

# General terms and conditions of purchase of Achmea

March 2016

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March 2016 16040012

# Chapter 1 General Conditions

## Article 1 Definitions

In addition to the definitions included in the Order, the following definitions also apply to these general terms and conditions of purchase:

- 1.1 **Acceptance:** the approval of all or parts of the Performance by Achmea.
- 1.2 **Achmea Group:** the Achmea Group is taken to mean the economic unit Achmea B.V. or its legal successor and all legal entities associated with it from time to time as referred to in article 24b of Book 2 of the Dutch Civil Code.
- 1.3 **Data Leak:** a breach of the security of Personal Data, where the data has become accessible to unauthorized parties, has been lost or has been unlawfully Processed.
- 1.4 **European Economic Area:** all member states of the European Union, Norway, Iceland, Liechtenstein and (for the application of the processor's agreement) Switzerland.
- 1.5 **Defect:** different or poorer qualities than those agreed on in the Order or than Achmea could reasonably expect.
- 1.6 **Personal Data:** any data that can be traced back to a natural person.
- 1.7 **Supplier:** in addition to the definition of supplier given in the Order, the term Supplier also includes Supplier's employees and any third parties engaged by Supplier.
- 1.8 **Order:** the agreement between Achmea and Supplier to which these general terms and conditions of purchase apply.
- 1.9 **Performance:** the goods to be supplied by Supplier (article 1 of Book 3 of the Dutch Civil Code), the service to be provided, the rights of use to be granted and the ensuing results (including intellectual property rights), or a combination of these, including materials and documentation.
- 1.10 **Sub-Processor:** any third party engaged by Supplier to Process Personal Data on the instructions of Supplier.
- 1.11 **(to) Process:** any automatic or non-automatic activity that is carried out relating to Personal Data, such as collecting, recording, storing, organizing, amending, using, disclosing, passing on or deleting Personal Data.

## Article 2 Materialization and applicability

- 2.1 Achmea will always place Orders in writing. If Achmea places an Order orally, no agreement will be concluded unless Achmea subsequently confirms the Order in writing.
- 2.2 Orders may only be changed or supplemented by the parties in writing.

- 2.3 These general terms and conditions of purchase also apply to changed, supplementary and follow-up orders to Supplier.

## Article 3 Termination and consequences

- 3.1 Achmea is entitled to cancel an Order early, observing a period of notice of 30 days, without Supplier being entitled to compensation.
- 3.2 Both parties are entitled to cancel all or part of an Order with immediate effect by registered letter as soon as:
  - a) the other party is granted a moratorium or is declared insolvent;
  - b) a party makes a proposal to the other party or to a third party or attempts actions that are in contravention of the law or principles of integrity, such as a proposal for or attempt at bribery;
  - c) a supervisory body lodges substantial objections to the execution of the Order and the parties are unable to change the Order within a month in such a way that the objections are withdrawn.
- 3.3 As soon as a situation such as referred to in article 3.2 occurs, the party concerned will immediately inform the other party.
- 3.4 In the event that an Order is terminated (irrespective of the manner of termination):
  - a) Achmea is entitled to use or continue to use the Performance, taking into account that any restrictions that may have been regulated in the Order in connection with the use of the Performance will remain applicable;
  - b) Supplier is obliged to repay any amounts that have been paid in advance;
  - c) Supplier is obliged, at the request of Achmea, to provide all that is needed for the further use of the Performance supplied. Achmea is not required to pay Supplier for this;
  - d) Supplier will cooperate with Achmea to transfer the Performance, as it has been supplied by Supplier at that time, in a gradual and proper manner to Achmea or to a third party designated by Achmea, whereby the continuity of the Performance will be paramount;
  - e) Supplier undertakes to complete delivery of the Performance that has already been started and can be completed in the short term, at the prices agreed in this Order;
  - f) Supplier undertakes to continue to comply with the agreements made in the Order that, in view of their nature, continue to exist after termination of the Order. These will always include any agreements in connection with indemnification, confidentiality, liability, intellectual property, quality, applicable law and competent court.

#### **Article 4 Delivery and transfer of rights and obligations**

- 4.1 At the request of Achmea, Supplier will deliver the Performance under the conditions of the Order direct to a legal person belonging to the Achmea Group. Achmea may allow the Performance to be used by the Achmea Group, its employees and any third parties engaged by it (such as trainees, self-employed persons, temporary workers and advisers) insofar as these third parties provide services on behalf of the Achmea Group. All rights and defences (including warranties) arising from this Order will also apply to the persons and legal persons referred to in this article 4.
- 4.2 Supplier gives permission in advance to Achmea with respect to all or part of Achmea's rights and/or obligations arising from the Order, to:
- a) transfer those rights and/or obligations to a legal person within or outside the Achmea Group;
  - b) transfer those rights and/or obligations to, or place them under the management of, a party to which Achmea contracts out work.
- 4.3 Supplier may only pledge or transfer rights or obligations arising from the Order to, or have such rights or obligations taken over by a third party with prior permission from Achmea.
- 4.4 If a legal person belonging to the Achmea Group and making use of a Performance by Supplier no longer belongs to the Achmea Group at a certain moment, that legal person will be entitled to use or continue to use the Performance by Supplier for twelve months after that moment, under the same conditions as laid down in the Order, and/or Achmea will be entitled to provide the Performance to that legal person during that period.

#### **Article 5 Liability**

- 5.1 If a party fails to comply with the obligations arising from this Order or if a party undertakes an unlawful act which causes damage to the other party that can be attributed and traced back to the event that caused the damage and that this damage is demonstrable, the party that fails to comply will compensate the damage unless the failure cannot be attributed to it.

#### **Article 6 Force majeure**

- 6.1 In the event of an actual or the threat of non-attributable failure (hereinafter: force majeure), the party relying on force majeure will immediately inform the other party of this in writing, stating reasons. The party relying on force majeure will do its utmost to resume compliance with the obligations under the Order as soon as possible.

- 6.2 Force majeure will not include: undercapacity or sickness at Supplier, strikes, blockades or work-to-rule actions, transportation hindrances, delayed deliveries, shortage or unsuitability of materials, theft, flooding, government actions, liquidity or solvency difficulties at Supplier, inability of Supplier to obtain a required permit or permission from the authorities and/or disruptions in networks used by Supplier.

#### **Article 7 Delivery of the Performance**

- 7.1 Supplier is obliged to give a detailed and full description of the Performance in the Order.
- 7.2 In the event that Supplier fails to fulfil its obligations at the agreed time or within the agreed period(s), Supplier will be in default. All agreed times and periods are therefore deadlines for Supplier.
- 7.3 As soon as Supplier becomes aware that the Order cannot be fulfilled at the agreed time or within the agreed period, Supplier will immediately inform Achmea about the cause, the consequences and any measures taken to limit the delay and the possible damage.
- 7.4 Supplier is obliged to comply with the policy and codes of conduct of the Achmea Group, about which Supplier has been informed.
- 7.5 Supplier may only suspend the delivery of the Performance if a court has passed judgment on the dispute and allows suspension. If a court decides that Supplier was entitled to suspend delivery, Achmea will reimburse Supplier within reason the costs incurred.
- 7.6 Supplier guarantees Achmea that the Performance delivered by it and the use thereof does not infringe the rights of third parties, including intellectual property rights, and that the use of the Performance is not unlawful in any other way. Supplier indemnifies Achmea against all claims or threats of claims by third parties regarding possible infringement of intellectual property rights and/or other rights of those third parties and will compensate all damages and costs incurred by Achmea in the event that the Performance infringes such rights and/or is unlawful.
- At Achmea's request, Supplier will undertake the defence in legal proceedings initiated against Achmea on account of alleged unlawful actions and/or infringement of the rights of a third party. Achmea will be entitled to add Supplier as a third party. Achmea will issue Supplier with the necessary authorizations and support in the event that Achmea requests Supplier to undertake the defence of Achmea as referred to above.
- 7.7 Supplier will give instructions about the use of the Performance if Achmea so requests.

7.8 Supplier will comply with the applicable laws and regulations and will enable Achmea to comply at all times with national and international laws and regulations that apply to Achmea insofar as this concerns the use of the Performance. Achmea will always have the right to introduce changes to the way in which the execution of the Performance by Supplier takes place if this is necessary in order to comply or continue to comply with such rules and regulations.

#### **Delivery of the goods**

- 7.9 Achmea will become owner of the goods as soon as the goods have been delivered at the agreed place and have been accepted by Achmea. Supplier will insure the goods properly until that time.
- 7.10 All goods that Achmea gives Supplier to use for the execution of the Order remain the property of the Achmea Group or of third parties and may be taken back at any time. Supplier will store these goods separately and state on them that they are the property of Achmea.
- 7.11 Supplier is obliged to test the goods prior to delivery and to install them in working order, unless parties have agreed otherwise in writing.

#### **Article 8 Acceptance**

- 8.1 If Achmea so requests, Supplier will submit all or parts of the Performance for Acceptance and will give its full cooperation to this.
- 8.2 Without prejudice to Acceptance, the Performance must continue to comply with the provisions of article 9 'Quality'.
- 8.3 Achmea will not reject a Performance on account of small Defects. This comprises Defects that by their nature or number do not impede the use of the Performance in Achmea's opinion.

#### **Article 9 Quality**

- 9.1 Supplier guarantees that:
- the Performance has no Defects;
  - the Performance complies with the laws and regulations that are applicable to the Performance;
  - the Performance complies with the quality requirements in Supplier's sector and generally accepted technical and other standards in Supplier's branch of activity;
  - the Performance and its delivery will not cause harm (for example due to a virus) to the computer systems of Achmea;
  - Supplier has the necessary qualities with respect to training, expertise and experience for the production and delivery of the Performance;
  - the Performance complies with the requirements as laid down in the Security Agreement.

- 9.2 Achmea will not be required to investigate the compliance of the Performance with the quality requirements referred to in this article 9. In the event that the Performance does not meet the quality requirements, Achmea will only have to make a reasonable case for that within two months of the discovery. If Achmea succeeds, replacement or repair will take place as soon as possible by and at the expense of Supplier, without prejudice to Achmea's other rights.
- 9.3 Achmea is entitled to demand Supplier's compliance with its obligations pursuant to this article during a period that is considered reasonable in view of the nature of the Performance but which is not shorter than one year after Acceptance.

#### **Article 10 Prices**

- 10.1 The price of the Performance is stated in the Order and will remain unchanged during the term of the Order.
- 10.2 The price of the Performance will be shown in Euros excluding VAT. The price is inclusive of all costs relating to the Performance and the obligations of Supplier pursuant to the Order, such as taxes and travelling and accommodation expenses on the part of Supplier.

#### **Article 11 Extra work**

- 11.1 Achmea will not pay for work that is not specified in the Order or that has been carried out for a different price than agreed.
- 11.2 In the event that Supplier expects that work will have to be carried out that is not covered by the Order, Supplier will immediately notify Achmea. Supplier may only carry out such work once Achmea has given its agreement in writing to Supplier's quote, stating the nature, scope and costs of the work. After the extra work has been carried out and accepted, Supplier will send a separate invoice specifying the nature and scope of the extra work.

#### **Article 12 Invoicing and payment**

- 12.1 Supplier will send an invoice after the Performance has been delivered and, if applicable, Acceptance has taken place. Achmea will pay within 45 days of receiving a correct invoice. At Achmea's request, Supplier will submit the specifications on which the invoice is based.
- 12.2 An invoice must comply with the requirements laid down in the Turnover Tax Act 1968 (Wet op de Omzetbelasting 1968) and in the Order. An invoice must also state the reference number, cost centre/PO number/WBS element, the address of the contact person or business division at Achmea, the date and description of the Order.
- 12.3 Invoices must be sent in PDF format to the invoice address [facturen@achmea.nl](mailto:facturen@achmea.nl).

- 12.4 As long as articles 12.2 and 12.3 are not complied with, Achmea will not accept the invoice and payment will be postponed. Payment of an invoice does not mean that Achmea has accepted the Performance and does not entail any waiver of rights.
- 12.5 In the event that Achmea fails to pay an invoice within forty-five days without a valid reason, it will be obliged to pay statutory interest as referred to in article 119 of Book 6 of the Dutch Civil Code. Achmea will not be obliged to pay this interest and any collection costs payable by Achmea if the invoice does not comply with the provisions of articles 12.2 and 12.3.
- 12.6 The amounts to be paid to Supplier will be evident from the records of Achmea, unless Supplier proves that these records are incorrect.

### **Article 13 Consultations and information**

- 13.1 As soon as possible after the Order has been given, the parties will set up a consultative structure. This consultative structure will be arranged in a way that is appropriate to the work being performed.
- 13.2 Supplier will have familiarized itself sufficiently with the objectives relating to the Order, the organization, the processes and data flows at the Achmea Group and with the feasibility of the Performance within the parameters set by Achmea.
- 13.3 Achmea has provided Supplier with enough information in connection with the provisions of article 13.2. Achmea will provide Supplier, on request, with additional information insofar as it is not of a confidential nature and may reasonably be considered relevant to the execution of the Order. If there is any doubt, Supplier will make timely enquiries at Achmea.
- 13.4 Parties will keep each other informed of developments and changes that are or may be important for the execution of the Order.

### **Article 14 Intellectual property**

- 14.1 All intellectual property rights of Supplier existing upon commencement of the Order remain vested exclusively in Supplier or its licensors. All intellectual property rights of Achmea existing upon commencement of the Order remain vested exclusively in Achmea or its licensors.
- 14.2 Achmea will acquire all intellectual property rights that are created in the context of the Performance. Supplier herewith transfers to Achmea, who hereby accepts, those intellectual property rights in advance in anticipation of the time that the intellectual property rights are created. Supplier will give its full cooperation to the transfer of intellectual property rights at its own expense while imposing no conditions.

- 14.3 If intellectual property rights are created in the context of the Performance, where Supplier brings in intellectual property rights and/or other comparable rights that are already held by Supplier or its licensors on commencement of the Order, Supplier herewith grants Achmea, free of charge, a non-exclusive, worldwide, irrevocable, unlimited, transferable, perpetual licence or sublicense with respect to those rights.
- 14.4 Insofar as legally permissible, the Supplier hereby declares that it will not make use of any form of personality rights, such as the rights that ensue from article 25 of the Copyright Act (Auteurswet).

### **Article 15 Secrecy and managing data**

- 15.1 Parties guarantee each other that they will keep secret all confidential data that they acquire during the Order. Parties will use the confidential data exclusively in the context of the Order. Supplier will agree with its employees an obligation of secrecy of similar purport to that laid down in this article.
- 15.2 ‘Confidential data’ is: all information, data and databases of the Achmea Group and its existing or potential customers in connection with its business activities, processes, organization, (strategic) objectives, (financial) forecasts, analyses, studies, products, know-how, intellectual (property) rights, computer software, employees, applicants, suppliers, customers and business relations, other Personal Data and the Order, received or created by Supplier in the context of the Order, irrespective of the way or format in which they are made or stored. In addition, confidential data are data deemed confidential by one of the parties. The guarantee of secrecy does not apply to information that is common knowledge or that becomes common knowledge after the passage of time without this being attributable to an infringement of this article.
- 15.3 Supplier guarantees that confidential data of the Achmea Group will not be accessible to third parties, unless Achmea gives its written permission for this.
- 15.4 At Achmea’s request, Supplier will put all confidential data acquired in connection with the Order at Achmea’s disposal in a manageable way or destroy it within five calendar days. If Achmea has provided Supplier with confidential data in electronic form, Supplier will return this confidential data in the same manner. If Achmea requests destruction, Supplier is not permitted to keep a copy, synopsis or any part of the confidential data in any form unless a statutory data retention obligation specifically opposes this. In that case Supplier will inform Achmea what data are concerned and for how long and in what manner the data will be stored.

- 15.5 If Supplier obtains and stores confidential data from Achmea, it will make regular back-ups of these data in order to protect and preserve these data, so that all data (including the most recent) can be recovered. At Achmea's request, Supplier will place these back-ups at Achmea's disposal in an accessible and usable way.
- 15.6 In the event that confidential data are lost, due to disruption of a system or user error, Supplier will be able to recover these data as from the last available back-up. This will only be done at the request of and with permission from Achmea.
- 15.7 If Supplier is in breach of the provisions of this article 15, a penalty of € 50,000 (fifty thousand euros) per breach will immediately be payable by Supplier to Achmea. This penalty will leave all other rights of Achmea intact, including the right to compensation for damages.

#### **Article 16 Audit rights**

- 16.1 Achmea is entitled, after prior notice, to have an audit carried out by a qualified auditor into the operational management or processing of Personal Data or other details in the context of the Order. The audit relates to all matters that are directly or indirectly connected with the execution of the Order. This includes:
- a) the execution of the Order itself;
  - b) the implementation of financial agreements;
  - c) the implementation of agreements made regarding quality and quality control;
  - d) compliance with laws and regulations, including but not limited to the Personal Data Protection Act (Wet bescherming persoonsgegevens) and the Labour Market Fraud (Bogus Schemes) Act (Wet aanpak schijnconstructies – Was);
  - e) compliance with collective agreements (CAO) and other agreements concerning terms and conditions of employment.
- 16.2 Supplier will cooperate with the audit and will implement improvements recommended by the auditor wherever possible. Costs incurred by Supplier in connection with the audit will not be reimbursed by Achmea. In the event that Supplier needs to engage a third party for an audit, Achmea will reimburse costs within reason if the audit shows that Supplier has not failed to meet its obligations.
- 16.3 Supplier is obliged to cooperate with any requests for information or auditing by or on behalf of supervisory bodies such as the Dutch Data Protection Authority, the Netherlands Authority for Consumers and Markets, De Nederlandsche Bank and/or the Netherlands Authority for the Financial Markets. Supplier undertakes that Supplier's external accountant will give full cooperation. Supplier will comply with instructions by the supervisory body. Supplier will provide Achmea with a copy of the information it has given the supervisory body if such is permitted by law.

#### **Article 17 Privacy and personal information**

- 17.1 Parties undertake that in executing the Order they will act in accordance with all applicable laws and regulations in the field of Personal Data protection. At Achmea's request, Supplier will explain to Achmea how it has interpreted this. Each party indemnifies the other party against damages caused by failure to comply with these laws and regulations.
- 17.2 Supplier will not transfer Personal Data to, or make it accessible in or from, any country outside the European Economic Area.
- 17.3 In executing the Order, Supplier will ensure that there are suitable technical and organizational measures to protect personal information from loss or any form of unlawful processing. These measures will guarantee, taking into account the technical state of the art and the costs of implementation, a suitable level of protection in view of the risks relating to the processing and nature of the information to be protected. Supplier will record the measures in writing.
- 17.4 In the event that Achmea supplies test data for the Performance, the test data will not contain any Personal Data. If Supplier notices that the test data do not comply with this, Supplier will notify the contact person at Achmea and will not carry out any tests until permission has been given explicitly by Achmea and/or revised test data have been supplied.
- 17.5 If Supplier Processes Personal Data for the Achmea Group in the context of the Order, Achmea and Supplier will conclude a processor's agreement. This processor's agreement will also contain agreements on the use of Sub-Processors.

#### **Article 18 Third parties**

- 18.1 Supplier will not engage any third parties for the delivery of the Performance without obtaining explicit permission to do so from the contact person at Achmea. This prohibition concerns self-employed persons, employees of third parties, temporary workers, as well as services by third parties, such as storage space, information technology services or otherwise. Supplier does not need to obtain permission from Achmea for utility services. Achmea may impose conditions on the permission and will always have the right to withdraw the permission.
- 18.2 Supplier vouches at all times for any third parties engaged by Supplier and will ensure that third parties are contractually obliged to enable Supplier to comply with all Supplier's obligations in connection with the Order. Stipulations in the Order that apply to Supplier also apply to any third parties engaged by Supplier. Supplier will ensure that Achmea can also exercise its rights with respect to such third parties.

## **Article 19 Screening**

- 19.1 In the event that Supplier is granted independent access to areas and/or systems and/or confidential data at Achmea, an investigation will be carried out (hereinafter: 'screening') into Supplier's expertise and trustworthiness on the basis of Achmea's Pre-Employment Screening policy. If screening is necessary, Supplier will be responsible for the screening unless Achmea indicates that it will carry out all or part of the screening itself. Supplier may only start executing the Order once the screening has been completed and the results are positive.
- 19.2 Supplier will ensure that the results of the screening carried out by it are carefully stored. At Achmea's request, Supplier will submit the results of the screening to Achmea unless the person concerned refuses permission for this. Achmea has the right to refuse to allow specific persons to work on the Order on the basis of the results of the screening and is not required to give reasons for this decision.
- 19.3 At least once a year in April Supplier will provide Achmea with a statement by a registered accountant stating that Supplier has complied with its obligations pursuant to this article.

## **Article 20 Location rules**

- 20.1 In the event that Supplier performs work at a location belonging to the Achmea Group, the following will apply:
- Supplier will be familiar with the house rules and codes of conduct that apply at the location where the Order is being executed and will act accordingly. Achmea will provide Supplier's contact person with a copy of these house rules and codes of conduct;
  - Supplier will report its arrival at and departure from an Achmea location to the responsible employee. Supplier will be in possession of a valid proof of identity and a document stating why Supplier is performing work at Achmea;
  - Achmea is entitled to refuse admission to an Achmea location.

## **Article 21 Compliance and security**

- 21.1 Supplier guarantees the security of the Performance and will ensure that suitable technical and organizational measures are taken. In addition, Supplier will comply with the security requirements that parties have agreed on in the Order.
- 21.2 Supplier will ensure that one of its employees will be charged with defining and implementing the security policy and keeping it up to date.
- 21.3 Supplier will arrange its internal procedures, security policy and work agreements in such a way that Supplier complies with the Order. Supplier will also have internal procedures, a security policy and work agreements that facilitate integrity and prevent bribery or attempts at such.

- 21.4 Supplier will periodically test, on the basis of internal checks and risk management systems, the effectiveness of internal procedures, a security policy and work agreements as regards their existence and functioning in order to supply Achmea with a transparent and demonstrably sound, continuous, reliable and safe Performance. Supplier will record the results of the tests and submit them to Achmea for inspection.
- 21.5 In the event that a compliance incident occurs, Supplier will report the incident immediately, and in any case within twenty-four (24) hours of its discovery, to the contact person at Achmea. This includes, but is not restricted to, incidents with one or more of the following characteristics: a high risk factor in the media, substantial impact on the operational management, violation of security measures, if Supplier discovers or reasonably suspects that a Data Leak has occurred with serious adverse consequences, or a considerable risk thereof, for the protection of the Processed Personal Data, confidential data as referred to in article 15.2 that have or may have been accessible to an unauthorized person, involvement of the law, screening incidents, fraud, visits and/or investigations by a supervisory body whether announced or unannounced. Achmea will be the first party to be informed.
- 21.6 Depending on their nature and seriousness, Achmea may be required to report certain incidents immediately to the supervisory bodies. If Supplier is under a statutory disclosure obligation, as may be the case to supervisory bodies, Achmea and Supplier will consult about how this obligation will be complied with.

## **Article 22 Corporate social responsibility**

- 22.1 Achmea aims to protect the environment as far as possible by using environmentally-friendly materials and products, the raw materials of which are reusable as far as possible. Achmea will only purchase Performances that are brought about without the use of child labour. Supplier guarantees that the Performance delivered by it complies with these stipulations. At Achmea's request, Supplier will provide relevant information on this matter.
- 22.2 Supplier will inform Achmea in writing, before delivery of the Performance, if Supplier uses materials or products and/or if the Performance produces waste products that, either by themselves or in combination with other materials or products, are known to constitute a threat to humans or the environment. In that case, Achmea is entitled to refuse to accept the Performance without being obliged to pay any compensation or damages to Supplier.
- 22.3 Supplier will use as little packaging material as possible. Where packaging material is still necessary, this material will be made from reusable raw materials as far as possible. At Achmea's request, Supplier will remove all packaging materials and/or parts of goods used by it free of charge.



- 22.4 Achmea expects Supplier to contribute to the ambition of Achmea to pursue sustainable business operations, to comply with the obligations arising from national and international laws and regulations and to have embedded sustainability structurally in its business activities in the manner described in the document 'Sustainability Declaration for Suppliers and Partners of Achmea' appended to the Order. Supplier will abide by this declaration.

### **Article 23 Final provisions**

- 23.1 In the event that Supplier is in contact with another legal person of the Achmea Group, Supplier will inform that legal person of the existence of this Order and contact Achmea Procurement by email at [procurement@achmea.nl](mailto:procurement@achmea.nl).
- 23.2 Supplier will not use the names, trade names or brand names of the Achmea Group without permission. Neither will Supplier announce the existence of the relationship unless Achmea grants permission for this. Achmea may impose conditions on the granting of permission.
- 23.3 The Order contains all agreements made between the parties and will replace all earlier agreements that may have been made by parties in this context.
- 23.4 In the event that one or more articles in the Order prove to be null and void or are declared invalid by a court of law, the remaining stipulations will retain their legal force. The parties will consult each other about the article(s) that are null and void or have been declared invalid in order to draft an alternative stipulation.
- 23.5 Waiver of rights will only be valid if an explicit written statement to that effect has been submitted by a competent party.
- 23.6 The Order is exclusively subject to the law of the Netherlands. The applicability of the provisions of the United Nations Convention on Contracts for the Sale of Goods is excluded by the parties.
- 23.7 If the parties are unable to resolve a dispute by mutual consultation, the dispute will be brought exclusively before the competent court in the district of the Central Netherlands, unless the parties agree on a different way of settling the dispute.
- 23.8 Supplier is not a Dutch entity. The general terms and conditions of purchase of Achmea are translated into English solely for information purposes. Achmea, which has provided the translation, states that the translation has been done as accurately as possible and to the best of its knowledge covers the ideas and intentions of the Dutch equivalent. However, Achmea is not liable for incorrect translation and in case of conflicts or difference of interpretation between the Dutch 'algemene inkoopvoorwaarden Achmea' and the English translation, the Dutch 'algemene inkoopvoorwaarden Achmea' will prevail.

## **Chapter 2 Support facilities**

In the event that support facilities are a part of the Performance, the provisions of this CHAPTER 2 'SUPPORT FACILITIES' will also apply.

### **Article 24 Facilities**

- 24.1 Supplier is responsible for the materials, tools, machines and other aids required for executing the Order.
- 24.2 Supplier will only use the materials, tools, machines and other aids after receiving written permission to do so from Achmea. The usage is for the account and at the risk of Supplier.
- 24.3 In the event that Supplier wishes to transport the materials, tools, machines and other aids to or from an Achmea location or store them there, Supplier may only do so after receiving written permission from Achmea. Achmea will decide on the place of storage.
- 24.4 Before the Order is executed, parties will agree which utilities and what parts of the grounds and buildings of Achmea may be used by Supplier. Supplier will keep clean the grounds and buildings used by it.

## **Chapter 3 Marketing and communication**

In the event that marketing and communication services are a part of the Performance, the provision of this CHAPTER 3 'MARKETING AND COMMUNICATION' will also apply.

### **Article 25 Storing materials**

- 25.1 In the event that Supplier stores materials that are part of the Performance for Achmea, Supplier will do so with the greatest possible care for a period of three calendar years. At the end of this period Supplier will ask whether Achmea wants the materials to be stored longer. If that is the case, Achmea will pay a reasonable fee for this to Supplier. If the materials are not to be kept or destroyed, Supplier will return the materials at its own risk.

## Chapter 4 Secondment and consultancy

In the event that Secondment and/or Consultancy is a part of the Performance, the provisions of this CHAPTER 4 'SECONDMENT AND CONSULTANCY' will also apply.

### Article 26 Definitions

- 26.1 Secondment: the making available by Supplier, in the context of the conduct of Supplier's business or profession, of one or more employees who have an employment contract with Supplier to carry out work in one or more units of the Achmea Group under the management and supervision of Achmea.
- 26.2 Consultancy: the providing of advice by Supplier in the context of the conduct of Supplier's business or profession. This does not concern the performance of information technology services, such as but not limited to the management, maintenance, implementation and/ or development of hardware or software.

### Article 27 Non-working days

- 27.1 Days on which no work is done in connection with leave, sickness or training courses as well as generally recognized public holidays are at the expense of Supplier.

### Article 28 Deployment of employees and/or third parties

In the event that Achmea, in accordance with article 18.1, grants permission to deploy third parties for Secondment and Consultancy, Supplier will comply with the following conditions:

- 28.1 Supplier will make every effort to deploy employees who have an employment agreement with Supplier.
- 28.2 Third parties will not themselves be intermediaries. For that reason Supplier guarantees that any third party:
- is an employer that puts employees who have an employment agreement with it directly at the disposal of Supplier (lender); or
  - is a self-employed person (freelancer) in possession of a VAR-wuo (Declaration of Independent Contractor Status) that is valid and covers the work performed by this self-employed person, or is a self-employed person for or with whom a model or other agreement approved by the Tax and Customs Administration has been concluded; or
  - is a company in which the worker concerned has a material interest as director and major shareholder. This worker is in possession of a VAR-directeur groot aandeelhouder (Declaration of Income Tax Status (income from activities at the company's risk and expense)) that is valid and covers the work performed by this worker, or is a company for or with which a model or other agreement approved by the Tax and Customs Administration has been concluded.

### Article 29 Obligations of the Supplier in the event of Secondment

- 29.1 In delivering the Performance, Supplier will abide by the applicable collective agreement and the other applicable terms and conditions of employment.
- 29.2 Supplier will record all agreements made concerning the terms and conditions of employment for the delivery of the Performance in a manner that is made clear for and accessible to Achmea.
- 29.3 If Supplier expects that it will be unable to pay the wages of an employee deployed for Achmea, or is unable to do so in time, or is unable in another manner to comply with its obligations under the Order, it will inform Achmea of this immediately in writing.

### Article 30 Liability for tax and social insurance contributions

- 30.1 If Supplier performs work under the management and supervision of Achmea and/or if more than 50% of the work involved in the Order is performed by Supplier at an Achmea location, the following will apply:
- Supplier guarantees and indemnifies Achmea that during delivery of the Performance all obligations in connection with tax and social insurance legislation, income tax and turnover tax will be complied with;
  - At Achmea's request, Supplier will immediately submit a statement (either by a registered accountant or by the Tax and Customs Administration) that Supplier has complied with the obligations referred to in article 30.1 (a). In principle, Achmea will not make this request more than four times a year. The statement will be per person. For categories b) and c) of article 28.2, Achmea will also be given a copy of the relevant VAR (Declaration of Income Tax Status) or a model or other agreement or agreements approved by the Tax and Customs Administration that Supplier has concluded with the person in question;
  - If Achmea suspects that Supplier is not complying with article 30.1 (a), Achmea is entitled to deduct 50% of the contributions owed from the amounts payable to Supplier as a reserve. Achmea may keep this reserve until it receives confirmation referred to in article 30.1 (b), or Achmea may pay it direct to the government agency concerned.
- 30.2 Achmea is entitled to terminate the Order immediately if Supplier does not comply with article 30.1.

## Chapter 5 IT

### General

In the event that information and/or communication technology and/or communication technology services, in the broadest sense, are a part of the Performance, the provisions of this CHAPTER 5 'IT' will also apply.

### Article 31 Definitions

In addition to the definitions given in CHAPTER 1 'GENERAL' of these general terms and conditions of purchase, the following definitions also apply to this CHAPTER 5 'IT':

- 31.1 **Acceptance test:** The test procedure by which it can be demonstrated that the Software functions in accordance with the Specifications, the guaranteed features and the Order.
- 31.2 **Equipment:** The equipment including the accompanying version of the System Software on which or together with which the Software functions.
- 31.3 **Conversion:** The whole of measures and activities aimed at converting the current working method in connection with data processing into the new working method, in which the Software is used.
- 31.4 **Documentation:** The standard user documentation and the documentation that must be maintained for Achmea that belongs with the Software.
- 31.5 **Installation:** The installation of the Software in the Equipment so that the Software can function in accordance with the Specifications and the guaranteed features, putting the Software into working order and successfully carrying out an operational test. Installation also includes the Conversion of existing data files of the Achmea Group.
- 31.6 **Licence:** Achmea's right to use the Software in accordance with the stipulations of the Order.
- 31.7 **Materials:** The data carriers on which the Software is recorded, as well as the aids needed for the use and maintenance of the Software, such as support software (including conversion software, supplies, interfaces, compilers, etc.).
- 31.8 **New Version:** An updated version of the Software as a result of which the Software's functionality is improved.
- 31.9 **Software:** The computer program(s) in object code with the accompanying Documentation and Materials for which Supplier grants the Licence and which Supplier will maintain in accordance with the stipulations of this Order. Software includes software that has been improved, modified or adapted by Supplier for all of its customers, such as but not limited to Improved Versions and New Versions.
- 31.10 **Specifications:** The standard information issued by Supplier regarding the features of the Software.

31.11 **System Software:** The Equipment's data system-independent operating software with accompanying documentation.

31.12 **Improved Version:** A modified version of the Software, as a result of which Defects are repaired or the logical cohesion and functionality is improved.

31.13 **SaaS:** Software as a Service. This concerns making Software available through a public network as a service.

### Article 32 Quality in IT

32.1 The following are added as a supplement to the requirements in article 9.1:

- g) the Performance will be delivered without interruption;
- h) the Performance does not contain any malware, diseases and/or other foreign elements (such as time bombs, Trojan horses, worms or viruses);
- i) the Software functions and will continue to function efficiently, reliably and mutually cohesively;
- j) the Software does not contain any open source software;
- k) the Software does not contain any other security measures than those listed in the Documentation;
- l) the Software is and will continue to be fully compatible with the Equipment and System Software of Achmea referred to in the Order;
- m) the Performance is protected and will continue to be protected, by means of Improved Versions, in such a way as is normal practice from time to time among best-of-industry suppliers.

32.2 If for the delivery of the Performance use is made of web or other applications, web or other services and/or infrastructure of Supplier, Achmea is entitled to carry out one or more security tests to obtain insight into the risks and vulnerabilities in the IT security. Before these tests are carried out, the parties will sign an indemnity statement of Achmea.

### Article 33 Escrow

33.1 At Achmea's request, Supplier will effect an arrangement, under conditions that are customary in the branch, whereby the source code of the Software is deposited with an independent escrow agent. This agent will release the source code immediately, without supplementary conditions and free of charge, in the event that Supplier applies for a moratorium, goes into liquidation or fails to comply with the obligations in the Order, in such a way that Achmea is entitled to terminate the Order. This will ensure that Achmea will always be able to use the most recent version of the Software in accordance with the Order. In addition to the source codes, the escrow will also cover information that has not been made public but which Achmea needs for the maintenance, management or repair of errors in the Software.

#### **Article 34 Supplementary provisions for Acceptance**

The following provisions are added as a supplement to article 8 of these general terms and conditions of purchase:

- 34.1 Achmea will strive to subject the Performance to an Acceptance test within a reasonable period after completion/delivery and/or Installation.
- 34.2 Before the date of completion/delivery and/or Installation of the Software, parties, in mutual consultation, will decide on and record acceptance criteria in an action plan which will also specify how the Acceptance test will be performed.
- 34.3 At Achmea's request, Supplier will demonstrate the Software on the Equipment before Achmea agrees to accept the Performance.
- 34.4 If Achmea accepts all or parts of the Performance, it will record the decision in writing. Without such a written record, Acceptance will not be considered to have taken place. The date of the written decision will be the date of Acceptance.
- 34.5 In the event that Achmea does not accept all or parts of the Performance, Achmea will state this in writing, giving reasons. The costs of the Acceptance test will be borne by Supplier. Supplier will modify the Performance or parts thereof within a reasonable period of time and resubmit it for Acceptance.
- 34.6 In the event that after a second assessment Achmea still does not accept the Performance, Supplier will be in default. In that case Achmea will be entitled to cancel the Order by registered letter, without prejudice to the other rights of Achmea.

#### **Article 35 Documentation**

- 35.1 Supplier will provide Achmea with sufficient, correct, detailed and complete Documentation, written in Dutch, about the features and application functionalities.
- 35.2 The Documentation will be issued to Achmea on the date of completion/delivery of the Software at the latest.
- 35.3 Supplier will ensure that the Documentation remains up to date. Supplier will modify the Documentation as soon as possible, at Supplier's own expense, if it is incomplete, insufficient, outdated or incorrect as well as if the Performance or Equipment changes. Supplier will provide Achmea with the modified Documentation.
- 35.4 Achmea is entitled to make copies or have copies made of the Software and the Documentation, such as for back-up purposes. Specifications concerning rights of ownership and copyrights that are stated on the originals will not be removed.

#### **Article 36 Maintenance**

- 36.1 In the event that maintenance is included in the Order, Supplier will support and maintain the Software in accordance with the Order.

- 36.2 Maintenance work will be done at Supplier unless it is necessary to perform the work at Achmea. Supplier will ensure that it has the Materials needed for the maintenance work in good time.
- 36.3 Supplier will ensure a consistent version policy and will share it with Achmea. Supplier will make Improved and New Versions available on a regular and timely basis. Supplier will regularly examine the need to publish New Versions and will inform Achmea as soon as possible about the results of its examination. Interim modifications to Software through maintenance will be included wherever possible in an Improved and/or New Version.
- 36.4 In the event that Equipment, infrastructure, Software and/or computer programs of Achmea and Supplier are connected to each other, Supplier will inform Achmea in good time about modifications to the Performance.
- 36.5 Modifications to Equipment or infrastructure and/or the Software will not affect the Performance and its availability. If the latter is the case, the resulting costs will be at the expense of Supplier.
- 36.6 At Achmea's request, Supplier will provide Achmea with a free copy of an Improved Version and/or a New Version for testing and evaluation purposes. Achmea will not be obliged to make use of an Improved Version or a New Version.
- 36.7 The costs of carrying out maintenance work on the Software are included in the fee that Achmea pays for the use of the Software. Supplier will not charge separately for this work.

## **Chapter 5.1 Licences**

The provisions of this specific part of CHAPTER 5 'IT' are applicable in the event that Achmea acquires a Licence.

#### **Article 37 Usage of the Software**

- 37.1 Supplier grants Achmea an irrevocable Licence as described in more detail in the Order.
- 37.2 Supplementary to article 4, Achmea may, without permission from Supplier, allow all or some of its rights and obligations ensuing from the Order to be used by, or transfer them to, third parties engaged by Achmea, such as third parties that provide maintenance or support services in the context of the Performance, in so far as these third parties deliver services to the Achmea Group.
- 37.3 In the event that Supplier fails to comply with its obligations pursuant to the Order, Achmea has the right, for maintenance or other purposes, to change or modify the Software or to merge it with other software and to use it. These activities may also be carried out by a third party commissioned by Achmea.

37.4 In the event that the Equipment fails to work, wholly or partially and irrespective of the reason, Achmea is entitled to use the Software temporarily on replacement equipment, irrespective of where that equipment is located. This right will apply until such time as proper use of the Software on the Equipment is possible.

#### **Article 38 Installation**

- 38.1 Supplier will install the software without interruption, making optimum use of its employees, unless Achmea states that it wishes to do this itself.
- 38.2 In the event that Supplier, on the basis of its expertise, the request for a quotation and/or the Order, could or should have known that modifications to Equipment or to other software would be necessary for the Installation, Supplier will attend to those modifications at its own expense.
- 38.3 Once Achmea and Supplier agree that the Installation has been completed, this will be confirmed by Achmea. This does not affect that which is provided for in article 32 'Quality in IT' or the provisions concerning Acceptance.

## Chapter 5.2 Management

The provisions in this specific part of CHAPTER 5 'IT' are applicable in the event that Achmea makes use of management services by Supplier.

#### **Article 39 Management**

- 39.1 Achmea has the right, in the interests of its normal operational management, to temporarily or permanently take out of operation any Equipment and/or Software and/or components thereof and/or other software that is managed by Supplier. Achmea will inform Supplier at least three weeks before it exercises this right. All management and payment obligations pursuant to the Order in connection with the Equipment and/or Software and/or other software or components thereof will be suspended on a pro rata basis during the inoperative period. Payments made in advance will be repaid pro rata by Supplier to Achmea.
- 39.2 Once the Equipment and/or Software or components thereof that have been made inoperative are put into operation again, Supplier will resume the management in the agreed manner.

## Chapter 5.3 SaaS

The provisions of this specific part of CHAPTER 5 'IT' are applicable in the event that Achmea makes use of SaaS provided by Supplier.

#### **Article 40 SaaS**

- 40.1 The delivery of the Performance, in cases in which Achmea makes use of SaaS provided by Supplier, is inclusive of the Licence and rights of use for the interface which Supplier provides for the duration of the Order. Article 37 'Usage of the Software' is not applicable in the event that Achmea makes use of the Software by means of SaaS unless Achmea acquires the source code in accordance with article 33 'Escrow'.
- 40.2 Supplementary to article 21 'Compliance and security' and article 32 'Quality of IT', if use is made of SaaS, Supplier will ensure that the Software and the data server are separated.
- 40.3 Supplementary to article 15.5 Supplier will enable Achmea to save the Achmea data from the website or via the interface in a format to be determined by Achmea in order to make its own back-ups.

