

Contents

1.	DEFINITIONS.....	1
2.	OBLIGATIONS OF SUPPLIER	2
3.	AGREEMENT, INCLUDING DURATION AND TERMINATION.....	2
4.	INVOICING & PAYMENT	3
5.	INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS	3
6.	CONFIDENTIAL INFORMATION	4
7.	PROCESSING OF PERSONAL DATA.....	4
8.	OUTSOURCING.....	4
9.	GUARANTEES	4
10.	LIABILITY: PROFESSIONAL AND LIABILITY INSURANCE, AND OTHER INSURANCES & INDEMNIFICATION	5
11.	AUDITS.....	5
12.	APPLICABLE LAW & DISPUTES.....	6
13.	(ORDER OF PRIORITY OF) PURCHASING CONDITIONS	6
14.	OTHER PROVISIONS.....	6
TERMS AND CONDITIONS FOR THE DELIVERY OF SERVICES		6
15.	GUARANTEES	6
16.	RELATIONSHIP BETWEEN PARTIES	6
17.	PERFORMANCE OF SERVICES.....	6
18.	LEGAL OBLIGATIONS TO BE COMPLIED WITH BY SUPPLIER	7
19.	TAXES AND SOCIAL CHARGES & INDEMNIFICATION.....	7
TERMS AND CONDITIONS FOR THE DELIVERY OF GOODS		8
20.	MAINTENANCE	8
21.	SPARE OR REPLACEMENT PARTS	8
22.	PACKAGING & TRANSPORT	8
23.	DELIVERY & DOCUMENTATION.....	8
24.	TRANSFER OF OWNERSHIP	8

1. DEFINITIONS

- 1.1. Capitalized words used in these General Purchasing Conditions, the Special Purchasing Conditions for Hiring of Personnel (if applicable), the Special Purchasing Conditions for ICT (if applicable), and/or the Agreement have the meaning described below.

Affiliated Company	A company or legal entity in which FMO or Supplier holds, directly or indirectly, an interest of more than 50% in the issued share capital.
Agreement	Any written recorded agreement of will between Parties aimed at providing Goods and/or Services to FMO. The Agreement also includes the applicable Annexes and any other document specifically referred to in the Agreement as being part of it.
Confidential Information	Information related to: a. the existence and contents of the Agreement; b. information about one Party (e.g. on business activities, structure, systems, operational activities, employees, customers, potential customers and trade secrets) that is or may come into the possession of the other Party during the preparation and execution of the Agreement; c. information that a Party considers sensitive and/or secret; and d. information concerning or received from one Party that the other Party may reasonably expect to be sensitive and/or secret. Confidential Information includes also Personal Data.
Data Subject	The natural person to whom the Personal Data relates.
Defect	The total or partial failure of Goods and/or Services to meet the qualifications and Specifications described in the Agreement and/or any other characteristics of those Goods and/or Services guaranteed by Supplier in accordance with the Purchasing Conditions.
Deliverable(s)	Intended result(s) of Services to be performed by Supplier to FMO under the Agreement.
Delivery	The provision of Goods and/or Services by Supplier to FMO under the Agreement.
Documentation	User manuals, technical manuals, and other documents to be provided by Supplier to FMO, as well as any guarantee certificates, quality marks and/or certificates, even if they are not specifically mentioned in the Agreement, in English or another language specified by FMO, which are required or useful for the effective installation, operation, understanding, use and/or maintenance of Goods and/or Deliverables.

Engaged Persons	Persons engaged by Supplier in the execution of the Agreement. This may concern a person employed by Supplier based on an employment contract or temporary agency work employment contract (<i>uitzendovereenkomst</i>), but also a self-employed person (<i>zzp'er</i>) engaged by Supplier.
FMO	Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. (Dutch Entrepreneurial Development Bank) in The Hague (registration number with the Chamber of Commerce (<i>Kamer van Koophandel</i>): 27078545; VAT number: NL002303905B01).
General Purchasing Conditions	These general terms and conditions (including the terms and conditions for Delivery of Services and the terms and conditions for Delivery of Goods) that apply if FMO enters into an Agreement with Supplier.
Goods	Tangible objects to be delivered by Supplier to FMO under the Agreement, including the assembly and/or installation thereof.
Party/Parties	Parties to the Agreement, being: FMO and Supplier.
Personal Data	Any information relating to an identified or identifiable natural person (e.g. as defined under the GDPR).
Privacy Laws and Regulations	The General Data Protection Regulation (EU) 2016/679 (GDPR) and any related further legislation, rules and regulations of governments, authorities and/or bodies applicable to the processing of Personal Data, such as the General Data Protection Implementing Act (<i>Uitvoeringswet Algemene Verordening Gegevensbescherming</i>) and other sector-specific legislation.
Processing (of Personal Data) / Process(ed)	All actions that an organization can perform with Personal Data, from collection to destruction and as further defined in the GDPR.
Processor	A natural person or legal entity, a government agency, a service, or another body which processes Personal Data on behalf of the controller (FMO).
Purchasing Conditions	These General Purchasing Conditions, the Special Purchasing Conditions for Hiring of Personnel (if applicable) and the Special Purchasing Conditions for ICT (if applicable).
Services	Work activities to be performed by Supplier for the benefit of FMO under the Agreement.
Special Purchasing Conditions for Hiring of Personnel	The special conditions that apply, in addition to these General Purchasing Conditions, if Parties enter into an Agreement under which FMO hires personnel from Supplier.
Special Purchasing Conditions for ICT	The special terms and conditions that apply, in addition to these General Purchasing Conditions, if Parties enter into an Agreement under which FMO purchases ICT goods and/or ICT services from Supplier.
Specifications	The functional and/or technical specifications of Goods and/or Deliverable(s) agreed between Parties.
Subcontractor	The natural person or legal entity (not being Supplier or an employee of Supplier) engaged by Supplier in the execution of the Agreement.
Supplier	Party who delivers Goods and/or Services to FMO under the Agreement.

2. OBLIGATIONS OF SUPPLIER

- 2.1. Supplier will fulfil the obligations ensuing from the Agreement on the agreed (delivery) dates and/or within the timelines specified in the Agreement. Unless explicitly agreed otherwise by Parties in writing, the (delivery) dates and/or timelines are strict (*fatale*) deadlines.
- 2.2. Supplier will notify FMO in writing as soon as possible if Supplier is unable, or does not expect to be able, to comply with one or more of the obligations under the Agreement on the agreed (delivery) dates and/or within the timelines specified in the Agreement.
- 2.3. If Supplier wishes to make use of a Subcontractor in the execution of a relevant part of the Agreement, Supplier requires the prior written permission of FMO, which permission FMO will not withhold on unreasonable grounds.
- 2.4. Supplier remains fully responsible and liable for the performance of its obligations under the Agreement executed by a Subcontractor. Actions, shortcomings and/or defects in any other way of a Subcontractor, or of its employee(s), are deemed to be those of Supplier itself.
- 2.5. Supplier will provide FMO with all the details of Supplier and/or the Subcontractor(s) that FMO requires in the context of granting permission pursuant to Article 2.3.
- 2.6. Supplier will provide FMO with all Documentation, software and/or other facilities that are necessary in context of the Agreement and/or its content and execution. Supplier does this without charging FMO extra for this.
- 2.7. If FMO wishes adjustments to be made to the Agreement as a result of changes to regulations and/or FMO policy rules, Parties will consult with each other. FMO will reimburse Supplier for any previously agreed costs which Supplier reasonably must incur in connection with this.

3. AGREEMENT, INCLUDING DURATION AND TERMINATION

- 3.1. The duration of the contract will be determined in the Agreement. Agreements are entered into for a definite period and end by operation of law. Unless explicitly agreed otherwise by Parties in writing, an Agreement without an agreed end date has a duration of one (1) year from the date on which the Agreement is signed by Parties.
- 3.2. If the Agreement has not been extended by Parties in writing, but Supplier continues to deliver Goods and/or Services with the apparent approval of FMO, the Agreement remains in force until written notice of termination is given by one of Parties.
- 3.3. Unless explicitly agreed otherwise by Parties in writing, a premature notice period of sixty (60) days applies to Supplier, and thirty (30) days to FMO.
- 3.4. The Agreement may only be amended by means of a written document signed by the authorized representatives of both Parties.
- 3.5. Any notice or other communication required under the Agreement, must be in writing and sent by registered post or by email to Supplier's contact person at FMO under the Agreement.
- 3.6. A Party is entitled to dissolve the Agreement with immediate effect by notifying the other Party thereof if there is a breach of contract (*tekortkoming in de nakoming*) by the other Party:
 - a. which can be remedied and the last Party has not remedied the breach within a reasonable period as requested or summoned in the notice of default (*ingebrekestelling*) to this Party (the notice of default will also specify the details of the breach and the request or summons to remedy the breach); or
 - b. which cannot be remedied (provided that the breach in any case justifies the termination).
- 3.7. A Party has the right to suspend and/or terminate the Agreement with immediate effect by notifying the other Party thereof, without being liable to pay any compensation, if one or more of the following situations occur(s):
 - a. suspension of payments (*surseance van betaling*) or declaration of bankruptcy (*faillietverklaring*) of the other Party or if an application to that end is filed;
 - b. the business of the other Party is liquidated or ceased;
 - c. the other Party has lost control of all or part of its assets (for example, if the other Party is placed in receivership (*onder curatele*) or under administration (*bewindvoering*)) and has not regained control over these assets within four (4) weeks;

- d. Supplier makes an arrangement with creditors, informs the Dutch Tax and Customs Authorities (*Belastingdienst*) of its inability to pay or Supplier's assets are seized (in whole or in part);
 - e. revocation of Supplier's licenses which are necessary for the execution of the Agreement or on the instructions of supervisory bodies/authorities (regulators);
 - f. the other Party has made a justified appeal of force majeure (*overmacht*) within the meaning of Article 6:75 of the Dutch Civil Code (*Burgerlijk Wetboek*) and the duration of the force majeure exceeds a period of thirty (30) days, or if there is a reasonable expectation that the force majeure will exceed the period of thirty (30) days (whereby a shortage of Engaged Persons is not a reason for force majeure);
 - g. seizure (in whole or in part) of a substantial part of the other Party's business assets (*bedrijfsmiddelen*) or of Goods intended for the execution of the Agreement; or
 - h. the Party's independence is at stake when continuing of Agreement or affiliated agreements.
- In the event of termination in accordance with this article, all claims will be immediately due and payable in full.
- 3.8. In the event that a third party obtains a majority in Supplier's issued share capital or in the event that control of the assets used by Supplier in the execution of the Agreement is transferred to a third party:
- a. Supplier will inform FMO about this takeover or transfer as soon as possible, but no later than ten (10) working days after the takeover or transfer has taken place; and
 - b. FMO has the right to terminate the Agreement with immediate effect for a period of six (6) months after such takeover or transfer by giving notice to Supplier.
- 3.9. Regardless of the reason for terminating the Agreement, Supplier will cooperate with FMO in smoothly terminating the Agreement. This may also include the transfer of Goods and/or Services and/or partial Deliverable(s) to FMO or a third party designated by FMO. FMO will reimburse Supplier for any previously agreed costs which Supplier reasonably must incur in connection with this.

4. INVOICING AND PAYMENT

- 4.1. The agreed prices and fees are fixed for the duration of the Agreement. In the event of a price agreement, Supplier will not deviate from that price agreement, except with the express written approval of FMO.
- 4.2. All costs related to the execution of the Agreement by Supplier will be deemed to be included in the price (including, but not limited to, travel and accommodation costs and office expenses). Additional costs not expressly accepted by FMO in writing in advance, do not qualify for reimbursement.
- 4.3. All agreed prices are exclusive of (local) sales tax (VAT) and inclusive of all other government-imposed taxes, duties and levies. Any (local) sales tax (VAT) is shown separately. The prices of Goods to be delivered are based on delivery condition Delivery Duty Paid (DDP) at the agreed place of Delivery and time and within the agreed period.
- 4.4. Unless explicitly agreed otherwise by Parties in writing, the invoice sent by Supplier to FMO will contain at least the following (in the following order):
- a. the number indicated on the Agreement;
 - b. the FMO cost center and/or project code;
 - c. a description and the prices of Goods and/or Services and the date of Delivery;
 - d. the name of the contact person at FMO;
 - e. the total amount of the invoice (the net amount plus the VAT amount);
 - f. the VAT number of FMO (NL002303905B01) and Supplier; and
 - g. Supplier's IBAN and the BIC of Supplier's bank.
- 4.5. The invoice is issued up in EUR, USD or GBP and must be sent in PDF format to: APinvoices@FMO.nl. The email cannot contain more than one invoice.
- 4.6. The invoice must be in the name of: FMO, attn.: Accounts Payable, PO Box 93060, 2509 AB The Hague.
- 4.7. The invoice will be sent within thirty (30) days after Delivery. The invoice is accompanied by the relevant supporting documentation.
- 4.8. FMO will pay an undisputed invoice submitted in accordance with Article 4.4 within thirty (30) days of its receipt by FMO. Any bank charges will be borne by Supplier. FMO will return an invoice that has not been submitted in accordance with Article 4.4 back to Supplier.
- 4.9. FMO is authorized to suspend payment of an invoice (wholly or in part), if:
- a. FMO is of the opinion that Goods and/or Services delivered do not (entirely) comply with the Agreement and/or if there is a breach (*tekortkoming*) of the Agreement by Supplier in any other way; or
 - b. FMO has reasonable doubt as to the accuracy of the content of the invoice concerned.
- 4.10. Exceeding any term of payment by FMO or non-payment by FMO of any invoice in accordance with to Articles 4.8 and 4.9. does not give Supplier the right to suspend or terminate its performance.
- 4.11. FMO is not obliged to pay an invoice which has not been correctly invoiced within six (6) months after the end of the period to which the invoice relates.
- 4.12. Payment of an invoice does not constitute acceptance of Goods and/or Services and/or Deliverable(s).
- 4.13. A credit note must clearly state to which invoice it relates and what crediting and adjustment is being made.

5. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

- 5.1. Parties will each retain the intellectual and industrial property rights established by each of them prior to and/or independently of the Agreement.
- 5.2. If Goods and/or Services and/or Deliverable(s) are developed specifically for FMO, Supplier will transfer to FMO free of charge, whereby FMO will accept simultaneously, all intellectual and industrial property rights to Goods and/or Services and/or Deliverable(s) which have been and/or will be delivered by Supplier and/or the Subcontractor(s) for the benefit of FMO in the execution of the Agreement. The transfer dealt with in this Article 5.2 will take effect upon the establishment of the said intellectual and industrial property rights.
- 5.3. In the event of a transfer of intellectual and industrial property rights to Goods and/or Services and/or Deliverable(s) to FMO, Supplier waives its right to oppose any change/adjustment to Goods and/or Services and/or Deliverable(s) by FMO.
- 5.4. To the extent necessary, Supplier agrees to enter into an agreement, to sign the necessary documents and/or further to fully cooperate with FMO to fully effect and/or complete the transfer of the intellectual and industrial property rights referred to in Article 5.2. Insofar as necessary, Supplier transfers the intellectual and industrial property rights to FMO in advance.
- 5.5. Supplier is prohibited from reproducing, disclosing and/or exploiting Goods and/or Services which are the intellectual and/or industrial property of FMO.
- 5.6. Supplier grants FMO a perpetual, irrevocable, worldwide and non-exclusive license to use the intellectual and industrial property rights to:
- a. Goods and/or Services and/or Deliverable(s); and

- b. other materials relating to Goods and/or Services and/or Deliverable(s), including software and Documentation, which enable FMO to make full use of Goods and/or Services and/or Deliverable(s) delivered by Supplier to FMO.
- 5.7. Supplier guarantees that Goods and/or Services and/or Deliverable(s) do not infringe on the intellectual and industrial property rights of third parties. Supplier is required to indemnify FMO for any damage resulting from an infringement of the rights of third parties, and indemnifies FMO against all claims of third parties for infringement of the intellectual and industrial property rights of those third parties in relation to the Agreement. Supplier will also indemnify FMO for all judicial costs reasonably incurred by FMO in the defense against such a claim. FMO will notify Supplier in writing as soon as possible if a third party lodges such a claim against FMO.
- 5.8. If FMO cannot or is not permitted to use Goods and/or Services and/or Deliverable(s) as a result of a court decision or an amicable settlement, Supplier undertakes – after consultation with FMO – at its own expense:
- to acquire the intellectual and industrial property rights of third parties for FMO to be able to continue to use Goods and/or Services and/or Deliverable(s);
 - to replace Goods and/or Services and/or Deliverable(s) with a comparable alternative acceptable to FMO that does not infringe the intellectual and industrial property rights of third parties; or
 - to change Goods and/or Services and/or Deliverable(s) in such a way that the intellectual and industrial property rights of third parties are no longer infringed, without material loss of the Specifications and/or functionality and/or otherwise the content of Goods and/or Services and/or Deliverable(s).
- 6. CONFIDENTIAL INFORMATION**
- 6.1. A Party will not disclose Confidential Information about the other Party to third parties without the prior written permission of the other Party. This obligation will apply for the duration of the Agreement and, unless otherwise expressly agreed by Parties in writing, will continue to apply in full after the Agreement has been executed.
- 6.2. Parties are permitted to disclose Confidential Information to their employees, representatives, Subcontractors and Affiliated Companies if this information is necessary for the Delivery of Goods and/or Services and/or Deliverable(s), provided that:
- such a natural person or legal entity has a duty of confidentiality that is no less restrictive than the duty of confidentiality set out in Article 6.1.; and
 - the Party disclosing the Confidential Information will remain liable for the disclosure without the written permission of the other Party.
- 6.3. A Party receiving and/or possessing Confidential Information from the other Party:
- will take all reasonable technical and organizational measures to ensure that the Confidential Information is stored and used securely;
 - will not use the Confidential Information for any purpose other than that for which it was shared; and
 - will not retain the Confidential Information for longer than is reasonably necessary for the execution of the Agreement and will return the Confidential Information, including any copies made, to the other Party as soon as possible after the termination of the Agreement or destroy such Confidential Information after obtaining the written permission of the other Party to do so.
- 6.4. If Supplier does not comply with the obligations under this Article 6., Supplier is required to pay an immediately payable penalty of EUR 50,000 per incident.
- 6.5. A Party is not bound by a duty of confidentiality in respect of the Confidential Information:
- that has become public without breaching any duty of confidentiality;
 - with respect to which it can be demonstrated that the Party already had access to that information before it was provided by the other Party;
 - with respect to which it can be demonstrated that it has been developed independently; or
 - which such Party is required by law to disclose to a judicial, governmental or supervisory body/authority (regulator), provided that such Party will immediately notify the other Party of such a duty to disclose, so that the other Party has a reasonable opportunity to object to this (unless prohibited by law).
- 6.6. Without the prior written permission of FMO, Supplier will not make any announcements relating to FMO (including, but not limited to, a public reference, press release or other announcements, such as the use of the logo, brand or name of FMO for Supplier's commercial/marketing purposes), any Affiliated Company of FMO, the Agreement and/or the Delivery of Goods and/or Services, unless such announcement is required by law. In the latter case, Supplier will notify FMO prior to such communication.
- 7. PROCESSING OF PERSONAL DATA**
- 7.1. When Supplier receives Personal Data from FMO for which FMO is the data controller within the meaning of the GDPR and Supplier qualifies also as a data controller, Supplier ensures that it will comply with the applicable Privacy Laws and Regulations when Processing the relevant Personal Data. In any event, Supplier takes appropriate technical and organizational measures to ensure that the Processing of Personal Data meets the requirements of the applicable Privacy Laws and Regulations. Supplier will also promptly, in any case within twenty-four (24) hours, inform FMO if:
- it receives an inquiry, a subpoena or a request for inspection or audit relating to the Processing of Personal Data from a competent public authority; and/or
 - it detects or reasonably suspects that a Personal Data breach, as defined in Article 4(12) of the GDPR has occurred which affects or may affect any of the Personal Data Processed under the Agreement.
- 7.2. If Supplier acts as Processor of Personal Data in context of the execution of the Agreement, whereby FMO is controller within the meaning of the GDPR, Parties will enter into FMO's Data Processing Agreement prior to the Processing. If Supplier and FMO should be considered as joint controllers within the meaning of the GDPR, Parties will agree upon a separate joint controller agreement before Supplier will Process any Personal Data pursuant to the Agreement.
- 7.3. Where FMO's Data Processing Agreement signed by the Parties pursuant to Article 7.2 refers to the requirement for Supplier to notify FMO of personal data breaches 'without undue delay', this is understood to be no later than twenty-four (24) hours after Supplier becomes aware of the breach.
- 8. OUTSOURCING**
- 8.1. When FMO outsources functions to Supplier (whether critical or important, or not), Parties will comply with the EBA Guidelines on Outsourcing arrangements (2019), the Dutch Financial Supervision Act (*Wet op het financieel toezicht*, Wft), the Decree on Prudential Rules for Financial Undertakings (*Besluit prudentiële regels Wft*, Bpr) and the Decree on Conduct of Business Supervision of Financial Institutions (*Besluit gedragstoezicht financiële ondernemingen*, BGfo Wft) (which laws and regulations FMO, as a licensed and supervised bank, must comply with). To this end, Parties will enter into an outsourcing agreement.
- 9. GUARANTEES**
- 9.1. A guarantee period of twenty-four (24) months from the date of Delivery applies to Goods and/or Services and/or Deliverable(s), unless Parties have expressly agreed otherwise in writing or a longer period follows from the law or case law or is used by Supplier or within the branch of business of Supplier.

- 9.2. Supplier guarantees that, during the guarantee period referred to in Article 9.1., Goods and/or Services and/or Deliverable(s) to be delivered by Supplier comply with the agreed qualifications and Specifications as laid down in the Agreement or, if nothing has been agreed in this regard, with the specifications, properties and requirements that are customary for the trading of Goods and/or Services and/or Deliverable(s).
- 9.3. The guarantee period referred to in 9.1. will be extended by a period equal to the period(s) during which Goods and/or Services and/or Deliverable(s) have not been used or could not be fully used as a result of a Defect or otherwise a shortcoming as referred to in Article 9.1.
- 9.4. If, in FMO's opinion, Goods and/or Services and/or Deliverable(s) delivered by Supplier do not comply with the Agreement, FMO has within the guarantee period referred to in Article 9.1. – without prejudice to the right to compensation in accordance with Article 10. and other rights – the choice between:
- the right to reduction of the price of the relevant Goods and/or Services and/or Deliverable(s);
 - the repair, modification, improvement and/or replacement of Goods and/or Services and/or Deliverable(s) by Supplier free of charge; or
 - dissolving the Agreement (wholly or in part) with immediate effect, in which case Supplier will refund FMO (wholly or in part) the price paid by FMO for Goods and/or Services and/or Deliverable(s) (FMO will also return Goods at Supplier's expense and risk).
- 9.5. If, after consultation with Supplier, in FMO's opinion it must reasonably be assumed that Supplier cannot or will not provide for repair, modification, improvement and/or replacement, or cannot or will not do so in time or properly, FMO has the right in urgent cases to carry out repair, modification, improvement and/or replacement itself and/or to have such carried out by a third party (parties) at Supplier's expense.
- 9.6. Supplier guarantees that Goods and/or Services and/or Deliverable(s) to be delivered comply with applicable laws and regulations; including, but not limited to, in the areas of human rights, working/employment conditions (including safety and health regulations), environment and integrity.
- 9.7. Supplier guarantees to have implemented adequate continuity measures. If an incident occurs to which those continuity measures relate, Supplier cannot invoke force majeure (*overmacht*) with respect to that incident if the incident could have been prevented by the correct, complete and timely observance of those continuity measures.
- 10. LIABILITY: PROFESSIONAL AND LIABILITY INSURANCE, AND OTHER INSURANCE AND INDEMNIFICATION**
- 10.1. In the event of non-compliance with the Agreement by one of the Parties, the Party in breach will compensate the other Party for the direct damage suffered as a result of such non-compliance with the Agreement, if this is attributable to the Party in breach. This will be understood to refer at least to:
- all reasonable costs to limit the damage and to protect the rights of the Party concerned;
 - all reasonable costs to replace Goods and/or Services and/or Deliverable(s) and to take emergency measures in the meantime;
 - all reasonable costs resulting from the loss of Confidential Information and/or other data;
 - all reasonable legal costs; and
 - any fines imposed by a judicial, governmental or supervisory body/authority (regulator).
- 10.2. Neither Party will be liable to the other Party for any indirect, incidental or consequential damages of that other Party; including, but not limited to, loss of profits, revenues, sales, goodwill and/or business opportunities.
- 10.3. If at any time a circumstance arises that results to (possible) liability for damages of one of Parties, the other Party undertakes to take all measures necessary to limit the (possible) damage as much as possible. In that case, Parties will consult with each other.
- 10.4. Payment of a penalty by the Party in breach under the Agreement, will be without prejudice to the other Party's right to compensation in accordance with this Article 10., the performance of the (unfulfilled) obligations under the Agreement and/or the dissolution of the Agreement as provided for in Article 3.6.
- 10.5. Supplier will take out all professional, liability and other insurances for risks and obligations for which Supplier, the Engaged Persons and/or Subcontractor(s) is (are) liable and/or could be held liable. Supplier will pay all relevant premiums within the set periods. At FMO's first request, Supplier will provide written proof to FMO that the relevant insurance policies have been obtained and that the premiums have been paid.
- 10.6. The limitations of liability set out in this Article 10. do not apply to:
- Supplier's obligation to indemnify FMO with respect to infringements of the intellectual and industrial property rights of third parties, as provided for in Article 5.7.;
 - Supplier's obligation to indemnify and hold harmless FMO for all claims, costs and/or damage in connection with and/or arising from the Agreement and/or Goods and/or Services and/or Deliverable(s), unless this arises directly from an act by FMO for which it can be seriously blamed;
 - the liability of Supplier in the event of serious culpability on the part of Supplier; and
 - Supplier's liability in the event of bodily injury or death.
- 11. AUDITS**
- 11.1. Supplier acknowledges that FMO operates in an area under the supervision of supervisory bodies/authorities (regulators); such as in the Netherlands: the Dutch Central Bank (*De Nederlandsche Bank*, DNB) and the Dutch Authority for the Financial Markets (*Autoriteit Financiële Markten*, AFM). Supplier agrees that Supplier will cooperate with these regulators, including providing full access to its documents and its data, its premises and its employees if Supplier receives a request to that end from these regulators directly or through FMO. If Supplier receives such a request from these regulators, Supplier will immediately inform FMO (unless this is not permitted by law or in accordance with the regulator's instruction) and cooperate with FMO at its own expense in responding to such a request.
- 11.2. Supplier acknowledges the right of regulators to inspect and the right of FMO to conduct audits. Supplier does this by:
- providing full access to all information and functions as well as commercial premises (headquarters and operations centers), including all facilities, systems, networks and data used by Supplier to provide the outsourced Services (right of access); and
 - granting unrestricted rights for examination and verification of the (outsourced) Services (right of inspection).
- 11.3. FMO has the right to have audits carried out during the term of the Agreement and for a period of five (5) years thereafter. The sole purpose of these audits is to check the compliance of Supplier with the Agreement. The persons carrying out such audits will sign an appropriate confidentiality agreement.
- 11.4. FMO will notify Supplier in writing at least one (1) month prior of its intention to carry out an audit, unless this is not permitted by law or in accordance with the regulator's instruction, or FMO can reasonably assume that prior notice could adversely affect the purpose of the planned audit. FMO will take all reasonable precautions to limit any disruption to Supplier's normal business operations. Supplier will provide all reasonable cooperation to the audit, in order for the audit to be carried out in a timely and acceptable manner. FMO bears the costs of the audit.
- 11.5. FMO will provide Supplier with a report containing the findings of the audit as soon as practically possible, insofar as these findings directly relate to Supplier and/or the Agreement.

11.6. Supplier undertakes to impose the audit rights provided for in this Article 11. on the Subcontractors with whom Supplier enters into contracts for the execution of the Agreement, and also stipulates that these Subcontractors will in turn impose the said obligations on their respective contracting parties.

11.7. If Parties have agreed on a Data Processing Agreement (in accordance with Article 7.2 .), additional audit obligations as laid down in the processing agreement will apply.

12. APPLICABLE LAW AND DISPUTES

12.1. The Agreement and the other obligations arising from the relationship between Parties will be governed exclusively by Dutch law.

12.2. The applicability of the Vienna Convention (United Nations Convention on Contracts for the International Sale of Goods) is expressly excluded.

12.3. To the extent possible, disputes between Parties will be resolved by means of proper consultation. Disputes arising from and/or in connection with the Agreement will be submitted exclusively to the competent court in The Hague.

13. (ORDER OF PRIORITY OF) PURCHASING CONDITIONS

13.1. The Agreement is subject to the Purchasing Conditions.

13.2. If the Agreement has not been signed by FMO, but Supplier has already started executing the Agreement with FMO's apparent approval, the Agreement is deemed to have been concluded under the applicability of the Purchasing Conditions.

13.3. FMO hereby expressly rejects the application of any (sales) conditions and/or other provisions of Supplier.

13.4. In the event of a conflict between the provisions in the Agreement, the Data Processing Agreement concluded between Parties (in accordance with Article 7.2) or the outsourcing agreement concluded between Parties (in accordance with Article 8.1) and the terms and conditions in the Purchasing Conditions, the provisions in the Agreement, the Data Processing Agreement or the outsourcing agreement will prevail over the terms and conditions in the Purchasing Conditions. In the event of a conflict between the terms and conditions in the General Purchasing Conditions and the terms and conditions in the Special Purchasing Conditions for Hiring of Personnel or the Special Purchasing Conditions for ICT, the terms and conditions in the Special Purchasing Conditions will prevail over the terms and conditions in the General Purchasing Conditions.

13.5. If one or more terms and conditions in the Purchasing Conditions do not apply to Supplier, this/these will not apply to Supplier.

13.6. If FMO has already provided a copy of the Purchasing Conditions in the context of (a) previous Agreement(s) with Supplier, Supplier will be deemed to have taken note of the Purchasing Conditions. Supplier who has once been contracted based on the Purchasing Conditions hereby agrees to the applicability of the Purchasing Conditions to all subsequent Agreements between Parties.

13.7. If FMO alters and/or supplements the Purchasing Conditions, Parties will consult with each other. FMO will reimburse Supplier for any previously agreed costs which Supplier reasonably must incur in connection with this.

14. OTHER PROVISIONS

14.1. FMO has the right to give instructions to Supplier, which instructions Supplier must comply with, to guarantee proper implementation of the relevant laws and regulations.

14.2. A Party may, subject to prior notification to the other Party, transfer its rights and/or obligations under the Agreement (in whole or in part) to an Affiliated Company.

14.3. Supplier is not entitled to transfer, dispose or encumber the rights and/or obligations arising from the Agreement without FMO's prior written permission. FMO may attach conditions to this permission. This permission will not affect the responsibility and liability of Supplier for compliance with the Agreement.

14.4. The failure to directly enforce any right or power, will not affect or limit the rights and powers of Parties under the Agreement. There will only be a waiver of right of any provision or condition in the Agreement if it is expressly made in writing by a Party.

14.5. If any provision of the Agreement is or becomes illegal, invalid and/or unenforceable, this will not affect the legality, validity and/or enforceability of the other provisions of the Agreement. Parties will agree on a new provision with the same purpose, provided that the spirit of the original provision is affected as little as possible.

14.6. The provisions of the Agreement and/or the Purchasing Conditions, which are explicitly or implicitly intended to remain in force after the Agreement, will remain in force afterwards and continue to bind Parties (including but not limited to Articles 5., 6., 10. and 12. of the General Purchasing Conditions).

TERMS AND CONDITIONS FOR THE DELIVERY OF SERVICES

Without prejudice to the general terms and conditions in these General Purchasing Conditions, the provisions below apply when Supplier provides Services to FMO.

15. GUARANTEES

15.1. Supplier guarantees that the Engaged Persons and/or Subcontractor(s) will (continue to) comply with the agreed qualities with regard to education, expertise and experience for the duration of the Agreement.

15.2. Supplier guarantees that, to the best of Supplier's knowledge, the Engaged Persons and/or Subcontractor(s) are/were not involved in other work activities that could constitute a conflict of interest with Services that the Engaged Persons and/or Subcontractor(s) will perform under the Agreement.

16. RELATIONSHIP BETWEEN PARTIES

16.1. In the event that Supplier is a self-employed person (*zzp'er*) and/or hires a self-employed person (*zzp'er*) to execute the Agreement, FMO may set further conditions with respect to the manner of contracting, placement (*terbeschikkingstelling*) and/or payment. Supplier will provide FMO at its first request with copies of documents that sufficiently demonstrate the nature of the employment relationship or independent entrepreneurship, at FMO's discretion.

16.2. Supplier, the Engaged Persons and/or Subcontractor(s) are not authorized to enter into agreements on behalf of FMO, or to otherwise establish obligations on behalf of FMO towards third parties.

16.3. If during the term of the Agreement any changes should occur that are or may be relevant to the assessment of the legal relationship between Parties for tax purposes, insurances and/or otherwise, Supplier will notify FMO immediately hereof in writing.

17. PERFORMANCE OF SERVICES

17.1. Supplier will perform Services within FMO's normal working hours, unless expressly agreed otherwise by Parties in writing.

17.2. If Services are performed at FMO's office, the following applies:

- a. during the performance of Services, Supplier will limit nuisance in any form whatsoever to a minimum;
- b. if the performance of Services requires that furniture and/or equipment be moved, Supplier must arrange for this, as well as return it to its original position. This area must be left clean and tidy (FMO must sign off on this);
- c. Supplier will take measures to prevent contamination of and damage to property of FMO;
- d. during the performance of Services, Supplier will take measures to ensure that the safety of FMO's employees and other passers-by is guaranteed (FMO may require Supplier to be VCA-certified); and
- e. the placement/installation of auxiliary equipment must be approved by FMO in advance.

- 17.3. Supplier, the Engaged Persons and/or Subcontractor(s) is (are) required to comply with and respect the rules applicable to FMO employees.
- 17.4. FMO has the right to request a Certificate of Good Conduct (*Verklaring Omtrent het Gedrag*, VOG) for the Engaged Persons and/or Subcontractor(s), or to have a pre-employment screening carried out.
- 17.5. Supplier, the Engaged Persons and/or Subcontractor(s) is(are) obliged to observe the confidentiality obligations imposed by FMO and to sign a confidentiality declaration at FMO's first request.
- 17.6. If in the execution of the Agreement, the Engaged Persons and/or Subcontractor(s) in FMO's opinion do not perform Services properly, do not meet the job requirements and/or qualifications set, or if there is any doubt about their reliability and/or integrity (for example as a result of the pre-employment screening) and/or confidence in them has been violated in any other way, Supplier will immediately replace the Engaged Persons and/or Subcontractor(s) at FMO's first request (where possible, this request will only be made after a warning from FMO).

18. LEGAL OBLIGATIONS SUPPLIER

- 18.1. Supplier is responsible for and takes care of the Engaged Persons, Subcontractor(s) and/or the required resources.
- 18.2. Supplier ensures that FMO can verify the identity of the Engaged Persons and/or Subcontractor(s) before commencement of the agreed Services by means of an original and valid identity document (a passport, identity card or foreign national document (*vreemdelingendocument*)), all this in accordance with the Dutch Compulsory Identification Act (*Wet op de identificatieplicht*). Moreover, Supplier will ensure that the Engaged Persons and/or Subcontractor(s) can at all times identify themselves on the work floor by means of an original and valid identity document (within the meaning of the Compulsory Identification Act). FMO reserves the right to ask them to present this proof of identity to FMO.
- 18.3. At FMO's first request and within twenty-four (24) hours, Supplier will submit to FMO a copy of an original and valid identity document (within the meaning of the Dutch Compulsory Identification Act) of the Engaged Persons and/or Subcontractor(s) with Dutch nationality or the nationality of a member state of the European Union, the European Economic Area or Switzerland, in accordance with the Dutch Foreign Nationals Employment Act (*Wet arbeid vreemdelingen*, Wav). If the Engaged Persons and/or Subcontractor(s) have a nationality other than that mentioned above, Supplier will submit a copy of an original and valid identity document to FMO in accordance with the Wav before commencement of the agreed Services. In accordance with the Wav, Supplier will also fulfil the obligation to submit a copy of the work permit (*tewerkstellingsvergunning*) and/or combined residence and work permit (*gecombineerde vergunning voor verblijf en arbeid*) (appropriate to the agreed upon Services) of the Engaged Persons and/or Subcontractor(s) to FMO to whom no freedom of movement and/or other exception applies, prior to commencement of the agreed Services. Supplier will immediately inform FMO of any change in connection with this/these permit(s).
- 18.4. If Supplier is located in another Member State of the European Union, the European Economic Area or Switzerland in the context of transnational provision of services temporarily posts Engaged Persons in order to provide Services to FMO (in the Netherlands), and the Engaged Persons do not usually do so in or from the Netherlands, Supplier will submit the requested information about the posting of the Engaged Persons to FMO at FMO's first request and within twenty-four (24) hours, in accordance with the Dutch (Employment Conditions) Posted Workers in the European Union Act (*Wet Arbeidsvoorwaarden Gedetacheerde Werknemers in de EU*, WagwEU). Prior to commencement of the agreed Services, Supplier will provide a copy of a document for the Engaged Persons to FMO, describing and covering all relevant benefits (such as the minimum employment conditions applicable in the Netherlands) for them, to which Supplier will comply. Immediately, but no later than within two (2) weeks after the commencement of the agreed Services, Supplier will provide FMO with a copy of the (digital) confirmation statement of the notification of the posting of the Engaged Persons to the Social Affairs and Employment Inspectorate (*Inspectie Sociale Zaken en Werkgelegenheid*) in accordance with the WagwEU.
- 18.5. Supplier grants FMO the right to carry out unannounced inspections and administrative audits on compliance with the Wav and/or WagwEU and to notify the Social Affairs and Employment Inspectorate (*Inspectie Sociale Zaken en Werkgelegenheid*) in the event of violation of the Wav and/or WagwEU.
- 18.6. If FMO requests Supplier to provide further information in order to comply with the obligations of the laws and regulations referred to in this Article 18. and other laws and regulations relating to working/employment conditions, Supplier will comply with this at FMO's first request.
- 18.7. If Supplier is or remains in default of compliance (in a timely manner) with the obligations of the laws and regulations referred to in this Article 18. and other laws and regulations relating to working/employment conditions (including obligations resting solely on Supplier), FMO reserves the right to prevent the Engaged Persons and/or Subcontractor(s) from commencing or continuing to perform the agreed upon Services, and to terminate the Agreement without being obliged to pay any damages to Supplier.
- 18.8. Supplier indemnifies FMO against every claim, any fines and/or other measures imposed on FMO by virtue of the laws and regulations referred to in this Article 18. and other laws and regulations relating to working/employment conditions.
- 18.9. Supplier undertakes to impose the obligations of the laws and regulations referred to in this Article 18. and other laws and regulations relating to working/employment conditions, on the Subcontractor(s) with whom Supplier enters into contracts for the execution of the Agreement, and also stipulates that these Subcontractor(s) will in turn impose the said obligations on their respective contracting parties.

19. TAXES AND SOCIAL CHARGES AND INDEMNIFICATION

- 19.1. Supplier is responsible for complying in the Netherlands (and abroad) with the obligations imposed on Supplier by fiscal and social security legislation.
- 19.2. At FMO's first request, Supplier will demonstrate that Supplier has ensured the payment of the applicable wages, and the remittance of the turnover tax, wage tax, national insurance premiums and/or employee insurance premiums owed, in the Netherlands (and abroad).
- 19.3. Supplier undertakes to impose the obligations from Articles 19.1. and 19.2. on the Subcontractor(s) with whom Supplier enters into contracts for the execution of the Agreement, and also stipulates that these Subcontractor(s) will in turn impose the said obligations on their respective contracting parties.
- 19.4. FMO has the right to terminate the Agreement with immediate effect, without being obliged to pay any compensation to Supplier, if Supplier and/or the Subcontractor(s) is (are) imputably (*verwijtbaar*) in arrears with the payment of the applicable wages and/or the remittance of the turnover tax, wage tax, national insurance premiums and/or employee insurance premiums owed, without prejudice to all FMO's other rights and claims, in particular the right to compensation.
- 19.5. Without prejudice to the provisions of Article 19.4., FMO is authorized to withhold the amounts of turnover tax, wage tax, national insurance premiums and/or employee insurance premiums and/or any interest and penalties charged on those amounts from the payments to Supplier and to pay directly on Supplier's behalf to the Dutch Tax and Customs Authorities (*Belastingdienst*) and/or implementing bodies or to deposit in a G-account (*G-rekening*). In these cases, FMO is discharged by payment of these amounts to Supplier, insofar as these amounts are concerned.

- 19.6. Supplier indemnifies FMO against all liability concerning Supplier's obligations arising from tax and social security legislation in the Netherlands (and abroad), and claims regarding employment conditions by the Engaged Persons and/or Subcontractor(s) in respect of Services delivered under the Agreement.

TERMS AND CONDITIONS FOR THE DELIVERY OF GOODS

Without prejudice to the general terms and conditions in these General Purchasing Conditions, the provisions below apply when Supplier delivers Goods to FMO.

20. MAINTENANCE

- 20.1. Supplier guarantees that Supplier is willing and able to maintain Goods delivered by Supplier for at least seven (7) years from the date of Delivery, unless Parties have explicitly agreed otherwise in writing.

21. SPARE OR REPLACEMENT PARTS

- 21.1. At FMO's first request, Supplier will make available to FMO all spare and replacement parts (of similar or better Specifications and/or with similar or better functionality) that FMO requires for the use of Goods, subject to (a) reasonable period(s) for Delivery and at normal market prices, for a period of at least seven (7) years from the date of Delivery.
- 21.2. During the seven (7) year period referred to in Article 21.1., FMO is permitted to purchase spare or replacement parts for Goods directly from third parties if Supplier does not make them available, and to charge Supplier for the extra costs incurred by FMO in doing so.
- 21.3. In the event that Supplier fails to comply with Article 21.1., Supplier will, for the period of seven (7) years period referred to in Article 21.1., provide FMO, at FMO's first request and to the extent that Supplier is legally entitled to do so, with the Specifications and other information free of charge to enable FMO to manufacture the spare or replacement parts for Goods (or have them manufactured).
- 21.4. The rights of FMO under Article 21.3. are free of rights and/or encumbrances (*bezwareing*). FMO has the explicit right to make copies of the Specifications and other information for the purpose of making (or having made) spare or replacement parts for Goods.
- 21.5. If Supplier and/or its Subcontractor(s) intend(s) to cease manufacturing the spare or replacement parts for Goods, Supplier will notify FMO of that fact at least twelve (12) months in advance in order for FMO to manufacture the spare or replacement parts for Goods itself or have them manufactured.
- 21.6. At FMO's first request, Supplier will hand over a Goods materials passport to FMO.

22. PACKAGING AND TRANSPORT

- 22.1. Supplier will take care of proper packaging of Goods to be delivered, insofar applicable in accordance with FMO's instructions and Specifications. Goods to be delivered will not be packed in packaging which, at the time of Delivery, according to the statutory provisions and the state of scientific knowledge at the time, is, or is suspected to be, environmentally damaging or can otherwise pose a threat to safety, welfare and/or health.
- 22.2. The packaging of Goods remains the property of Supplier and Supplier is responsible for the reuse, recycling or removal of the packaging.
- 22.3. Supplier arranges the transport of Goods. The transport costs will be borne by Supplier. FMO may set additional requirements with regard to the manner of transport; if this is the case, Parties will consult with each other.
- 22.4. Supplier is liable for the loss of Goods and/or damage to Goods caused during transport (including the loading and/or unloading of Goods), as well as for damage to Goods caused by inadequate and/or insufficient packaging. Supplier will take out adequate insurance against these risks.

23. DELIVERY AND DOCUMENTATION

- 23.1. Supplier delivers Goods that are complete and ready for use.
- 23.2. Unless explicitly agreed otherwise in writing by Parties, Supplier will update and/or replace all Documentation if necessary for the proper functioning of Goods for a period of at least seven (7) years from the date of Delivery, irrespective of whether the Agreement is still in force at that time.
- 23.3. Installation, assembly and/or other activities regarding Goods delivered by Supplier, will be carried out by Supplier at its own expense and risk.
- 23.4. If FMO so requests, Supplier will take back Goods. Supplier will strive to reuse Goods. If this is not possible, Supplier will dispose of Goods in an environmentally sound and verifiable manner. Unless expressly agreed otherwise by Parties in writing, the costs for this will be borne by Supplier.

24. TRANSFER OF OWNERSHIP

- 24.1. Ownership and the risk of Goods delivered to FMO will pass to FMO, with the exclusion of any claims to retention of title (*eigendomsvoorbehoud*) or rights of recovery (*rechten van reclame*), at the moment when Goods are deemed to be or have been delivered to FMO, provided that Goods comply with the Agreement. Supplier guarantees that the full and unencumbered (*onbezwaarde*) ownership will be provided to FMO.
- 24.2. In the event of Article 9.4., Goods delivered remain the property of and at the risk of Supplier. The costs of retrieving these Goods will be borne by Supplier.
- 24.3. If Supplier has Goods in its possession or proprietorship (*houderschap*), the ownership of which lies with FMO, Supplier will ensure that these Goods:
- a. are stored in an appropriate manner;
 - b. maintain their quality; and
 - c. are adequately protected against loss and/or theft.
- 24.4. In the event that FMO provides Supplier with materials (such as tools, drawings and/or software) for the purpose of fulfilling Supplier's obligations under the Agreement, those materials will remain the property of FMO. Supplier will store these materials and keep them available for FMO, by marking them as the property of FMO or by keeping them separate from items belonging to Supplier or third parties.
- 24.5. At the moment that materials (such as raw materials, auxiliary materials and/or software) belonging to FMO are processed in Supplier's Goods, these are new Goods, the ownership of which belongs to FMO.