Software and Equipment and SaaS have the agreed characteristics for the purpose for which the Port of Rotterdam Authority acquired the Software and Equipment and that they will (continue to) comply with the (international) laws and regulations and technical standards applicable in this respect;
 - the Software and Equipment are documented in such a way that a third-party expert in the matter will be able to carry out the maintenance independently;
 - the source code(s) and object code(s) are of such quality that they will enable the Port of Rotterdam Authority to maintain the Software provided, or have it maintained;
 - when working on the (computer) systems of the Port of Rotterdam Authority, the Contractor will ensure safeguarding of the data and/or information stored in these systems so as to prevent their loss and/or corruption;
 - in case of system maintenance, the Contractor will keep the Port of Rotterdam Authority informed in writing of any changes of whatever nature made to the systems; and
 - the Contractor is authorised to grant the rights granted to the Port of Rotterdam Authority pursuant to the Agreement or these General Terms and Conditions, and that the licences contained therein will not affect the rights (including intellectual property rights) of third parties or are otherwise unlawful or wrongful towards third parties.
- The Contractor guarantees that, within the guarantee period, deviations from the provisions in paragraph 1 will be corrected free of charge at the shortest possible notice. Corrections include introducing the necessary corrections in the Documentation.
- 35B.2 Regardless of the results of previous inspections or acceptance, if Software or Equipment or SaaS prove not to comply with the stipulations of Article 35B.1, the Contractor will, at their own expense, and at the discretion of the Port of Rotterdam Authority immediately if the latter so demands, remedy or replace the Software or Equipment or SaaS, or supplement what it is missing, unless the Port of Rotterdam Authority prefers to terminate the Agreement in accordance with the stipulations of Article 24 of the General Terms and Conditions, all this without prejudice to the Port of Rotterdam Authority's other rights on account of a breach (including the right to compensation). All costs to be incurred in this connection (including the costs of repair and disassembly) will be borne by the Contractor.
- 35B.3 In cases of urgency and in cases in which, after consultation with the Contractor, it must in fairness be assumed that the Contractor will fail to comply with their guarantee obligations, the Port of Rotterdam Authority will have the right to carry out the repairs or replacements themselves or to have such carried out by third parties, the expenses of which are to be borne by the Contractor. This will not release the Contractor from their obligations under the Agreement and these General Terms and Conditions.
- 35B.4 The guarantee period will be extended by a period equal to the period(s) during which the Software and/or Equipment and/or SaaS have not been used or could not be used to their full extent as a result of the failure of the Software or Equipment or SaaS to comply with the stipulations of Article 35B.1.

Article 36B - Maintenance

- 36B.1 The Port of Rotterdam Authority will at all times be free to have maintenance of Software and Equipment carried out by their own personnel or by third parties. With regard to SaaS, the Contractor themselves will be responsible for maintenance of the software and hardware of the SaaS and keeping the SaaS available in accordance with the agreed service levels.
- 36B.2 The Contractor is obliged to perform activities in such a way that employees of the Port of Rotterdam Authority can make uninterrupted use of their operational software and systems on working days between 7 AM and 7 PM.
- 36B.3 The parties may agree that the Contractor will carry out maintenance in respect of Equipment or Software.
- 36B.4 If carrying out maintenance is agreed on, the Contractor will for a period of up to five (5) years (at the Port of Rotterdam Authority's discretion), counting from the date of Acceptance of the Software or the date of Acceptance of the Equipment, respectively, undertake to enter into maintenance agreements for the Software or Equipment, respectively, with a scope as determined in the maintenance agreement to be concluded. Maintenance agreements will be entered into for the duration of one (1) year each time. Maintenance agreements will be considered an Agreement within the meaning of these General Terms and Conditions and will therefore be subject to these General Terms and Conditions. Maintenance will always include performing preventive, corrective, adaptive, modifying and/or update maintenance of the Software and/or Equipment and providing support by telephone. The list of maintenance rates will be included in the maintenance agreement. No maintenance fee will be owed during the guarantee period.
- 36B.5 If carrying out maintenance is agreed on, the Contractor will (continue to) provide maintenance of the Software or Equipment, even if new versions of the Software or Equipment have meanwhile become available and the Port of Rotterdam Authority chooses not to make use of such new versions (for the time being). Maintenance will also include making available and granting the right of use of modified, improved and new versions in accordance with what has been agreed on in relation thereto in respect of the original versions. All this will be included in the maintenance fee.
- 36B.6 During the agreed maintenance period, the Contractor undertakes to notify the Port of Rotterdam Authority immediately in writing of any general defects in the Software and/or Equipment of which they become aware outside of maintenance for the Port of Rotterdam Authority, as well as regarding the situations and manner in which they occur and can be remedied. The obligation referred to in this Article 36B.6 does not relieve the Contractor from carrying out maintenance for the Port of Rotterdam Authority, including remedying (general) defects in the Software or Equipment.
- 36B.7 In the context of preventive maintenance, the Contractor will implement all appropriate safeguards and measures to ensure that the Software and/or Equipment function according to the specifications. In the context of update maintenance, the Contractor will adapt the Equipment and Software (including improving and/or supplementing the functionality) to new statutory regulations



- and to new technological developments and insights. Introducing functional modifications will always require the prior written permission from the Port of Rotterdam Authority.
- 36B.8 In the context of corrective maintenance, the maintenance agreement will classify defects in the Software and/or Equipment into different priority groups. If a defect occurs, the Contractor will remedy this defect within the agreed period. If no period has been specified in the maintenance agreement, the Contractor will commence corrective maintenance within at least four (4) hours of being notified of a defect by the Port of Rotterdam Authority, the Contractor making every effort to remedy the defect as soon as possible.
- 36B.9 In consultation with the Port of Rotterdam Authority, the Contractor will draw up procedures on the basis of which daily system management must take place. In this context, service levels can also be agreed on.
- 36B.10 Any intellectual property rights created as a result of maintenance of Software or Equipment or SaaS will accrue to the party to whom the intellectual (property) rights relating to the Software or Equipment or SaaS itself accrue.

Article 37B - Escrow

At the request of the Port of Rotterdam Authority and for their benefit, the Contractor will cooperate in effecting an escrow arrangement in respect of Software, SaaS and Data. An escrow arrangement to be agreed on will entail that i) a copy of the source codes of the most recent version of the relevant Software and/or SaaS provided by the Contractor, as well as any appurtenant development and technical Documentation, and ii) the Data stored in the hosted application or SaaS, will be deposited with a depository located in the Netherlands. The Contractor undertakes to keep the source code of the Software and/or SaaS and the appurtenant Documentation – as well as the Data – deposited with the depository up to date, and to that end will periodically deposit updates and in any case all new versions with the depository. Unless otherwise agreed on, an escrow arrangement will be entered into for an indefinite period and the costs thereof will be borne by the Contractor.

Article 38B - Intellectual and industrial property rights

- 38B.1 To the extent that in respect of Software or Equipment or SaaS, including the appurtenant documents, as provided by the Contractor, intellectual property rights apply of which the Contractor can prove that they already existed and were owned by the Contractor prior to the Agreement coming into force or that they were developed independent from (the execution of) the Agreement, such intellectual property rights will be vested in the Contractor. Regarding the aforementioned Software and Equipment, the Contractor grants the Port of Rotterdam Authority a non-exclusive, perpetual, irrevocable, worldwide and transferable right of use in respect of such intellectual property rights for any purpose related to the business or activities of the Port of Rotterdam Authority. This right of use of the Port of Rotterdam Authority also includes the right to grant such right of use to their (potential) buyers or to other third parties with whom they maintain relations in connection with operation of their business.
- 38B.2 Any intellectual and industrial property rights in respect of Custom-Built Software will be vested in the Port of Rotterdam Authority. To the extent necessary, the Contractor transfers such rights, in advance, unconditionally and for no consideration, to the Port of Rotterdam Authority. If a deed or other formal act is required for the transfer or entry in the relevant registers, the Contractor undertakes, should this situation arise, to give their unconditional cooperation in this matter, or hereby irrevocably authorises the Port of Rotterdam Authority to effect such transfer or entry (or other formal act).
- 38B.3 When supplying Standard Software or developing Custom-Built Software on top of already existing Standard Software, the Contractor will, where they obtain such Standard Software from a third party, contract directly with such third party and arrange for the necessary licences for the use of the Standard Software by the Port of Rotterdam Authority for an indefinite period of time.
- 38B.4 The Contractor guarantees that the use (including resale) by the Port of Rotterdam Authority of the Software and the Equipment and SaaS will not infringe any intellectual or industrial property right or other third-party right. The Contractor indemnifies the Port of Rotterdam Authority against claims by third parties in respect of (any) infringement of third-party intellectual and industrial property rights in respect of the provided Software and Equipment and SaaS and will compensate the Port of Rotterdam Authority for any loss or damage and costs resulting therefrom.
- 38B.5 In the event of an infringement or alleged infringement as referred to in the previous paragraph, the Contractor will replace or modify the Software and/or Equipment and/or SaaS at the shortest possible notice and at their own risk and expense, in such a way that the infringement is thus eliminated and the functional and technical characteristics of the Software and/or Equipment and/or SaaS are not impaired, or, without any (additional) costs on the part of the Port of Rotterdam Authority, ensure that the necessary rights (of use) are obtained for the Port of Rotterdam Authority.

Article 39B - Right of use of Software

- 39B.1 In respect of Software, the stipulations of this Article 39B will apply in addition to Article 38B.
- 39B.2 In the event that the ownership of or intellectual property rights in Software are not transferred to the Port of Rotterdam Authority, the Contractor will grant the Port of Rotterdam Authority a non-exclusive, perpetual, irrevocable, worldwide, sub-licensable and transferable right of use in respect of the use of the Software. The right of use will not be bound to specific equipment or one location. The right of use will be granted for an indefinite period of time and cannot be terminated by the Contractor. The Port of Rotterdam Authority will at the most owe a once-only fee in respect of their right of use.
- 39B.3 The right of use concerns the employment of Software for the operation of all departments of the Port of Rotterdam Authority for any activities deemed useful within the context of their normal business activities and will include all actions required for such use. Without prejudice to the stipulations elsewhere in these General Terms and Conditions, and not limited to the list below, this will in any case include any actions required for:
- a) the execution of the instructions of the Software;
 - b) correcting errors;
 - c) introducing changes;
 - d) transferring to other equipment;
 - e) interfacing with other equipment and Software;
 - f) expanding functionality;
 - g) changing parameters;
 - h) removing security features;
 - i) creating and storing spare copies; and
 - j) examining and testing Software.
- 39B.4 The Port of Rotterdam Authority is entitled to make copies of Software for back-up purposes. In the event of calamities or a simulation of a calamity situation, such copies can be employed for fallback (contingency use), using buildings, infrastructure and machinery of the provider with which the Port of Rotterdam Authority has concluded an agreement for the provision of contingency facilities.

Article 40B - Information security and the duty to report Security incidents

- 40B.1 The Contractor will at all times comply with applicable information security laws and regulations and will provide its ICT Goods and Services in accordance with the applicable Information Security Standard.
- 40B.2 The Port of Rotterdam Authority will publish the Information Security Standard at the request of the Contractor and may attach additional conditions thereto, including agreeing on a non-disclosure agreement (NDA). The Information Security Standard is considered Confidential Information as referred to in Article 18.
- 40B.3 The Contractor guarantees that all staff and other third parties engaged by it will work in accordance with the applicable laws and regulations regarding information security and in accordance with the agreed Information Security Standard, or at least that such third parties will comply with security standards of an equivalent or better level.
- 40B.4 The Contractor must be able to demonstrate that they and the third parties deployed by them comply with the Information Security Standard by means of a right to audit for the Client (in accordance with Article 20) or by issuing a copy of a relevant assurance statement or certification.
- 40B.5 If the Contractor cannot (or no longer) or can only (still) partially comply with the applicable information security laws and regulations and/or the Information Security Standard, the Contractor must inform the Client thereof in writing as soon as possible. The Contractor will ensure that the deviations are corrected within a reasonable period to be agreed on in joint consultation, so that the Contractor will again fully comply with them.
- 40B.6 As soon as reasonably possible, yet at the latest within 36 hours after discovery of a Security Incident, the Contractor will report to the Port of Rotterdam Authority any Security Incident that adversely affects the Port of Rotterdam Authority in a readily accessible form via security@portofrotterdam.com, or in another manner as agreed in writing in the Agreement. In such reports, the Contractor must include at least the following information, if and when available:
- (a) information regarding the Security Incident and its impact, including the nature and extent thereof, including that geographical extent and affected assets, legal entities, and natural persons;
 - (b) suspected time of the start of the Security Incident;
 - (c) possible consequences of the Security Incident;
 - (d) estimated recovery time of the Security Incident's cause and adverse effects;
 - (e) proposed remedial measures to reduce damage or prevent recurrence;
 - (f) contact details of the Port of Rotterdam Authority representative with regard to the Security Incident, and
 - (g) any other reasonable information the Port of Rotterdam Authority may request or is relevant to the circumstances.
- 40B.7 In the event of a Security Incident, the Contractor will make all reasonable efforts to quickly isolate and protect Client's Confidential Information, Data and other information from any form of unauthorised processing. Following that, the Contractor will investigate the Security Incident and provide the Client with a written cause analysis as soon as possible in a readily accessible form through communication channels referred to in Article 40B.6.
- 40B.8 The following topics, inter alia, may be additionally laid down in the Agreement:
- submitting certificates of good conduct of employees who process information of the Port of Rotterdam Authority (processing as defined by the GDPR);
 - obligation to prove one's identity;
 - ability to deny access to any of the Port of Rotterdam Authority locations;
 - measures to safeguard processing of Data of the Port of Rotterdam Authority;
 - duty to report (security) incidents.

Article 41B - Exit plan

- 41B.1 In the event of the contract period coming to an end, regular termination or (partial) termination of the Agreement for breach, the Port of Rotterdam Authority and the Contractor will, in order to safeguard the continuity of the Port of Rotterdam Authority's provision of information, enter into consultations as soon as possible regarding the transfer of the Services with due observance of the exit plan. To this end, the Contractor will draw up an exit plan before the transfer date. Such a plan regards the nature and scope of the transfer activities, the planning and costs thereof and the division of responsibilities.
- 41B.2 The Contractor will, within the shortest possible time period approved by or acceptable to the Port of Rotterdam Authority, provide any relevant documentation such as configuration data, process documentation, procedure documentation, documentation relating to the third parties involved in the Services and documentation of work in progress. Normative in all this is the uninterrupted continuation of the Port of Rotterdam Authority's operations. The Contractor-owned systems and resources used, remain the property of the Contractor, this also applies to any items the copyright or intellectual property of which is vested in the Contractor. Upon transfer, only the contents of the systems and resources used by the Contractor will be transferred in a readable electronic format. Any confidential information of the Client's will at the end of the Agreement or at the end of the re-transition be returned to the Client, or be destroyed and/or deleted by the Contractor in accordance with the applicable confidentiality stipulations.
- 41B.3 If the Port of Rotterdam Authority so requests before the end of the Agreement, the Contractor will continue to render the services at the previously agreed fees for a maximum period of twelve (12) months once the Agreement has ended, until the Port of Rotterdam Authority is able to perform the services themselves or have them performed by a third party.
- 41B.4 In the event of the contract period coming to an end, regular termination or (partial) termination of the Agreement for breach, the Contractor will, if the Client so desires, cooperate fully in transferring agreements taken over from Client under this Agreement with third parties or the agreements entered into by the Contractor in the performance of this Agreement with Client or a third party designated by Client. Such transfer also includes knowledge and information acquired by the Contractor during the contract period with regard to making the service provision as efficient as possible to the extent that this is not restricted by intellectual property rights.
- 41B.5 In the event of the contract period coming to an end, termination or (partial) termination of the Agreement, the Port of Rotterdam Authority is entitled, after consultation with the Contractor, to make contractual arrangements with the Contractor's subcontractors, without the Contractor being entitled to any compensation.

Article 42B - SaaS

- 42B.1 If the Contractor provides Software as a Service (SaaS) to the Port of Rotterdam Authority, the Contractor must provide for all measures, procedures, preparations and other activities necessary to safeguard the availability, integrity, confidentiality and continuity of the Services and the availability of the Data. The Port of Rotterdam Authority sets requirements on this that will be included in an annex to a SaaS agreement to be concluded separately.

- 42B.2 In other respects, the following subjects will, inter alia, be set out in the Agreement:
- the manner in which the information/Data of the Port of Rotterdam Authority will be stored/data location within the European Union;
 - implementation and acceptance of the software;
 - liability in the event of loss of information;
 - confidentiality;
 - security;
 - privacy and entering into a processing agreement.

Article 43B - Open-source Software

- 43B.1 If the Contractor (also) makes use of open-source Software in carrying out the Assignment, they must ascertain the quality thereof in advance and carefully examine whether intellectual property rights claims have been made or can reasonably be expected to be made thereon, and if so, by whom and with what result.
- 43B.2 Due to the fact that a number of (legal) consequences of the use of open-source software is different from those when using closed-source Software, an addendum will be drawn up containing additional conditions with regard to the open-source Software if such software is going to be used. This addendum will be agreed on in writing between the Port of Rotterdam Authority and the Contractor.

Article 44B - Third-party software

- 44B.1 If the Software does not originate from the Contractor, but from a third party, such third-party software (being: Software) will be provided by the Contractor to the Port of Rotterdam Authority. The Contractor must agree with the supplier of the (third-party) Software that the Contractor can (re)sell such (third-party) Software to the Port of Rotterdam Authority.
- 44B.2 The Contractor is responsible and liable for ensuring that the conditions under which the Software is provided by the Contractor to the Port of Rotterdam Authority are not less favourable and/or conflicting with the provisions of these General Terms and Conditions. Should this be the case, the Contractor must notify the Port of Rotterdam Authority of this immediately – in any case in good time before an Agreement is concluded. If, after the conclusion of an Agreement between the Port of Rotterdam Authority and the Contractor, it becomes apparent that conditions of a third party (third-party supplier) apply to the delivery of the Software, and such conditions are less favourable and/or in conflict with the General Terms and Conditions, the Contractor will be responsible and liable for this.

Article 45B - Service Level Agreement

- 45B.1 At the request of the Port of Rotterdam Authority, the parties will agree on an SLA with KPIs in the Assignment or Agreement.