

GENERAL TERMS AND CONDITIONS OF DELIVERY OF ELICIT

These General Terms and Conditions of Delivery have been filed with the Chamber of Commerce under number 54113334.

A. GENERAL SECTION

Article 1. Definitions

Buyer: A natural person, legal entity, partnership without legal personality, as well as its representative and/or agent, who has entered into or intends to enter into an agreement with ELICIT.

General terms and conditions of delivery: These terms and conditions of delivery of ELICIT.

GDPR: General Data Protection Regulation.

Services: The work as described in detail in the Agreement that is provided by ELICIT to the Buyer, including those services relating to the provision of the Software as SaaS.

ELICIT: ELICIT B.V., ELICIT Software en Training B.V. and/or ELICIT Consultancy B.V., all acting under the name ELICIT or ELICIT Online and all having their registered office and principal place of business at Hanzeweg 5, 7418 AW Deventer, The Netherlands.

Right of Use: The right provided for in an Agreement between the Parties, on the basis of which the Buyer may use the Software in accordance with the terms and conditions of that Agreement.

Agreement: An Agreement between the Parties that provides for the supply of certain Software (including a Right of Use) and/or Services by ELICIT

Parties: ELICIT (or the ELICIT company that has concluded an Agreement with the Buyer) and the Buyer.

Software: Software made available as SaaS by ELICIT to the Buyer.

SaaS: Software as a Service.

Service Desk: The supporting service or assistance to the Buyer with respect to the Software provided by ELICIT.

Article 2. Applicability of General Terms and Conditions

21 These General Terms and Conditions of Delivery shall apply to all quotations, offers and Agreements and to all related (legal) acts of the Parties. In the event of conflict, the Agreement shall prevail over these General Terms and Conditions of Delivery.

22 Derogations from these General Delivery Terms and Conditions shall only be legally valid if expressly agreed in writing with ELICIT.

23 Purchase and other terms and conditions, which the Buyer declares to be applicable, shall not be binding on ELICIT unless they have been expressly accepted in writing by ELICIT.

24 If any provision of these General Terms and Conditions of Delivery is invalid or nullified, the remaining provisions of the General Terms and Conditions of Delivery shall remain in full force.

ELICIT reserves the right to unilaterally amend and/or supplement these General Terms and Conditions of Delivery. Amendments shall also apply to agreements already concluded, with due observance of the following provisions: the Buyer shall be made aware of any amendments during the term of the Agreement. They shall take effect 30 days after communication thereof, or at a later date specified in the communication, unless the Buyer indicates within this period that it does not accept the amendment. If the Buyer does not agree to the amended or supplemented General Terms and Conditions of Delivery, it shall be entitled to terminate the use of the Software, in which case the Right of Use shall continue until the end of the month following the month in which the Buyer has notified ELICIT of the termination.

Article 3. Offers and quotations

31 All offers and quotations made by ELICIT, whether in the form of price lists, printed matter, brochures or otherwise, including verbal offers/quotations and other statements by employees of ELICIT, shall be without obligation, unless otherwise stated in writing.

32 The Buyer guarantees the correctness and completeness of the information ELICIT bases its offer on as provided to ELICIT by the Buyer or on behalf of the Buyer.

The Buyer shall exercise the utmost care to ensure that the performance requirements of ELICIT are correct and complete.

Article 4. Conclusion of the Agreement

41 An Agreement shall only be concluded after ELICIT has accepted an assignment from the Buyer by means of a signed offer or once ELICIT performs the assignment.

42 A quotation jointly signed by the Parties, including any appendices, shall be deemed to accurately and completely represent the Agreement.

43 With respect to Agreements for which, according to their nature and scope, no quotation or confirmation of assignment is sent or a contract is drawn up, the invoice shall also be deemed to reflect the Agreement accurately and fully.

44 The Buyer shall not be entitled to transfer its rights and obligations under the Agreement entered into with ELICIT to third parties, except with the written permission of ELICIT.

Article 5. Duration of the Agreements

51 Unless otherwise agreed between the Parties, Agreements under which a Right of Use to the Software is granted shall be entered into for an indefinite period of time. Premature termination of such an Agreement may only occur by the end of the current calendar month and with due observance of a term of at least thirty (30) days.

52 Other Agreements entered into with ELICIT, which have been entered into for a definite period of time or terminate upon completion of the assignment formulated therein, may not be terminated prematurely.

Section 408, paragraph 1, Book 7 of the Dutch Civil Code does not apply.

Article 6. Prices, invoicing and payment

61 Unless stated otherwise, ELICIT's prices are expressed in euros and are exclusive of VAT and any other levies resulting from statutory regulations. Unless otherwise agreed, all prices are in euros and the Buyer shall make all payments in euros.

62 In the event that ELICIT has made preliminary calculations and/or budgets, these shall be of an indicative nature only, unless otherwise agreed in writing.

An available budget communicated to ELICIT by the Buyer shall never be regarded as a price agreed between the Parties for the services to be provided by ELICIT.

63 If the Buyer consists of more than one natural person and/or legal persons, then each of those persons shall be jointly and severally liable for payment of the amounts due under the Agreement.

64 With respect to the services provided by ELICIT and the related amounts owed by the Buyer, the data entered into the records of ELICIT data shall constitute conclusive proof, without prejudice to the Buyer's right to provide evidence to the contrary.

65 In the event of a periodic payment obligation of the Buyer, ELICIT shall be entitled to increase the rates charged - with due observance of a period of three months.

66 If the Buyer does not agree to an adjustment as referred to in Article 6.5, the Buyer shall be entitled to terminate the Agreement in writing within thirty days of the said notification by the date on which the price or rate adjustment would take effect.

The Buyer shall not be entitled to this right of termination if it has been agreed between the Parties that the applicable prices and rates will be adjusted in accordance with an index or other standard agreed between the Parties.

67 The Buyer shall make the payments owed to ELICIT within the period specified in the Agreement or, in the absence thereof, in the invoice.

The Buyer shall not be entitled to suspend or set off the amounts owed to ELICIT.

68 Objections to the invoices sent by ELICIT shall be made in writing or by email, precisely stating the nature and grounds of the complaint.

They shall only be considered if they reach ELICIT within 5 working days of the invoice date. After expiry of this period, complaints shall no longer be considered, unless the Buyer is a natural person, not acting in the exercise of a profession or business.

69 If the Buyer fails to pay for the services provided by ELICIT within the agreed term of payment, ELICIT may (possibly temporarily) terminate the performance of the Agreement.

After expiry of the payment term, the Buyer shall owe the statutory commercial interest on the outstanding amount, without any reminder or notice of default being required.

610 If the Buyer remains in default of payment following a reminder or notice of default, ELICIT may assign the claim. In that case, in addition to the amount already owed, the Buyer shall be obliged to pay the (extra) judicial costs, including any costs for experts and costs of any unsuccessful mediation. The extrajudicial collection costs shall be set at 15% of the principal amount, including VAT, with a minimum of € 250.

Article 7. Confidential data

7.1 The Parties shall ensure that all data received from the other Party of which it is known or reasonably should be known that this is confidential in nature, shall remain secret. Confidential data shall only be used for the purpose for which it has been provided. In any case, confidential data shall be understood to mean all data designated as such by one of the Parties, financial data, which becomes known to the Parties through the performance of the Agreement, the Software and all data which ELICIT has provided to the Buyer within the scope of the use of the Software and/or Services (such as access codes, passwords, etc.). The Buyer shall impose the same duty of confidentiality on its staff and/or third parties it has engaged, who can gain actual access to the data referred to, and guarantees ELICIT compliance with said duty of confidentiality by its personnel and/or third parties.

Article 8. Acquisition clause

8.1 The Parties shall not hire any employees of the other Party who are involved in the performance of this Agreement or who were involved in the performance of this Agreement less than 1 year previously, without the prior written consent of that other Party.

Article 9. Processing of Personal Data and Security

- 9.1** If ELICIT will process personal data in the performance of the Agreement, the Parties shall conclude a data processor agreement. This agreement shall comply with the conditions set out in Article 28 paragraph 3 of the GDPR.
- 9.2** The Buyer shall be the Controller in respect of the personal data processed using the Software or Service provided by ELICIT.
- The Buyer guarantees ELICIT that the content, use and/or processing of the data is not unlawful and does not infringe any right of a third party. The Buyer shall indemnify ELICIT against any legal action of third parties, on whatever account, in connection with these data or the performance of the Agreement, unless the Buyer proves that the facts underlying the claim should be exclusively attributed to ELICIT.
- 9.3** If ELICIT is obliged to provide a form of data security under the Agreement, that security shall meet the specifications for security as agreed in writing between the Parties.
- ELICIT shall never guarantee that the data security is effective under all circumstances. In the absence of an explicitly defined security in the agreement, the security shall be adequate within the meaning of Article 32 GDPR.
- 9.4** If the Buyer has acquired a Right of Use to the Software by means of an Agreement, ELICIT shall assign access or identification codes to the Buyer.
- ELICIT shall be entitled to change assigned access or identification codes. The Buyer shall treat the access and identification codes confidentially and with care and shall only make them known to authorised personnel. ELICIT shall never be liable for damage or costs resulting from the use or misuse of access or identification codes, unless the misuse arose as a direct result of an action or omission by ELICIT.
- 9.5** ELICIT shall be entitled to have access to the data files of the Buyer, if and to the extent necessary for the support, management and operation of the Software.

Article 10. Reservations and right of retention

- 10.1** ELICIT shall be entitled to retain the goods, property rights, data, documents, data files, (interim) results of the Services received or generated within the scope of the Agreement or (where applicable) to deny access to them, until the Buyer has paid all amounts owed to ELICIT, unless the Buyer has furnished adequate security for the performance of those payment obligations.
- 10.2** Furthermore, ELICIT reserves the right at all times to temporarily suspend the provision of the Services if it deems this necessary for the purpose of security and integrity of the relevant Service, to carry out necessary (preventive) maintenance, to repair defects and remedy malfunctions or to adapt and improve ELICIT's computer systems.
- To the extent possible, ELICIT shall undertake efforts to effect any such shutdown outside office hours and shall inform the Buyer of the scheduled shutdown in good time. ELICIT shall never be obliged to pay the Buyer any compensation on account of such scheduled shutdown.
- 10.3** Rights, including Rights of Use, shall only be granted subject to the condition that the Buyer has paid all fees due under the Agreement in full.

Article 11. Intellectual property rights

- 11.1** All intellectual property rights to the Software, websites, applications, documentation, data files, reports, quotations and other goods - such as analyses, functional designs and reports - developed or provided to the Buyer under the Agreement, and all changes and additions made to them, as well as any copies of the aforementioned goods and materials used to prepare the same, shall be exclusively vested in ELICIT, its licensors or its suppliers.
- 11.2** The Buyer only acquires the Rights of Use that it has been expressly granted by ELICIT.
- These Rights of Use are non-exclusive, non-transferable and non-sub-licensable and shall be valid only for the duration of the Agreement.
- 11.3** If ELICIT is willing to commit itself to the transfer of an intellectual property right, this commitment shall be made explicitly in writing.
- If the Parties agree in writing that an intellectual property right in respect of an application, website, database or other materials specifically developed for the Buyer shall be transferred to the Buyer, this shall not affect ELICIT's right or ability to use and/or exploit the components, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like underlying that development for other purposes, either for itself or for third parties, without any restriction. Nor shall the transfer affect the right of ELICIT to undertake developments, for itself or third parties, which are similar to or derived from those made or to be made for the benefit of the Buyer.
- 11.4** If ELICIT has delivered a performance based on designs, drawings or other instructions provided by or on behalf of the Buyer, the Buyer shall guarantee that this does not affect the intellectual property rights of third parties.
- The Buyer shall indemnify ELICIT against claims of third parties in this respect.
- 11.5** ELICIT shall indemnify the Buyer against any legal action based on the allegation that the Software, data files or other materials developed by ELICIT infringe a copyright or other intellectual property right applicable in the Netherlands,
- and shall pay the resulting costs provided the Buyer notifies ELICIT of such action in writing immediately after it has been instituted and the Buyer provides copies of all relevant correspondence and the defence against such action, as well as all negotiations aimed at seeking a settlement are conducted exclusively by ELICIT.
- 11.6** The obligation to indemnify referred to in article 11.5 shall lapse if the alleged infringement relates to materials provided to ELICIT by the Buyer for use, adaptation, processing or incorporation, or to changes the Buyer or a third party on behalf of the has Buyer made to the Software, data files or other materials, without prior written permission from ELICIT.
- 11.7** In the event that it is judicially and irrevocably established that the software, equipment or other materials developed by ELICIT infringe(s) any intellectual property right belonging to any third party or that in ELICIT's opinion there is a reasonable chance that such infringement will occur, ELICIT shall, where possible, see to it that the Buyer is able to continue to use the product(s) supplied or some other, functionally equivalent software, equipment or other materials. Any other or further-reaching obligation of ELICIT to indemnify is excluded.
- 11.8** The Buyer guarantees that the data it has provided ELICIT with within the scope of the performance of the Agreement does not infringe on the rights of third parties.
- The Buyer shall indemnify ELICIT against any claim from a third party based on the allegation that such provision, use, adaptation, installation or incorporation infringes any right of that third party.
- 11.9** ELICIT shall not be liable for any action based on the combination, operation or use of the Software with equipment or software not provided or recommended in writing by ELICIT, unless ELICIT has given its prior written consent.

Article 12. Duty to cooperate

The Buyer shall always provide ELICIT with all data and/or information deemed useful, necessary or desirable by ELICIT and provide all cooperation. If the Buyer engages personnel or third parties for this cooperation or the provision of the data or information, then the Buyer guarantees that these persons possess the necessary knowledge, expertise and experience.

The Buyer shall bear the risk of selection, use, application and management of the Software and the equipment required for that purpose.

The Buyer shall be responsible for the correct commissioning of the Software.

If the Buyer fails to provide the data, documents, equipment, software, materials or employees deemed useful, necessary or desirable for the performance of the agreement by ELICIT, or fails to provide them to ELICIT in due time or in accordance with the agreements, or if the Buyer fails to fulfil its obligations in any other manner, ELICIT shall have the right to suspend the performance of the Agreement in whole or in part and to charge the costs incurred as a result to the Buyer. This right shall apply without prejudice to the exercise of any other legal and/or agreed right of ELICIT.

- 121 If employees of ELICIT perform work at the Buyer's location, the Buyer shall provide the required facilities free of charge.

The Buyer shall indemnify ELICIT against claims of third parties, including employees of ELICIT, which may arise during the performance of the Agreement due to acts or omissions of the Buyer and/or due to unsafe situations within its organisation. The Buyer shall inform ELICIT of any company and security rules prior to commencement of the work.

Article 13. Delivery dates

- 131 Delivery periods or (completion) dates stated by ELICIT or agreed between the Parties shall always be target dates, unless the Parties have explicitly agreed in writing on a strict deadline or completion date for specific cases. ELICIT shall endeavour to observe the terms and dates to the extent possible.

- 132 ELICIT shall not be bound by a deadline or completion date, if this can no longer be met due to a cause beyond its control - which occurred after the Agreement was entered into.

Furthermore, ELICIT shall not be bound to a date and/or term if the Parties have agreed on a change in the content, scope and/or approach of the performance of the Agreement. If there is a risk of any term being exceeded, the Parties shall enter into consultations to discuss the consequences of such exceeding for further planning. The planning agreed at that time shall replace the original deadlines.

- 133 Exceeding a term specified by ELICIT or agreed upon between the Parties, not being a written and explicitly agreed upon strict deadline or final completion date, shall not result in default on the part of ELICIT. In all cases, ELICIT shall only be in default on account of the delivery period being exceeded after the Buyer has given ELICIT written notice of default. Such notice of default must contain the most complete and detailed description possible of the failure, allowing ELICIT to respond as adequately as possible.

Article 14. Dissolution and termination

- 141 Each of the Parties shall be entitled to terminate or dissolve the Agreement on account of an attributable failure in the performance of the Agreement, provided that the other Party has failed imputably in the performance of essential obligations under the Agreement, after that Party has been duly given notice of default in writing.

The Buyer's payment and/or cooperation obligations shall always be considered as essential obligations under the Agreement.

- 142 If ELICIT upon dissolution of the Agreement as referred to in Article 14.1 has already performed vis-à-vis the Buyer, the performance and the related payment obligation cannot be revoked, unless the Buyer proves that ELICIT is in default with respect to the essential part of the performance.

Amounts ELICIT has invoiced in connection with what it has already performed or delivered in the performance of the Agreement prior to the dissolution shall remain payable in full (subject to the above provisions) and shall become immediately due and payable upon dissolution.

- 143 Each Party shall be entitled to terminate the Agreement with immediate effect, without notice of default and without prior judicial intervention if:
- the other Party has applied for a moratorium;
 - the other Party has been declared bankrupt;
 - the other Party's company is wound up or terminated as a legal entity, other than for the purpose of reconstruction or merger of companies;
 - The Buyer is a natural person and dies.

ELICIT shall not be obliged to pay any compensation or restitution of monies received due to this termination.

Article 15. Liability of ELICIT

- 151 ELICIT's total liability on account of an attributable shortcoming in the performance of the Agreement or for any other reason, expressly including any shortcoming in the fulfilment of the warranty obligation agreed with the Buyer, shall be limited to compensation of direct damage with a maximum of the amount of the price stipulated for that Agreement (excl. VAT).

This limitation of liability shall apply by analogy to any indemnification obligation of ELICIT. If the Agreement is mainly a continuing performance agreement with a term of more than one year, the price stipulated for the Agreement will be set at the total of the fees (excluding VAT) stipulated for one year. Under no circumstances shall ELICIT's total liability for direct damage, for whatever reason, exceed €10,000.

- 152 ELICIT's liability for damage resulting from death, bodily injury or material damage to property shall never exceed the amount paid out by ELICIT's liability insurer in such a case.

If the liability insurer unexpectedly fails to pay out, the total liability of ELICIT for the damage referred to in this paragraph shall never exceed € 10,000.

- 153 ELICIT's liability for indirect damage, consequential damage, lost profits, lost savings, reduced goodwill, loss due to business interruption, damage as a result of claims from customers of the Buyer, damage related to the use of goods, materials or software of third parties prescribed to ELICIT by the Buyer and damage related to the engagement of suppliers prescribed to ELICIT by the Buyer shall be excluded. Liability of ELICIT for mutilation, destruction or loss of data or documents shall also be excluded.

Unless performance by ELICIT is permanently impossible, liability of ELICIT due to attributable failure in the performance of the Agreement shall arise only if the Buyer gives ELICIT immediate written notice of default, specifying a reasonable period to rectify the failure and ELICIT continues to fail imputably to perform its obligations after such period. The notice of default must contain the most complete and detailed description possible of the failure, allowing ELICIT to respond adequately.

- 154 Any right to compensation shall be conditional upon the Buyer notifying ELICIT in writing as soon as possible after the damage has arisen. Any claim for compensation against the supplier shall lapse if it is not made within twenty-four (24) months after the claim has arisen.

- 155 The provisions of this article, as well as all other limitations and exclusions of liability stated shall also apply to all (legal) persons engaged by ELICIT for the performance of the Agreement.

- 156 The limitations and exclusions of liability referred to in this article shall lapse if and insofar as the damage is the result of intent or deliberate recklessness on the part of ELICIT's management.

- 157 The exclusions and limitations of ELICIT's liability as set out in the preceding paragraphs are without prejudice to the other exclusions and limitations of ELICIT's liability under these General Terms and Conditions of Delivery or the Agreement.

Article 16. Force Majeure

- 161 ELICIT shall not be obliged to fulfil any obligation, (including any warranty obligation) if it is prevented from doing so as a result of force majeure. Force majeure shall include: (i) force majeure of suppliers of ELICIT, (ii) failure to properly fulfil obligations of suppliers prescribed to ELICIT by the Buyer, (iii) defective goods, equipment, software or materials of third parties the use of which is prescribed to ELICIT by the Buyer, (iv) government measures, (v) power outage, (vi) failure of Internet, computer network or telecommunication facilities, (vii) war, (viii) sit-downs, (ix) strike, (x) general transport problems or xi) unavailability of one or more members of staff.
- 162 If a situation of force majeure lasts longer than ninety days, either Party shall have the right to dissolve the Agreement.

In that case, any work already performed on the basis of the Agreement shall be settled proportionately, without the Parties owing each other anything else.

Article 17. Modification and additional work

- 17.1** If ELICIT, at the request of or with the prior consent of the Buyer, has performed work or other services that fall outside the content or scope of the agreed work and/or services, such work or services shall be paid for by the Buyer in accordance with the agreed rates and, in the absence thereof, in accordance with ELICIT's usual rates.
ELICIT shall not be obliged to comply with such a request and may require that a separate written agreement be concluded for this purpose.
- 17.2** The Buyer accepts that the agreed or expected time of completion of the work or services and the mutual responsibilities of the Buyer and ELICIT may be affected by a change of work or services as referred to in this article.
The fact that additional work arises during the performance of the Agreement shall never constitute grounds for the Buyer to terminate or dissolve the Agreement.
- 17.3** Insofar as a fixed price has been agreed for the services, ELICIT, upon request, shall inform the Buyer in writing about the financial consequences of the additional work or services referred to in this article.

Article 18. Service Level Agreement (SLA)

- 18.1** Any agreements concerning a certain service level with respect to Software provided by ELICIT (including maintenance and support) shall be laid down in a written SLA (Service Level Agreement).
- 18.2** If agreements have been made regarding the availability of the Software, such availability shall be measured over a period of one (1) year, not taking into account the previously announced shutdown due to maintenance and circumstances beyond ELICIT's control. Except for evidence to the contrary, the availability measured by ELICIT shall be considered as complete evidence.

Article 19. Engagement of third parties and transfer of rights and obligations

- 19.1** To ensure proper and full compliance with its obligations under the existing agreement between the Parties, ELICIT shall be authorised to engage third parties. Any related costs shall be charged to the Buyer, if no fixed price has been agreed for the relevant service provision.
- 19.2** ELICIT shall be entitled to transfer its rights and obligations vis-à-vis the Buyer to a third party.
- 19.3** The Buyer shall not be permitted to transfer its rights under the Agreement to a third party without the prior written approval from the ELICIT.

Article 20. Governing law and disputes

- 20.1** All offers, agreements and the performance thereof shall be governed exclusively by Dutch law.
- 20.2** All disputes - including those regarded as such by only one of the Parties - arising from or in connection with the Agreement to which these General Terms and Conditions of Delivery apply, or with the relevant General Terms and Conditions of Delivery and their interpretation or implementation, both of factual and legal nature, shall be settled by the District Court of Overijssel.
- 20.3** In derogation from the provisions of Article 20.2, ELICIT shall be permitted to submit a dispute between the Parties to the Foundation for the Settlement of Automation Disputes in The Hague.

B. PROVISION OF SOFTWARE

Article 21. Applicability

- 21.1** In addition to the provisions of Chapter A (and where applicable also C), the provisions of this Chapter shall apply if and insofar as ELICIT provides Software to the Customer remotely (by means of SaaS).

Article 22. Right of use and restrictions on use

- 22.1** ELICIT shall provide the Buyer with the Software as SaaS for the duration of the Agreement and shall grant the Buyer a Right of Use under the terms and conditions of these General Terms and Conditions of Delivery and the Agreement. The term of the right of use shall be equal to the term of the Agreement under which the right of use is granted to the Buyer.
- 22.2** The Buyer shall strictly observe the restrictions applicable between the Parties with respect to the Right of Use at all times. The Buyer is aware that violation of a limitation of use constitutes both a material breach of the Agreement with ELICIT and an infringement of the intellectual property rights of the creator of the Software.
- 22.3** Unless otherwise agreed in writing, Rights of Use shall always be non-exclusive, non-transferable and non-sublicensable.

- 22.4** Immediately after termination of the right of use, the Buyer must cease and desist any use of the Software. Unless otherwise agreed in writing, ELICIT shall not be obliged to assist the Buyer at the end of the Right of Use with a view to a data conversion, recording of information, or any other activity whatsoever.
- 22.5** The Buyer shall under no circumstances remove technical provisions intended to protect the Software (or have them removed) or bypass them (or have them bypassed).
- 22.6** Unless otherwise agreed in writing, the Buyer may only use the Software in and for its own company or organisation and only for the use set out in the Agreement.

Article 23. Contents of the SaaS

- 23.1** Unless the Parties have explicitly agreed in writing on an obligation of result which, moreover, has been sufficiently defined, ELICIT shall be subject to a best-efforts obligation to make and keep the Software specified in the Agreement available for the Customer as SaaS in accordance with the agreements made in writing between the Parties.
- 23.2** ELICIT, for reasons of its own, may make changes to the content or scope of the Software or related Services.
- 23.3** If included in the Agreement, ELICIT shall install the Software designated in the Agreement on the internal infrastructure specified by the Buyer.
ELICIT shall not be responsible for the purchase and/or proper operation of the infrastructure of the Buyer or that of third parties.
- 23.4** Unless agreed otherwise in writing, the Services of ELICIT do not include maintenance of the Software and/or the provision of support to the Software users.
If, contrary to the foregoing, maintenance and/or support must be provided by ELICIT, this shall be carried out at ELICIT's usual rates and ELICIT may require the Buyer to enter into a separate SLA for this purpose.
- 23.5** Unless otherwise agreed in the Agreement or the SLA declared applicable, the Buyer shall be responsible for making back-up copies of its documents, data and records.
ELICIT shall only be obliged to have a back-up centre or other back-up facilities at its disposal if this has been agreed in writing between the Parties.
- 23.6** Further descriptions and agreements regarding the level of the Service, availability of personnel, procedures to be followed, making and retaining backups, etc. will be laid down in a Service Level Agreement (SLA), provided agreed upon by the Parties.

Article 24. Implementation of the SaaS

- 24.1** If ELICIT, on the basis of a request or authorised order from a government agency or in connection with a statutory obligation, performs work with respect to data of the Buyer, its employees or users, all associated costs shall be charged to the Buyer.
- 24.2** ELICIT may take the Software out of operation, in whole or in part, temporarily for preventive, corrective or adaptive maintenance.
ELICIT shall not allow such taking out of operation to last longer than necessary and, depending on the circumstances, shall effect it after notification to the Buyer.
- 24.3** ELICIT shall not be responsible for checking the correctness and completeness of the results of the Software and the data generated using the Software.
The Buyer shall regularly and demonstrably check the results of the Software and the data generated using the Software.
- 24.4** On the basis of the information provided by ELICIT regarding measures to prevent and limit the consequences of malfunctions, Defects in the Service, mutilation or loss of data or other incidents, the Buyer shall identify the risks for its organisation and, if necessary, implement additional measures. ELICIT declares that it is prepared, at the request of the Buyer, to cooperate in all reasonableness with further measures to be implemented by the Buyer subject to (financial) conditions to be determined by ELICIT.
- 24.5** ELICIT does not guarantee in advance that the Software will be adapted in a timely manner to amendments in relevant legislation and regulations at all times.

Article 25. Maintenance and support

- 25.1** The provisions of this article shall only apply if ELICIT has entered into a contractual obligation to carry out maintenance and provide support with respect to the Software.
- 25.2** ELICIT shall endeavour to carry out its maintenance and support obligations with care, in accordance with the agreements and procedures laid down in writing between the Parties in the SLA.
- 25.3** The Buyer shall provide detailed notice of the defect in the Software. Following receipt of the notice, ELICIT shall endeavour to repair the defects to the best of its ability and/or to make improvements in the later new versions of the Software.
- 25.4** Depending on the urgency, the results of the maintenance shall be provided to the Buyer in the manner and within the term to be determined by ELICIT.
- ELICIT shall be entitled to install temporary solutions or programme bypasses or problem-avoiding restrictions in the Software.
- 25.5** ELICIT shall be entitled to impose requirements on the infrastructure and telecommunications facilities of the Buyer and may decide to suspend or limit maintenance if these do not meet the requirements set by ELICIT.
- 25.6** ELICIT shall provide support to the Buyer, which obligation is limited to advising by telephone or email regarding the use and functioning of the Software specified in the Agreement.
- ELICIT may attach conditions to the qualifications and the number of contact persons eligible for support. ELICIT shall consider well-founded requests for support within a reasonable period of time in accordance with its usual procedures. Unless otherwise agreed upon in writing, support shall only be provided on working days during the usual business hours of ELICIT.
- 25.7** The Buyer shall render provide all cooperation required for maintenance by ELICIT.
- This includes the temporary cessation of the use of the Software by the Buyer, if considered necessary in the opinion of ELICIT. In the absence of the required cooperation, ELICIT may suspend maintenance.
- 25.8** If necessary, ELICIT may postpone the repair of the defects until a new version of the Software is made available.
- 25.9** ELICIT shall never be required to repair mutilated or lost data.
- 25.10** ELICIT shall not be obliged to carry out maintenance to the Software that is the result of or is related to:
- operating errors or injudicious use of the Software, which shall also include errors in the input of data or in the data itself;
 - modification of the Software other than by or on behalf of ELICIT;
 - use of the Software contrary to the applicable conditions or contrary to the instructions in the user documentation;
 - changes in or errors, defects or imperfections in equipment or Software other than that covered by ELICIT's maintenance;
 - the recovery of mutilated or lost data;
 - consequences of unauthorised access by third parties (so-called 'hacking');
 - other causes not attributable to ELICIT.
- If in the foregoing situations ELICIT nevertheless carries out maintenance or other work on behalf of the Buyer, it may charge the costs thereof in accordance with its usual rates. Any agreed service levels shall not apply in that case.

Article 26. Warranty

- 26.1** ELICIT does not guarantee that the Software made available to the Buyer or developed on the instruction of the Buyer is suitable for the actual and/or intended use by the Buyer.
- 26.2** Unless the Parties have explicitly agreed on a result which, moreover, has been sufficiently defined, the Services of ELICIT shall be regarded as a best-efforts obligation.

Article 27. Software of ELICIT suppliers

- 27.1** If and insofar as ELICIT supplies the Buyer with software from third parties, the terms and conditions of (use of) those third parties shall apply, with the exception of the deviating provisions contained in these General Terms and Conditions of Delivery. The Buyer accepts in advance the aforementioned conditions of third parties. These terms and conditions are available for inspection by the Buyer at ELICIT and will be sent free of charge at the Buyer's request. If and insofar as the said terms and conditions of third parties are deemed, for whatever reason, not to apply to the relationship between the Buyer and ELICIT or are declared to be inapplicable, the provisions in these General Terms and Conditions of Delivery shall apply in full.

C. CONSULTANCY

Article 28. Applicability

- 28.1** In addition to the provisions of Chapter A (and where applicable also B), the provisions of this Chapter shall apply if and insofar as ELICIT provides consultancy services to the Buyer.

Article 29. Implementation

- 29.1** Since the lead time of the assignment to provide the consultancy services generally depends on various factors and partly depends on the efforts of the Buyer, ELICIT will not commit itself to a certain end date of an assignment.
- 29.2** ELICIT shall be entitled to suspend its Services, if continuation thereof is dependent on efforts to be made by the Buyer.
- Furthermore, if a project is divided into certain phases, ELICIT shall be entitled to defer its work for a subsequent phase until the Buyer has approved the results from a previous phase.
- 29.3** If this has been agreed in writing, ELICIT shall observe instructions issued in a timely and responsible manner by the Buyer in the performance of its Services.
- ELICIT shall not be obliged to do so if these instructions result in a change or addition to the content or scope of the agreed Services. However, if ELICIT does proceed accordingly, such work shall be remunerated in accordance with ELICIT's usual rates.
- 29.4** If it has been agreed that the Services will be performed by a certain person, ELICIT shall nevertheless be entitled to replace this person with another person with comparable qualifications, following consultation with the Buyer.
- 29.5** If the Services are performed on the basis of data to be supplied by the Buyer, then such data shall be supplied by the Buyer in accordance with the conditions set by ELICIT.
- The Buyer guarantees that all materials, data, procedures and instructions provided are complete and correct and that these (where applicable) comply with ELICIT's specifications.
- 29.6** Unless the Parties have agreed otherwise in writing, should the Buyer follow the advice given by ELICIT, this shall always be at the Buyer's expense and risk.

Article 30. Accountability

- 30.1** ELICIT shall account for the performance of the Services in the manner agreed in writing between the Parties. In doing so, the Buyer shall inform ELICIT in advance regarding the subjects it wishes to be informed about and the manner in which it wishes to be informed. The Buyer shall be responsible for the further distribution of the information provided by ELICIT to the persons involved within the organisation of the Buyer.
- 30.2** If an employee of ELICIT participates in a project or steering group, in which one or more employees of the Buyer also participate, information shall be provided in accordance with the working method prescribed for that group.
- Decisions taken in such a group shall only be binding on ELICIT if such a decision has been taken in accordance with the agreements made in writing by the Parties. In the absence of such agreements, these decisions shall only be binding on ELICIT if it has accepted the decision in writing. ELICIT shall only be obliged to do so, however, if this is compatible with the content of the Agreement.
- 30.3** The Buyer warrants that the persons it has designated who are part of the steering or project group are authorised to take decisions that are binding on the Buyer.
- 30.4** The reports and advice provided by ELICIT within the scope of its work for the Buyer are exclusively intended for the Buyer.
- Without prior written permission from ELICIT, the Buyer shall not be permitted to disclose the advice and reports to a third party or otherwise make them public.

Article 31. Payment and invoicing

- 31.1** Unless a different invoicing schedule has been agreed, the work performed by ELICIT shall be invoiced to the Buyer monthly in arrears.
- 31.2** ELICIT shall periodically provide insight into the work carried out, time spent and costs incurred, in its usual manner.