

Cloud Agreement

Agreement for facilitation, implementation and management of cloud services delivered on standard terms

The Norwegian Government's Standard Agreement for facilitation, implementation and management of cloud services delivered on standard terms

Agreement for facilitation, implementation and management of cloud services delivered on standard terms

**An agreement concerning
Solution for Production planning and operational control (“OneTrack
Solution”)**

With reference no.:

has been entered into between:

[Insert name]

(Hereinafter referred to as the Supplier)

and

Vygruppen AS
Organization number: 984 661 177

(Hereinafter referred to as the Customer)

Place and date:

[Insert place and date here]

[The Customer's name here]

[The Supplier's name here]

Signature of the Customer

Signature of the Supplier

The Agreement is signed electronically in Adobe Sign

Communications

All communication concerning this Agreement shall be directed to the person or role appointed as authorised in Appendix 6

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1. GENERAL PROVISIONS

1.1 SCOPE OF THE AGREEMENT

1.1.1 The Supplier's Services

This Agreement concerns the delivery of services related to facilitation, implementation and management of cloud services delivered according to standard terms.

The Supplier's services related to facilitation and implementation of the cloud services may include any type of services related to making the cloud services ready for use by the Customer (see chapter 2.2). The Supplier's services related to management of the cloud services may include e.g., maintenance, monitoring, advisory services and other follow-up activities related to the cloud services after the Customer has commenced its use (see chapter 2.3). New cloud services may be facilitated, implemented and placed under management throughout the entire agreement term.

The Supplier's services related to facilitation, implementation and management, as specified in the appendices, are hereinafter collectively referred to as the Supplier's "Services". The Services may also include delivery of traditional operational services to a limited extent during a transitional period or as a supplement to the cloud services.

The Customer has described its needs and specified its requirements for the Supplier's Services in Appendix 1 (the Customer's description of needs and specification of requirements).

The Supplier has specified its Services and relevant prerequisites for delivery of the Services in Appendix 2 (the Supplier's solution specification). If the Supplier is of the opinion that Appendix 2 contains deviations from the requirements specified in Appendix 1, this shall be clearly stated in Appendix 2, see clause 1.3 no. 3.

1.1.2 Cloud services

Cloud services may be:

- I. Acquired by the Customer independently of this Agreement. This shall be stated in Appendix 3.
- II. Recommended or offered by the Supplier. This shall be specified in Appendix 2.
- III. Presented in the Supplier's Service Catalogue in Appendix 7, so that the Customer may purchase access to additional cloud services from or via the Supplier during the term of the agreement.

Where the Customer purchases perpetual licences in connection with the Cloud Services ("Purchased Licences"), the terms of this Agreement shall apply to such Purchased Licences to the extent specified in Appendix 2 and any applicable licence agreement included in Appendix 10. The party issuing the licence is referred to as the "Licence Provider". Purchased Licences

are subject to the ownership and right of use provisions in chapter 8 as supplemented by the applicable licence terms.

The Customer has specified its needs and requirements related to the cloud services in Appendix 1. In Appendix 3, the Customer has specified its system landscape which the cloud services shall interact with and be a part of.

Cloud services provided on standard terms are hereinafter referred to as “Cloud Services”. Applicable standard terms for the cloud services shall be included in Appendix 10 and are hereinafter referred to as the “Standard Terms”. The party that offers the Cloud Service and which has determined the Standard Terms is hereinafter referred to as the “Cloud Service Provider”.

The Customer is bound by the Standard Terms with regards to requirements for delivery of the Cloud Services. This will also apply if the Supplier is a party to the agreement with the Cloud Service Provider.

The Customer may not assert any claims against the Supplier regarding the delivery of the Cloud Services other than what is specified in the requirements for the Supplier's Services, or which otherwise is explicitly stated in this Agreement. Other claims must be directed against the Cloud Service Provider in accordance with the Standard Terms.

If the Supplier is a party to the agreement with the Cloud Service Provider, the Supplier shall enforce the Standard Terms of the Cloud Service Provider on behalf of the Customer. If the Customer is a party to the agreement with the Cloud Service Provider, the Supplier shall enforce the Standard Terms of the Cloud Service Provider on behalf of the Customer to the extent stated in Appendix 1 and Appendix 2 that such follow-up is included in the Services.

Where the Supplier also acts as the Cloud Service Provider, the obligation to enforce the Standard Terms on the Customer's behalf in the paragraph above shall not apply. Instead, the Customer may invoke the rights and remedies under the Standard Terms directly against the Supplier, in accordance with clause 1.1.3.

The “Agreement” means this document and its appendices.

Other terms used in capital letters in the Agreement are explained in Appendix 12. The terms are used in the definite and indefinite, singular and/or plural forms.

1.1.3 The Supplier as Cloud Service Provider

Where the Supplier also acts as the Cloud Service Provider, the Supplier shall be responsible for the Cloud Service on the same basis as for its other Services under the Agreement, as well as under the Standard Terms.

The Customer may exercise, directly against the Supplier, all rights and remedies that it would otherwise have against the Cloud Service Provider under the Standard Terms, in addition to those available under the Agreement. The Agreement and the Standard Terms apply in parallel, but the Customer shall not be entitled to recover the same loss twice.

The Supplier may not invoke the Standard Terms to limit its obligations or liability under the Agreement. In the event of conflict, the general contractual wording shall prevail.

In Appendix 2, the Supplier shall identify the Cloud Services in respect of which the Supplier also acts as the Cloud Service Provider. The Supplier shall without undue delay notify the Customer in writing of any change.

1.2 APPENDICES TO THE AGREEMENT

Appendix	All rows must be ticked off (Yes or No)	Yes	No
1.	The Customer's description of needs and specification of requirements <i>To be filled in by the Customer.</i>		
2.	The Supplier's solution specification <i>To be filled in by the Supplier.</i>		
3.	The Customer's System Landscape <i>The Customer's description of its System Landscape, including Cloud Services, that the Customer has already acquired and that are relevant for the Supplier's Services. The Customer fills in Appendix 3.</i>		
4.	Plan for Facilitation and Implementation of Cloud Services etc. including plan for possible Approval Tests <i>To be filled in by the Supplier based on the overall guidelines that the Customer has provided for the plan and the requirements for the Services and Cloud Services given in Appendices 1 and 2.</i>		
5.	Service Level for the Supplier's Services and Cloud Services in the Management Phase with standardised compensation <i>To be filled in by the Supplier based on the general guidelines that the Customer has provided in the Appendix regarding requirements for Service Level and standardised compensation.</i>		
6.	Administrative provisions <i>Administrative provisions and other information relevant to the Parties' relationship. To be filled in by the Supplier based on the general guidelines provided by the Customer in the Appendix.</i>		
7.	Payment and payment terms <i>Overview of all price elements related to the fulfilment of this Agreement, including fees for services in the Service Catalogue. To be filled in by the Supplier based on the general guidelines provided by the Customer in the Appendix.</i>		
8.	Changes to the general contractual wording		
9.	Changes to the Agreement after the Agreement is entered into		

10.	Standard Terms for Cloud Services and applicable licence agreements for Purchased Licences. <i>Copy of or reference to applicable Standard Terms for all Cloud Services that shall be implemented and managed by the Supplier and applicable licence agreements for all Purchased Licences. The Appendix shall be updated with applicable Standard Terms or licence agreements for new Cloud Services or Purchased Licences that are added during the agreement term.</i>		
11.	Data Processing Agreement(s) <i>The Data Processing Agreement between the Supplier and the Customer and other data processing agreements entered into by the Customer in connection with the Customer's use of Cloud Services.</i>		
12.	Terms defined in the contractual wording		
13.	Other appendices:		

1.3 INTERPRETATION – ORDER OF PRECEDENCE

Changes to the general contractual wording (this document without appendices) shall be set out in Appendix 8 unless the general contractual wording refers to a different appendix with respect to such changes.

The following principles of interpretation shall apply in the event of conflict:

1. The general contractual wording shall take precedence over the appendices.
2. Appendix 1 will take precedence over the other appendices.
3. To the extent that the clause or clauses that have been changed, replaced, or supplemented are clearly and unequivocally specified, the following principles of precedence shall apply:
 - a) Appendix 2 will take precedence over Appendix 1.
 - b) Appendix 8 will take precedence over the general contractual wording.
 - c) If the general contractual wording refers to changes to any other Appendix than Appendix 8, such changes shall take precedence over the general contractual wording.
 - d) Appendix 9 shall take precedence over the other Appendices.
4. Appendix 11, the Data Processing Agreement, will take precedence over the general contractual wording and the other appendices with regards to provisions clearly and unequivocally related to regulation of privacy.
5. *Where the Supplier also acts as the Cloud Service Provider, the general contractual wording and all Appendices except for Appendix 10, shall take precedence over Appendix 10 in the event of conflict.*

6. *For other Cloud Services, Appendix 10 shall remain the governing document.*
7. *Changes to the Standard Terms made unilaterally by the Cloud Service Provider after entry into the Agreement shall not affect the order of precedence and shall be handled in accordance with chapter 3 to the extent they affect the Services or the Customer's use of the Cloud Service.*

Standard Terms included in Appendix 10 are binding on the Customer with regards to requirements for delivery of the Cloud Services as specified in clause 1.1.2.

Where there is a conflict between the general contractual wording and an applicable licence agreement included in Appendix 10 with respect to a Purchased Licence, the general contractual wording shall take precedence except to the extent the licence agreement expressly provides more favourable terms for the Customer. In all other respects, the order of precedence in this clause 1.3 applies.

2. FULFILLMENT OF THE AGREEMENT

2.1 PREPARATIONS AND ORGANISATION

2.1.1 The Supplier's Services

The Supplier's Services are related to Establishment, Management and Termination of Cloud Services. Establishment includes Facilitation and Implementation of the Cloud Services and related services, as well as the preparation of the Services in general, and may include conducting an Approval Test. When the Establishment of a Cloud Service is completed, it will be placed under Management.

Cloud Services may be Established, placed under Management and Terminated throughout the entire agreement term. Establishment and Management phases may take place in parallel in full or partially.

The provisions for Establishment and Termination may be repeated several times during the term of the Agreement, including upon Establishment of new Cloud Services or Termination of existing Cloud Services. When the Establishment of Cloud Services is completed, and the Customer has commenced its use of the Cloud Services, the Cloud Services will remain in the Management phase until terminated.

2.1.2 Organisation

Upon entering into the Agreement, each Party shall appoint a representative who is authorised to act on behalf of the Party in matters relating to the Agreement.

The authorised representatives of the Parties, as well as procedures and notice periods for any replacement thereof, are specified in more detail in Appendix 6.

Organisation with indication of roles, responsibilities and authority, management documents, reporting, meetings, and meeting frequency, as well as other procedures and routines concerning the collaboration between the Parties, are specified in Appendix 6 and/or in the Collaboration Plan, see clause 2.3.3.

2.1.3 Examination of the Customer's infrastructure and system portfolio

To the extent the Customer's description of the Customer's own infrastructure and system portfolio, based on the nature of the Agreement, represents an important prerequisite for the Supplier's offer, the Supplier has, after entering in to the Agreement, the right to examine whether the information provided by the Customer in Appendices 1 and 3, and which appear as an important prerequisite for the Supplier's offer in Appendix 2, corresponds to the actual circumstances. If the inspection shows that there are deviations that are likely to have had more than immaterial effect for the Supplier's offer, such deviations shall be handled as a change.

2.1.4 Preparation of a General Progress Plan for the Establishment

Upon commencement of the Agreement, the Parties shall cooperate to specify the initial and general plan for fulfilment of the Agreement in Appendix 4 in a General Progress Plan for the Establishment. The General Progress Plan shall be approved by the Parties. Changes after the General Progress Plan has been approved shall be handled in accordance with the provisions of chapter 3.

2.2 FACILITATION AND IMPLEMENTATION

Facilitation and Implementation are activities that are carried out in order to Establish the Cloud Services and prepare them to be placed under Management.

2.2.1 Facilitation

Facilitation may include, but is not limited to:

1. Customisations (2.2.4)
 - Set-up and/or configuration of the Cloud Services
 - Development of modules or additional functionality specifically for the Customer
2. Integrations with the Customer's technical platform as specified in Appendix 3, or other system solutions that the Customer has specified in Appendix 1 that the Cloud Service shall exchange data with and/or interact with in another manner that require integrations (2.2.5)
 - Integrations using standard functionality that is part of the Cloud Service
 - Development of integration modules specifically for the Customer (to which the Customer has an extended right of use, see clause 8.1.2.3)
3. Data conversion (2.2.6)
4. Specialised Security Solutions (2.2.7)

5. Framework for delivery follow-up, including preparation of a Management Document (2.3.2), and a Collaboration Plan (2.3.3).

Appendices 1 and 2 contain information on facilitation activities that are included in the Agreement.

2.2.2 Implementation

Implementation may include, but is not limited to:

1. Training (2.2.8)
2. Development of routines (2.2.9)
3. Organisational development and digital transformation (2.2.10)

Appendices 1 and 2 contain information on implementation activities that are included in the Agreement.

2.2.3 Plan for Facilitation and Implementation etc – The Establishment Plan

The Customer and the Supplier shall cooperate to plan in detail the Facilitation and Implementation in an Establishment Plan within the framework of the General Progress Plan. The Establishment Plan shall describe the main activities and the correlations between them, including roles and responsibilities, as well as agreed Delivery Deadlines. If Facilitation and Implementation shall take place gradually in several steps, the Establishment Plan must describe how this shall be executed.

The Establishment plan shall furthermore specify how the Approval Test shall be performed, see clause 2.2.12. If the Parties agree not to perform an Approval Test, this shall be expressly stated in the Establishment Plan.

The Establishment plan shall also contain a plan for the preparation of the Management Document, see clause 2.3.2, the Collaboration Plan, see clause 2.3.3, and more detailed requirements for the preparation of a general exit plan for Termination of the individual Cloud Service and for all or parts of the Services, see clause 2.4.

If the Establishment Plan requires changes to the General Progress Plan, this shall be handled pursuant to the provisions in chapter 3. The Establishment Plan shall be approved by the Parties within the deadlines given in the General Progress Plan or the amendment agreement.

2.2.4 Customisations

Methods and processes for the development of Customisations may be specified in Appendix 1 and/or 2, or in Appendix 4. It may also be specified in an amendment agreement. Deadlines other than those set out in this chapter with subchapters can be agreed in Appendix 4 or in the Establishment Plan.

The Supplier shall prepare specifications for the Customisations in close cooperation with the Customer. The Customer shall involve personnel with relevant knowledge to give input in questions of importance for solution choices. The Supplier shall document solution clarifications and proposed solution choices and send them to the Customer for approval. Unless the Customer objects to the proposed solution choices in writing within 10 (ten) business days, they shall be deemed as approved by the Customer.

The Customisation specification specifies the solution choices for the Customisations, including detailing and clarification of the requirements, within the framework of Appendix 1 and Appendix 2. If changes are made to the Customer's requirements in Appendix 1 and the Supplier's solution proposal in Appendix 2, and this has consequences for the contract price, the Establishment Plan, the Customer's participation, other requirements in Appendix 1 or other matters, a change request shall be issued. The Parties may prepare a joint change request for changes that follow from the specification work, but it must be clearly stated which requirements that have been changed. The Customer may not waive requirements in any other way than by issuing a change request.

2.2.5 Integrations

The Supplier is responsible for integrating the Cloud Services with software and services that the Customer has specified in Appendix 3, provided this is specified in Appendix 1. Integrations shall meet the requirements set out in Appendix 1 and the Supplier's solution proposals and prerequisites for the integration work in Appendix 2, or in an amendment agreement.

Appendices 1 and 2 or the amendment agreement shall state which integrations the Supplier has responsibility for the results and progress for, and which integrations are delivered as additional services (duty of care obligation). Integration work provided as additional services shall, unless otherwise agreed, be paid by the Customer based on accrued time, at the Supplier's hourly rates as specified in Appendix 7.

2.2.6 Data conversion

If the Supplier shall perform conversion of the Customer's data, this shall be specified in Appendices 1 and/or 2 or as part of an amendment agreement. Unless otherwise agreed in Appendix 7, the conversion shall be executed based on accrued time, at the Supplier's hourly rates as specified in Appendix 7.

In connection with the preparation of the Establishment Plan, a detailed plan for the conversion work and specification of necessary conversion software shall be prepared and approved. The conversion plan must also describe how personal data shall be processed in connection with the conversion.

2.2.7 Specialised Security Solutions

If the Supplier's Services include Specialised Security Solutions, this shall be stated in Appendices 1 and 2.

Specialised Security Solutions means technical solutions that are physically separate from the Cloud Service, and which cannot be accessed through it.

Specialised Security Solutions may be:

- Routine backup of the Customer's data to a physically separate technical solution.
- Restructuring/splitting, pseudonymization and/or encryption of the Customer's data on solutions that are physically separate from the Cloud Service to satisfy security requirements related to the processing and storage of the data.

Prices shall be specified in Appendix 7. The Management of the Specialised Security Solutions shall be performed in accordance with the Service Level set out in Appendix 5.

2.2.8 Training

If it is stated in Appendix 1 that the Customer requires training, the price for the training shall be specified in Appendix 7. Standard training shall be listed in the Service Catalogue in Appendix 7. If the Supplier shall develop training specifically for the Customer, this shall be stated in Appendices 1 and 2 and be priced separately in Appendix 7.

2.2.9 Development of routines

If it is specified in Appendices 1 and 2 that the Supplier shall assist the Customer with development of routines related to the use of the Cloud Service or the Services, this shall be priced in Appendix 7.

2.2.10 Organisational development and digital transformation

If specified in Appendix 1 that the Customer needs assistance with digital transformation, e.g., if the Agreement includes establishment of DevOps, the Supplier shall describe its approach and method in Appendix 2. Prices shall be specified in Appendix 7.

2.2.11 Delivery Date

The planned Delivery Date is stated in the Establishment Plan. On the Delivery Date, the relevant Services and Cloud Service will be transferred to Management.

If agreed in the Establishment Plan that the Customer shall perform an Approval Test of the relevant Services and Cloud Service, the Delivery Date shall be the first business day after the completion of the Approval Test.

Unless agreed in the Establishment Plan that an Approval Test shall be carried out for the relevant Services and the Cloud Service, the Delivery Date shall be the first business day after the Supplier has sent notification to the Customer that the Services and the Cloud Service are ready for use by the Customer.

2.2.12 Approval Test

When the Customer receives notification that the Services and the Cloud Service have been Established and are ready for the Approval Test, the Customer shall inspect the Established Services and Cloud Service to verify that the Services comply with the agreed requirements.

As part of the Approval Test, the Customer may also verify that the Cloud Services function as intended. However, errors and deviations in the Cloud Services shall not prevent approval of the Services, unless such errors and deviations concern aspects that the Supplier explicitly has assumed responsibility for. More extensive testing may be agreed in the Establishment Plan. See also clause 5.1.2.2 regarding the Supplier's obligation to remedy in certain situations where agreed functionality is removed from the Cloud Services before the Delivery Date.

Unless otherwise agreed in Appendix 4 or in the Establishment Plan, the Approval Test shall last for a period of 10 (ten) Business Days from the first Business Day after the Supplier has sent written notice to the Customer that the Services and the Cloud Service are ready for Approval Test.

Any other deadlines for the Customer's inspection of the Services and Cloud Service are set out in Appendix 4 or in the Establishment Plan.

If the Customer approves the Services, the Customer must send the Supplier written notice thereof.

During the Approval Test, the Customer shall continuously report errors to the Supplier in writing.

If errors are uncovered during the Approval Test that prevent effective completion of the Approval Test, the Approval Test shall be stopped until the errors are corrected. The time elapsed when the Approval Test has been stopped shall be added to the agreed number of days for Approval Test.

The Customer may reject the Approval Test, if A-errors or B-errors exist at the end of the Approval Test, the exception being B-errors that do not have a significant effect on the Customer's ability to use the Services and the Cloud Service. Other approval criteria may be agreed in Appendix 4.

If the Customer does not approve the Approval Test, it constitutes a delay, and the Approval Test continues until the errors are corrected.

If errors that give the Customer the right to reject the Approval Test exist at the end of the Approval Test, the Customer may nevertheless choose to approve it with the reservation that the errors shall be corrected within a specified time limit. If the deadline is not complied with, the Service will be deemed delayed from the time the Customer gave its approval with reservations.

Unless Appendix 4 specifies otherwise, the following error definitions are used:

Level	Category	Description
A	Critical error	- Error in the Supplier's Services which results in the Services or the Cloud Service not functioning as agreed, stopping, data being lost or that other functions that, based on an objective assessment, are of critical importance to the Customer are not delivered or do not function as agreed. - The documentation being incomplete or misleading to such extent that the Customer is unable to use the Services or the Cloud Service, or material portions thereof.
B	Serious error	- Error that results in functions that, based on an objective assessment, are of importance to the Customer, are not working as specified in the Agreement, and which it is time-consuming or costly to circumvent. - The documentation being incomplete or misleading to such extent that the Customer is unable to use functions that, based on an objective assessment, are of importance to the Customer.
C	Less serious error	- Error that results in individual functions not working as intended, but which can be circumvented with relative ease by the Customer. - The documentation is incomplete or imprecise.

A more detailed description of the Approval Test, as well as other approval criteria or deadlines, may be agreed in Appendix 4 or in an amendment agreement.

2.2.13 Simplified procedures for implementing additional services from the Service Catalogue

For simple and standardised changes, such as preparation for use of new standardised services ordered from the Service Catalogue in the Management Phase, the Parties may agree on simplified procedures. If such procedures have been agreed, they will prevail over the provision on Facilitation and Implementation in this clause 2.2.

2.3 MANAGEMENT

2.3.1 About Management

The Management phase starts on the Delivery Date, see clause 2.2.11, for the first Establishment and lasts until the Agreement is terminated.

Management may include, but is not limited to:

- Maintenance of customisations, integrations and other software developed specifically for the Customer
- Monitoring of changes in the Cloud Services and in Standard Terms for the Cloud Services
- Consultancy services
- Traditional operational services
- Other services related to follow-up of Cloud Services on behalf of the Customer

Appendices 1 and 2 and the Management Document contain information about management activities included in the Agreement.

Requirements for the Service Level for the Supplier's Services in the Management Phase, with standardised compensation in the event of deviations, are specified in Appendix 5.

2.3.2 The Management Document

The Customer may specify in Appendix 1 that the Supplier shall prepare and maintain a Management Document with an overview of all Cloud Services that the Supplier shall manage, and with an overview of the Supplier's Services related to the Cloud Services. The Supplier shall describe in Appendix 2 proposals for the layout of the Management Document. The Supplier is responsible for ensuring that the Management Document is always updated and available to the Customer. Routines for changes to the Management Document shall be specified in Appendix 6. Possible Service Level requirements for updating the Management Document shall be specified in Appendix 5.

2.3.3 The Collaboration plan

The Collaboration plan shall be based on the requirements for collaboration that the Customer has specified in Appendix 5 and/or Appendix 6. The Collaboration plan shall contain and/or refer to routines and procedures necessary for the cooperation between the Customer and the Supplier, including procedures for ordering services from the Service Catalogue, handling of changes and procedures for handling undesirable incidents.

2.3.4 Framework for cost control and consumption optimisation of the Cloud Services

A characteristic feature of Cloud Services is that they can be scaled up and down as required and that the Customer only pay for actual consumption. If required by the Customer in Appendix 1, the Supplier shall describe its framework for cost control and consumption optimisation and how it can help the Customer to keep track of orders, Cloud Services used, and costs control related to usage of Cloud Services and related services.

2.3.5 Monitoring of the Cloud Services

2.3.5.1 Generally, on Monitoring

If the Supplier shall Monitor the Cloud Services on behalf of the Customer as part of the Services, this shall be specified in Appendices 1 and 2.

The Monitoring process shall be described in the Management Document, see clause 2.3.2.

Prices for Monitoring shall be specified in Appendix 7. The Service Level for Monitoring shall be specified in Appendix 5.

Monitoring of changes is regulated in more detail in clause 2.3.5.2.

2.3.5.2 Monitoring of changes

Changes in Monitored Cloud Services, or changes in the Standard Terms, shall be notified in the manner and within the deadlines agreed in the Management Document.

The Supplier shall describe the consequences the change has for the Customer's use of the Services and the Cloud Service. If the Customer wants the Supplier to conduct more comprehensive assessments of the consequences and/or prepare proposals for measures that can minimize possible negative consequences or exploit possible positive effects of the changes related to the Customer's use of the Services and the Cloud Service, the Customer must send a change request.

If the Supplier fails to notify the Customer of changes in the Monitored Cloud Services, or the notification arrives too late according to the deadline stipulated in the Service Level Agreement, this will be deemed a breach of the Service Level Agreement in Appendix 5.

2.3.5.3 Changes in the Cloud Services of relevance for the Supplier's Services

If upgrades or other changes in the Cloud Services have consequences for the Supplier's Services, the Supplier shall implement necessary changes in integrations, setups, adjustments, etc. for the Services to continue to meet agreed requirements, including requirements for Service Level in Appendix 5.

Unless otherwise agreed in Appendix 7, such changes shall be paid for based on accrued time, at the hourly rates as specified in Appendix 7.

2.3.5.4 Cloud Services delivered by the Supplier itself – Services in the Management phase

Where the Supplier also acts as the Cloud Service Provider, the Supplier shall:

- a) notify the Customer of any planned change in functionality, Standard Terms, service levels, pricing model or sub-processors of the Cloud Service no later than 60 (sixty) calendar days before the change is to take effect, irrespective of any shorter period set out in the Standard Terms;*
- b) provide the Customer with a written impact assessment of the change with regards to the Customer's use of the Services and the Cloud Service;*

- c) *cooperate in good faith to identify alternative solutions where the change will have material adverse consequences for the Customer; and*
- d) *refrain from implementing changes that are not strictly necessary for technical, security or legal reasons during a period in which the Customer is engaged in a procurement process for a replacement service, subject to a cap of 12 months from notification.*
- e) *The Supplier shall organise its monitoring function so that monitoring is performed independently of the commercial functions responsible for the Cloud Service. The Supplier shall on request document such organisational separation.*

2.4 TERMINATION OF CLOUD SERVICES AND/OR ALL OR PARTS OF THE SERVICES

2.4.1 Generally, on Termination of the Agreement

Provisions on Termination apply when a Cloud Service is terminated, or when the Supplier's Services in accordance with this Agreement are terminated in full or partially in accordance with this Agreement's provisions on notice of termination, termination for convenience or termination for breach.

2.4.2 Termination of Cloud Services

The Customer's right to terminate Cloud Services follow from the terms and conditions in the Standard Terms.

A general plan for termination of the Cloud Services (one or more) shall be prepared in connection with the Establishment and shall be made available to the Customer before the Delivery Date and be included in Appendix 4.

Where the Supplier also acts as the Cloud Service Provider, the Customer's right to terminate the Cloud Service shall be regulated by clauses 4.1.1, 4.2.1 and 4.2.2, in addition to any more favourable rights in the Standard Terms. In respect of such Cloud Services, the distinction between termination of the Services and termination of the Cloud Service shall not be enforced against the Customer.

2.4.3 Termination of all or part of the Services

A general plan for termination of the Services (in full or partially) shall be prepared in connection with the Establishment and shall be made available to the Customer before the Delivery Date and be included in Appendix 4.

2.4.4 Termination plan

The Supplier shall, within reasonable time, after receiving a notice of termination of all or part of the Services, or one or more Cloud Services, in discussion with the Customer, prepare a detailed plan for the termination phase, called Termination Plan, based on the general plan specified in clause 2.4.2 and 2.4.3. The Customer has the right to involve a new supplier to assist with or supplement the Termination Plan on behalf of the Customer.

Unless otherwise agreed, the Termination Plan shall as a minimum contain the following points:

1. Preparations in connection with termination of the Cloud Service, or all or parts of the Services.
2. The Supplier's assistance in connection with the Customer entering into a new agreement.
3. Transfer of data to a possible new supplier or to the Customer.
4. Any requirements for transfer of documentation etc. (e.g., source code for integrations or specially developed modules) to a possible new supplier or to the Customer.
5. Which information in the Management Document that shall be transferred to the Customer or the new supplier.
6. Any subsequent assistance from the Supplier.

The Supplier shall facilitate access for the Customer to information the Customer needs from the Cloud *Service* Provider without undue delay.

The Termination Plan shall detail specific activities needed to be performed by the Supplier and applicable time frames. The Termination Plan shall also describe requirements for the Customer's participation as well as requirements for necessary cooperation between the Supplier and the Customer in connection with the Termination.

The Termination Plan must be approved by the Customer.

The Supplier's obligations regarding key personnel, see clause 5.2.1.1, shall also apply in connection with Termination in accordance with this clause 2.4.

2.4.5 The Supplier's obligations in the event of a transfer to a new supplier

The Supplier shall, upon request, assist the Customer in connection with the preparations for entering into a new agreement and provide necessary information in connection with such preparation.

The Customer may specify in Appendix 1 which information the Supplier as a minimum shall deliver in connection with such preparation, and when the delivery shall take place. Such a description in Appendix 1 shall not be considered exhaustive.

In any event, the Supplier shall always assist in transferring the Customer's data in accordance with the Customer's guidelines in the Termination Plan.

If the Supplier is a party to the agreement with the Cloud Service Provider, the Supplier shall, if requested by the Customer, and to the extent possible, arrange for the transfer of the Cloud Services agreement to the Customer.

Where the Supplier also acts as the Cloud Service Provider, the transfer mechanism in the paragraph above shall not apply. The Supplier shall, on request from the Customer:

- a) continue to provide the Cloud Service to the Customer on terms no less favourable than the Standard Terms applicable immediately before termination, for such period*

as the Customer reasonably requires for migration to an alternative service. The period shall be set out in the Termination Plan; and

- b) provide migration assistance and export of the Customer's data to a new supplier or to the Customer, in accordance with the Termination Plan and irrespective of any contrary provision in Appendix 10 and ensure that such export is carried out in a structured, commonly used and machine-readable format.*

2.4.6 Payment in connection with Termination of the Agreement

The Customer is obliged to pay for the services mentioned above. Unless otherwise agreed in the Termination Plan, such services shall be paid for in accordance with the Supplier's hourly rates as specified in Appendix 7. If the Customer needs additional services, the price calculation shall follow the general price level of the Agreement.

3. CHANGE PROCEDURE

3.1 RIGHT TO CHANGES

The Customer may issue an order to change the Services within the framework of Appendices 1 and 2 and within what the Parties could reasonably expect when the Agreement was entered into.

Such a change may result from:

- i. Changed needs on the part of the Customer that do not fall within the scope of services listed in the Supplier's Service Catalogue or cannot be resolved by upscaling or downscaling of a service.
- ii. Changes in functionality and/or Standard Terms for the Cloud Services which entail that changes must be made to the Supplier's Services in order to achieve the agreed functionality.

The following is not considered a change:

- i. Increases or decreases in services within possible specified limits which are priced based on actual consumption.
- ii. Ordering of standard or additional services listed in the Supplier's Service Catalogue (see also clause 2.2.13 on simplified procedures).
- iii. Options the Customer has specified in Appendix 1.

The Customer may not demand changes that for technical reasons cannot be implemented without the Supplier also having to change its standard platform or standard services that are also delivered to other customers.

The Customer may not demand changes in the Cloud Service unless it is facilitated for in the Standard Terms.

Any other or further limitations in the Customer's right to demand changes shall be set out in Appendix 6.

3.2 CHANGES

Changes shall follow the procedure and the deadlines specified in Appendix 6.

The Supplier shall prepare an impact assessment based on the Customer's change request. Unless otherwise agreed, the impact assessment shall address the aspects set out in Appendix 6 regarding handling of changes.

The amendment agreement shall be approved by authorised representatives of the Parties. The Supplier shall continuously keep records of changes in a catalogue in Appendix 9 and provide the Customer with an updated copy without delay.

The provisions of this Agreement shall also apply to the amendment agreement, unless otherwise expressly stated in the amendment agreement.

Unless otherwise agreed, the Supplier shall implement the change without undue delay in accordance with the amendment agreement. This applies even if the effect for the amendment agreement concerning fees, etc., the Establishment plan or other conditions in the Agreement have not yet been finally determined, see clause 3.4.

3.3 COSTS AND OTHER CONSEQUENCES IN CONNECTION WITH THE CHANGE

The Supplier shall have the right to request adjustments of fees, the Establishment Plan, the General Progress Plan, and of other matters, caused by the change required by the Customer.

Documented costs in connection with the preparation of the Supplier's impact assessment shall be covered by the Customer in accordance with the Supplier's applicable hourly rates, see Appendix 7.

Adjustments of fees shall be calculated based on the hourly rates or other unit prices set out in Appendix 7, provided that the work occasioned by the change in essence is comparable to the work for which the hourly rates or unit prices have been specified.

If not possible to calculate the change based on hourly rates or unit prices in Appendix 7, the Supplier shall in its impact assessment present a quote in respect of the addition or deduction for the changes. The offer shall reflect the general price level in this Agreement.

The Supplier shall, to the extent practicable, seek to implement the amendment agreement within the deadlines stated in the Establishment Plan or the General Progress Plan.

The Supplier shall in its impact assessment document all costs related to the change, including any adjustments in fees for the Services, the Customer's use of the Cloud Service and other services that are affected by the change and an estimate for the Supplier's hour consumption.

3.4 DISAGREEMENT ABOUT CONSEQUENCES OF A CHANGE

3.4.1 Generally, on disagreement about consequences of a change

If the Parties agree that there is a change but disagree on the consequences and costs associated with the change, the Customer has the right to receive a detailed account of the basis for the Supplier's assessment. If necessary, the Customer may request a meeting where the Supplier shall describe and present the justification for the assessment.

3.4.2 Implementation of the change

If the Customer requests the change to be implemented despite disagreements related to the consequences of the change, the Customer shall pay a provisional fee that corresponds to the part of the fees that the Parties agree to. The Customer shall pledge security for the portions of the fees that the Parties disagree upon. If the Parties disagree on significant portions of the fees, the Supplier may choose to receive payment for half of the disputed part of the fees.

3.4.3 Final settlement of fees for the change

If the Parties have not made use of the dispute resolution mechanisms specified in chapters 12.2-12.4 to clarify the consequences of the change work within 3 (three) months after the Customer has received the change impact assessment, the paid fees shall be deemed final.

When the fees are deemed as final, each Party shall refund any unpaid amounts to the other Party by the next payment milestone.

3.5 DISAGREEMENT AS TO WHETHER THERE IS A CHANGE (DISPUTED CHANGE)

3.5.1 Generally, on disagreement as to whether there is a change

If the Customer requests, in the form of written orders, specifications or otherwise, by an authorised person, the performance of certain specific work that the Supplier believes to fall outside the scope of its Services under the Agreement, the Supplier shall, in writing, request the Customer to issue a change request.

Together with the change request, the Supplier shall provide the Customer with an assessment pursuant to clause 3.2. The costs associated with the preparation of the assessment shall be paid by the Customer pursuant to clause 3.3 if the Supplier is correct in deeming it as a change.

If the Supplier fails to make such change request within a reasonable time, the work shall be deemed to be included in the Supplier's Services under the Agreement, and the Supplier waives its right to invoke such work as basis for extension of deadlines, additional fees or

damages up to the date the change request was submitted. Such requests must in any circumstances be presented no later than 3 (three) months after the commencement of the work.

3.5.2 Disputed change request

If the Supplier has requested the Customer to send a change request pursuant to clause 3.5.1, the Customer shall, within a reasonable time, issue a change request or issue a written waiver of the request.

If the Customer disagrees that a change request is required, it shall be explicitly stated that the change request is disputed (disputed change request). The change request shall include an explanation as to why the Customer deems the change request to be disputed.

3.5.3 Consequences of a disputed change request

Even if the change request is disputed, the Supplier is obliged to execute what has been requested, in return for the Customer's payment of a provisional fee corresponding to half of the amount that the Supplier has documented in its impact assessment. If the Supplier does not request a decision on the disputed change in accordance with chapter 12.2-12.4 of the Agreement within 3 (three) months after payment of the fees as set out in clause 3.5.5 below, the provisional consideration fee will be considered final. If a final decision entails that a change request cannot be required, the provisional fees shall be set off against the fees due upon the next payment milestone. If the work is deemed to be a change, the fixed fees for the change, adjusted for the provisional fees, shall be invoiced to the Customer at the next due date.

3.5.4 The Supplier's right to contest the duty to implement a disputed change request

The Supplier may contest the duty to execute the work by requesting a ruling from an independent expert or mediator, or by initiating legal proceedings or submitting the dispute before arbitration to have its claim resolved with final effect.

The claim must be submitted without undue delay after the Customer has sent notice that the change is disputed. The Supplier shall bear the risk associated with any delays or breaches of the Service Level requirements that may occur due to the postponement of the work, if determined that the work falls within the scope of the Agreement. The exception in this paragraph shall not apply to work associated with services that are important for life and health or for the delivery of critical societal services.

3.5.5 Dispute resolution – Disputed change request

If the Supplier has received a disputed change request, the Supplier must, within 3 (three) months after receiving the disputed change request, require a ruling on the disputed change pursuant to chapters 12.2-12.4 of the Agreement. If the Supplier fails to do so, the work shall be deemed to fall within the scope of the Supplier's duties under the Agreement.

4. TERM, TERMINATION FOR CONVENIENCE AND TEMPORARY EXTENSION

4.1 TERM

4.1.1 Term of the Agreement

This Agreement enters into force on the date when it is signed by the Parties. The effective date is stated on the front page of the Agreement.

Unless a different agreement term is agreed in Appendix 4, the Agreement shall be valid for 3 (three) years from the date of signature. The Agreement shall thereafter be automatically renewed for a term of 1 (one) year at a time, unless terminated by the Customer with 6 (six) months' notice, or by the Supplier giving 12 (twelve) months' notice, prior to the renewal date.

4.1.2 Term of the Cloud Service

The terms and conditions that are stated in the Standard Terms shall apply for the term for the Cloud Service.

Where the Customer has purchased Purchased Licences, the term of such licences shall follow the applicable licence agreement in Appendix 10 and shall not automatically terminate upon termination of this Agreement, unless the licence agreement expressly provides otherwise. Upon termination of this Agreement, the Supplier shall assist the Customer in transitioning the administration of Purchased Licences to the Customer or a new supplier without undue delay.

If the Supplier has a duty to monitor/manage the Cloud Service, the Supplier shall notify the Customer and propose measures if the term of the Cloud Service according to its Standard Terms is changed in the Management Phase in such a way that the term no longer satisfies the Customer's needs. *The same obligation applies where the Supplier becomes aware of any change to the terms of a licence agreement applicable to a Purchased Licence that may affect the Customer's rights or costs.*

If the Supplier is a party to the agreement with the Cloud Service Provider, the Supplier shall, throughout the term of the Agreement, ensure that the term of the Cloud Service agreement is upheld so that it meets the Customer's requirements and needs specified in Appendix 1.

4.2 TERMINATION FOR CONVENIENCE

4.2.1 Right to terminate the Services for convenience

The Customer may, until the Delivery Date, terminate all or part of the Services for convenience by giving 1 (one) month's prior written notice.

The Customer may, in the Management Phase, terminate all or part of the Services for convenience by giving 3 (three) month's prior written notice.

Partial termination for convenience shall be handled as a change in accordance with chapter 3 if the termination has consequences for the remaining parts of the Services or the Cloud Service.

4.2.2 Termination Fees

Fees payable by the Customer in connection with termination for convenience are specified in Appendix 7.

4.2.3 Termination of the Cloud Service for convenience

For the Cloud Services, the terms and conditions regarding termination for convenience in full or partially as set out in the Standard Terms apply.

For Purchased Licences, termination for convenience does not apply to the licence itself; however, the Customer may request the Supplier to cease administering the Purchased Licence as part of its Services. Upon such request, the administration obligations under this Agreement shall cease, and the Customer shall assume direct responsibility for the Purchased Licence. Any pre-paid licence fees for Purchased Licences shall not be refundable unless expressly provided in the applicable licence agreement.

If the Supplier is a party to the agreement with the Cloud Service Provider, the Supplier shall, at the request of the Customer, assist the Customer with the termination in full or partially in accordance with the terms and conditions set out in the Standard Terms.

If the Customer has specific requirements related to termination for convenience in full or partially of the Cloud Services, the Customer shall specify this in Appendix 1.

Where the Supplier also acts as the Cloud Service Provider, the Customer shall have at least the same rights to terminate the Cloud Service as the Customer has for the Services in accordance with clauses 4.1.1, 4.2.1 and 4.2.2. The Standard Terms shall apply only to the extent they grant the Customer more favourable termination rights. The Supplier may not invoke provisions on automatic renewal, minimum term or commit-or-pay in the Standard Terms to bind the Customer beyond the term agreed in the Agreement or Appendix 7.

4.2.4 Handover of specifications, etc.

In the event of termination for convenience in full or partially, the Supplier shall deliver to the Customer all documents and other material that have been prepared or developed for the Customer up and until the termination date, and for which the Customer receives rights to in accordance with clause 8.1.2. The Supplier shall also deliver to the Customer all documents and other material that the Supplier manages on behalf of the Customer. This applies to both written and electronic material. See also clause 2.4 that covers Termination of all or parts of the Agreement.

4.3 TEMPORARY EXTENSION OF THE AGREEMENT

4.3.1 Generally, on extension

The Supplier is obliged to extend the Agreement on otherwise equal terms by up to 6 (six) months from the termination of the Agreement, if requested by the Customer. The Customer must give notice thereof at least 60 (sixty) calendar days prior to the expiry of the Agreement.

The Customer shall pay a proportional fee during the extension period. However, the Supplier is entitled to adjust the fees for its Services during the extension period corresponding to the Supplier's documented additional costs, if any, associated with being able to maintain its Services during the extension period.

This clause regarding temporary extension applies similarly for partial termination in accordance with clause 4.2.

4.3.2 Extension in connection with termination for cause

If the Customer terminates the Agreement due to a breach by the Supplier, the Customer may give notice as mentioned in the clause above together with its declaration of termination for cause.

If the Supplier terminates the Agreement due to breach by the Customer, such notice may be given within 1 (one) week after the Customer has received notice of termination. In such a case, the Customer's right to extension is conditional upon the Customer paying unpaid amounts, if any, and prepays the fees for the extension period.

4.3.3 Extension of the Cloud Service

The terms and conditions for extension as set out in the Standard Terms, including provisions regarding fees during the extension period, shall apply for the Cloud Service.

5. THE DUTIES OF THE PARTIES

5.1 GENERAL RESPONSIBILITIES

5.1.1 Generally, on the Supplier's responsibility for its Services

The Supplier shall deliver the Services pursuant to this Agreement in a professionally sound manner and in accordance with the industry's ethical and professional guidelines/norms.

Being a professional party, the Supplier is obliged to continuously develop and improve its methods, processes, services, technologies, etc. which the Supplier uses to deliver the Services, in line with the technological development in the industry.

5.1.2 The Supplier's responsibility in connection with the Cloud Service

5.1.2.1 Generally, on the Supplier's responsibilities

The Supplier is responsible for providing the Customer with applicable Standard Terms and functional descriptions of the Cloud Service and any other information that is essential for the Customer's use of the Cloud Service.

5.1.2.2 Delivery Date

The Supplier is responsible for ensuring that Cloud Services that the Supplier has recommended or offered, meet the Customer's requirements as specified in Appendix 1 and the solution specification in Appendix 2 at Delivery Date.

The Supplier shall ensure that the Cloud Service on Delivery Date meet the requirements for service level as stated in the Standard Terms.

If the functionality stated in Appendices 1, 2 and 10 is removed from the Cloud Service before Delivery Date and the Supplier is unable to prevent this, and such loss of functionality is deemed as a serious error pursuant to clause 2.2.12 (hereinafter also referred to as important functionality), the Supplier is obligated to assist the Customer with ensuring that the functionality is delivered in another way.

The Supplier shall as part of its Services:

- i. As soon as the Supplier becomes aware of it, without undue delay, ensure that the Customer is informed in writing that important functionality has been removed, and
- ii. within a reasonable time prepare a proposal for an alternative way of delivering the removed functionality.

The Customer shall approve the proposal. Such approval shall not be unreasonably withheld. The Supplier shall, to the extent possible, try to comply with already agreed deadlines and milestones. However, the Customer cannot invoke a delay due to removal of important functionality for which the Supplier has to find an alternative way of delivering. This does not apply if the Supplier has not fulfilled its obligations in accordance with points i and ii above and has not attempted to limit such delay.

If important functionality, as set out in Appendices 1, 2 and 10, cannot be replaced, the Customer is entitled to a proportionate price reduction.

The Supplier may not claim payment of its costs for replacing important functionality that is removed before the Delivery Date in Cloud Services which the Supplier has recommended or submitted an offer for, see the first paragraph above.

5.1.2.3 After the Delivery Date

The Supplier shall follow up the Cloud Service on behalf of the Customer as stated in chapter 2 and in Appendices 1 and 2.

5.1.2.4 When the Supplier itself delivers the Cloud Service

Where the Supplier also acts as the Cloud Service Provider, the Supplier shall be responsible for the Cloud Service as if it were part of the Supplier's other Services. The responsibility includes:

- a) compliance with the requirements in Appendices 1, 2, 5 and 10 throughout the term of the Agreement;*
- b) availability, performance, security and continuity in accordance with Appendix 5, or in accordance with the Standard Terms where these provide a stricter level;*
- c) cure of errors, defects and non-conformities in the Cloud Service in accordance with clause 9.4.1;*
- d) compliance with the external requirements applicable to the Cloud Service as specified in Appendix 1, including requirements relating to data protection and information security; and*
- e) handling and notification of incidents, including security incidents and personal data breaches, in accordance with Appendix 5 and Appendix 11.*

5.1.3 The Customer's responsibility for facilitation

The Customer shall facilitate the Supplier's performance of its duties by, for example, granting the Supplier necessary access, physical and/or electronic, and by ensuring that the Customer's other suppliers provide the necessary information and grant the necessary access to the Supplier.

In Appendix 2, the Supplier shall specify the need for information and access which are necessary for the Supplier to be able to deliver the Services in accordance with the Agreement and specify any further requirements for the Customer's participation.

5.2 REQUIREMENTS FOR PERSONNEL AND EXPERTISE

5.2.1 The Supplier's responsibility for its personnel

The Supplier shall ensure that its personnel, or personnel that the Supplier is responsible for, have the necessary expertise and have been sufficiently introduced to the content of the Agreement. To the extent necessary, this also applies to the Supplier's subcontractors or other relevant parties who are contributing to the fulfilment of the Agreement.

5.2.1.1 Key personnel

The Supplier's key personnel are listed in Appendix 6.

The personnel designated as key personnel shall not, within the scope of the Supplier's control as an employer, be replaced without prior approval by the Customer.

The key personnel's actual participation in the delivery of the Services shall not be reduced below the agreed level without prior approval from the Customer.

Approval shall not be withheld without reasonable cause.

5.2.1.2 Replacement of personnel

If the Customer can document that any personnel do not have the qualifications, experience, or personal skills as specified by the Supplier in Appendix 2 or Appendix 6, the Supplier shall as soon as possible replace the relevant personnel with alternative resources with at least similar expertise as originally specified by the Supplier.

Replacement of personnel shall not affect the progress or impose additional costs for the Customer. If progress nevertheless is impacted, this shall be considered a delay.

5.2.2 The Customer's responsibility for its personnel

The Customer shall ensure that its personnel that have a role related to follow-up of the Services and/or the Cloud Service, have received necessary training and have the required expertise. Any special requirements to expertise shall be specified in Appendix 2.

5.3 DISCLOSURE AND NOTIFICATION OBLIGATION

The Supplier shall disclose to the Customer information of a preventive nature concerning any special circumstances relating to the contents of the Agreement, which the Supplier understands, or should understand, may be of importance in avoiding situations that result in errors, shutdown, or loss.

See also clause 2.3.5 regarding the Supplier's obligations in connection with Monitoring of the Cloud Services.

The Customer shall, without undue delay, notify the Supplier of circumstances the Customer understands, or should understand, may be of importance for the fulfilment of the Agreement.

5.4 USE OF SUBCONTRACTORS AND CLOUD SERVICE PROVIDERS

5.4.1 Use of subcontractors by the Supplier

If the Supplier uses a subcontractor that participates directly in the delivery of the Supplier's Services in accordance with this Agreement, the Supplier is liable for the performance of these tasks, in the same way as if the Supplier was performing the tasks itself.

The Supplier's subcontractors that have been approved by the Customer are listed in Appendix 6.

The Supplier may not replace subcontractors who participate directly in the delivery of the Services without the prior written consent of the Customer, unless otherwise agreed in Appendix 6.

The Customer may not refuse such replacement without reasonable cause.

5.4.2 Subcontractors in connection with the Cloud Services

For the Cloud Services, the Standard Terms apply with respect to the Cloud Service Provider's use and replacement of subcontractors.

5.4.3 The Customer's use of third parties

The Customer is free to engage third parties for assistance in connection with its duties under this Agreement. The Customer is liable for the performance of such duties, in the same way as if the Customer was performing the duties itself.

Such third parties shall be listed in Appendix 6. The Supplier shall be notified of the Customer's change or choice of new third parties.

The Supplier undertakes to cooperate with the Customer's third parties to the extent the Customer deems this necessary for the fulfilment of the Agreement. Any provisions regarding payment for the Supplier's cooperation with the Customer's third parties shall be specified in Appendix 7.

However, the Supplier shall be released from such duties if it demonstrates that it is probable that such cooperation would be of material disadvantage to its relationship with existing subcontractors or other business contacts, or if it can demonstrate that this will constitute a material commercial disadvantage to the Supplier.

5.5 MEETINGS

Regular meetings shall be held between the contact persons of the Customer and the Supplier during the agreement term. The frequency, convening, the Parties' participants and type of meetings shall be agreed in Appendix 6.

If there is a need to discuss matters concerning the Agreement and fulfilment thereof, and this cannot be postponed until the next scheduled meeting, a Party may convene a meeting with the other Party with 3 (three) business days' notice.

5.6 CONFIDENTIALITY

5.6.1 Generally, on confidentiality

Information that comes into the possession of the Parties in connection with the Agreement and the fulfilment of the Agreement shall be kept confidential and shall not be disclosed to any third party without consent from the other Party.

If the Customer is a public body, the duty of confidentiality under this provision shall not extend beyond what follows from the Act of 10 February 1967 relating to Procedure in Cases concerning the Public Administration (Public Administration Act) or corresponding sector-specific regulations.

The confidentiality undertaking pursuant to this provision shall not prevent disclosure of information if such disclosure is required by laws and regulations, including any disclosure or

right of access pursuant to the Act of 19 May 2006 relating to the Right of Access to Documents in the Public Administration (Freedom of Information Act). The other Party shall, if possible, be notified prior to the disclosure of such information.

The confidentiality undertaking shall not prevent information from being used when there is no legitimate interest in keeping it confidential, for example when such information is in the public domain or is accessible to the public elsewhere.

The Parties shall take all necessary precautions to prevent unauthorised persons from gaining access to, or knowledge of, confidential information.

The confidentiality undertaking shall not prevent the Parties from utilising experience and expertise developed in connection with the fulfilment of the Agreement.

5.6.2 Applicable parties to the duty of confidentiality

The duty of confidentiality applies to the Parties' employees, subcontractors and other third parties who act on behalf of the Parties in connection with the fulfilment of the Agreement. The Parties may only transfer confidential information to such subcontractors and third parties to the extent necessary for the fulfilment of the Agreement, provided they are subject to a corresponding confidentiality obligation as set out in this Agreement.

Employees or others who resign from their positions with the Parties shall remain subject to the confidentiality undertaking concerning the aforementioned circumstances after their resignation.

If the Supplier is a party to the agreement with the Cloud Service Provider, the Supplier shall ensure that the Cloud Service Provider undertakes a corresponding confidentiality undertaking as set out in this Agreement.

5.6.3 Duty of Confidentiality after Termination of the Agreement

The confidentiality undertaking shall lapse five (5) years after the expiry of the Agreement, unless otherwise stipulated by law or regulations.

5.7 COMMUNICATION IN WRITING

All notices, demands or other communications relating to the Agreement shall be submitted in writing in accordance with the procedure specified in Appendix 6 for the relevant type of enquiry.

5.8 AUDIT

5.8.1 General information about audit

5.8.1.1 The Customer's right to audit

The Customer has the right to audit and verify that the Supplier complies with its obligations in accordance with the Agreement.

The Supplier shall provide assistance if the Customer needs to involve the Supplier when conducting quality audits or reviews, for example in connection with the Customer's compliance with legal requirements addressed in chapter 7, or in connection with the Customer's certification.

The Supplier shall be entitled to payment for such assistance in accordance with the Supplier's hourly rates as set out in Appendix 7.

The timing and methods for conducting audits and assistance shall be agreed in each individual case.

However, this shall not prevent that inspections and audits that are required to fulfil specific orders from public surveillance authorities are carried out.

The audit shall be conducted in a manner that minimizes possible disruption to the Supplier's ordinary activities.

The Parties may agree to more specific routines and procedures for auditing, see Appendix 6.

5.8.1.2 Appointment of an independent auditor

The Customer may appoint an independent auditor to conduct audits and verifications. The Supplier may object to the appointment of a direct competitor or, if the Supplier demonstrates that the appointment for other reasons will constitute a material commercial disadvantage for the Supplier.

5.8.1.3 Addressing non-compliance

If the audit reveals that the Agreement or legal requirements the Supplier shall adhere to are not being complied with, the Supplier shall make changes in order to fulfil the Agreement. If the demonstrated deviations are of a material nature, or the Supplier can be blamed for negligence, the Supplier shall refund necessary and documented costs incurred by the Customer in respect of conducting the audit.

5.8.2 Audit of subcontractors

The Supplier shall ensure that any agreements the Supplier enters into with any subcontractors who directly contribute to the delivery of the Services, and which are listed in Appendix 6, include provisions giving the Customer the right to participate in the Supplier's audit and review of such subcontractor(s) insofar it is necessary to verify that the Supplier complies with the obligations agreed in the Agreement.

In the assessment of what is necessary it shall be considered what is stated in third-party audits and certifications.

If the Customer wishes to conduct an audit of a subcontractor of the Supplier, the Supplier shall cooperate with the Customer to carry out such an audit.

The Parties may specify deadlines for notification of audits and specific procedures for conduct, etc., including the use of an auditor, in Appendix 6.

5.8.3 Audit of Cloud Service Providers

The terms and conditions for audit as set out in the Standard Terms shall apply for the Cloud Service.

Where the Supplier also acts as the Cloud Service Provider, the audit rights in clauses 5.8.1 and 5.8.2 shall apply correspondingly to the Cloud Service. The Customer (or an independent auditor appointed by the Customer in accordance with clause 5.8.1) may audit:

- a) the Supplier's compliance with the Agreement with regards to the Cloud Service;*
- b) the Supplier's compliance, in its capacity as Cloud Service Provider, with the Agreement; and*
- c) subcontractors participating in the delivery of the Cloud Service, in accordance with clause 5.8.2.*

Where the audit rights set out in the Standard Terms are more restrictive than those in clauses 5.8.1, 5.8.2 and this clause 5.8.3, the latter shall prevail.

5.9 WAGES AND WORKING CONDITIONS

For agreements governed by the ~~Regulations No. 112 of 8 February 2008~~ *regulations in the Public Procurement Act of 17 June 2016 section 5e* relating to Wages and Working Conditions under Government Contracts, the conditions as set out in Appendix 6 shall apply.

6. FEES AND PAYMENT TERMS

6.1 FEES FOR THE SERVICES

All prices and the detailed terms governing the fees to be paid by the Customer for the Services are set out in Appendix 7.

Disbursements, including travel and subsistence costs, shall only be reimbursed to the extent agreed in each individual case. Unless otherwise agreed, travel and subsistence costs shall be specified separately and will be covered pursuant to the Government Travel Allowance Scale applicable at any given time. Travel time shall only be invoiced if agreed in Appendix 7.

Unless otherwise specified in Appendix 7, all prices shall be stated in Norwegian kroner (NOK) exclusive of Value Added Tax, but inclusive of customs duties and any other charges.

6.2 INVOICING

Payment shall be made within 30 (thirty) calendar days from the invoice date. The Supplier's invoices shall be specified and documented so the Customer may easily check whether the invoice conforms to the agreed fees. All invoices relating to accrued time shall be accompanied by a detailed specification of the hours accrued. Disbursements shall be specified separately.

If the Customer is a public body, it is required that the Supplier uses electronic invoices in an approved standard format in accordance with regulations of 2 April 2019 on electronic invoices in public procurement.

If the Supplier does not comply with the requirement for use of electronic invoicing, the Customer may withhold payment until the electronic invoice is delivered in an approved standard format. The Customer shall without undue delay notify the Supplier if payment is withheld. If such notice is given, the payment deadline shall run from the date the electronic invoice is delivered in an approved standard format.

If the invoice or the invoice documentation contains information that is subject to a statutory duty of confidentiality, and there is a risk of disclosure of such information, the requirement for electronic invoicing may be waived, unless there are satisfactory technical security solutions that can safeguard confidentiality.

The Supplier shall bear any costs associated with electronic invoicing.

The payment schedule and other payment terms are set out in Appendix 7.

6.3 LATE PAYMENT INTEREST

If the Customer fails to pay agreed fees within the agreed due date, the Supplier shall be entitled to interest on any overdue amount pursuant to the Act No. 100 of 17 December 1976 relating to Interest on Overdue Payments, etc. (Late Payment Interest Act).

6.4 PAYMENT DEFAULT

If overdue fees with the addition of late payment interest have not been paid within thirty (30) calendar days after the due date, the Supplier may send the Customer a written notice stating that the Agreement will be terminated for breach, unless settled within sixty (60) calendar days from the receipt of the notice.

Termination for breach may not take place if the Customer pays the overdue fees with the addition of late payment interest before the expiry of the deadline.

6.5 PRICE ADJUSTMENTS

6.5.1 Adjustments according to the consumer price index

The Supplier's prices for the Services may be adjusted at the beginning of every calendar year by an amount equivalent to the increase in the consumer price index (the main index) of Statistics Norway, with the initial reference index value being the index value for the month when the Agreement was signed, unless a different index value is agreed in Appendix 7.

6.5.2 Adjustments in public dues

The Supplier's prices for the Services may also be adjusted to the extent the rules or administrative decisions for public dues are amended in a way that affects the consideration or costs of the Supplier.

The Supplier shall submit and document such claim in writing.

6.6 FEES AND PAYMENT TERMS FOR THE CLOUD SERVICES

The terms and conditions related to fees, payment terms and price indexation as set out in the Standard Terms shall apply for the Cloud Service.

Where the Customer purchases licences (Purchased Licences), the purchase price, payment terms, and any applicable maintenance fees shall be set out in Appendix 7. Unless otherwise agreed, the purchase price for Purchased Licences shall be invoiced upon delivery of the licence key or equivalent confirmation of licence activation. Ongoing maintenance or support fees for Purchased Licences shall be specified separately in Appendix 7.

If the Supplier is a party to the agreement with the Cloud Service Provider, or for other reasons will invoice the Customer for the Cloud Service on behalf of the Cloud Service Provider, all prices, and more detailed conditions for the fees that the Customer shall pay in connection with the Service shall be set out in Appendix 7.

Cloud Services delivered on Standard Terms may be priced in NOK, Euro or US Dollars. Other currencies may be agreed in Appendix 7.

The fees for Cloud Services purchased by the Supplier in another currency, but which will be invoiced to the Customer in NOK, may be adjusted when the exchange rate between NOK and another currency changes by more than +/- 5% in relation to the base rate (see next paragraph). This provision only applies if the Supplier in Appendix 7 has stated both the price in NOK and the currency against which the changes in the exchange rate are to be calculated.

Unless otherwise stated in Appendix 7, the base rate at the time of signature of the Agreement shall be Central Bank of Norway (Norges Bank) middle rate on the date of submission of the final offer. If the price is subject to adjustment under this provision, the

new base rate shall be Central Bank of Norway middle rate on the date that the last price adjustment was made.

Both Parties may request adjustments according to this provision.

Any price adjustments due to exchange rate fluctuations must be notified to the other Party no later than 10 business days before the price changes. Such notice shall be given in writing and documentation must be attached. For Cloud Services that are paid as you go, the price adjustment applies for consumption following the expiry of the notification deadline. For Cloud Services that are paid in fixed periodic instalments, the price adjustment applies from the first due date after the expiry of the notification deadline.

Any other and more specific provisions on price adjustments because of changes in exchange rates shall be set out in Appendix 7.

6.6.1 Fees for Cloud Services where the Supplier also acts as Cloud Service Provider

Where the Supplier also acts as the Cloud Service Provider, the following shall apply for the Cloud Service:

- a) The price shall be stated in Appendix 7 and may be adjusted only in accordance with clause 6.5.1 (the Norwegian consumer price index, main index). Price-adjustment provisions in Appendix 10 shall not apply.*
- b) The Supplier may not invoke unilateral price-change rights in the Standard Terms against the Customer. Any change to the price shall be handled in accordance with chapter 3.*
- c) Discount programmes, commitment rebates and credits that the Supplier offers to other customers for comparable cloud services shall, on the Customer's request, be made available to the Customer on the most favourable commercially reasonable terms.*

7. EXTERNAL LEGAL REQUIREMENTS, SECURITY AND DATA PROTECTION

7.1 GENERAL EXTERNAL LEGAL REQUIREMENTS AND MEASURES

The Customer shall identify in Appendix 1 which legal requirements or requirements specific for a Party that the Customer considers to be of relevance to the conclusion and fulfilment of this Agreement. The Customer is responsible for specifying requirements that are relevant for the services in Appendix 1.

The Supplier shall in Appendix 2 describe how the Supplier will comply with these requirements in its delivery of the Services.

Each Party is responsible for the follow-up of its own duties pursuant to such legal requirements.

Generally, each Party covers its own costs related to complying with legal requirements applicable to the Party and its activities. In the event of changes in legal requirements or official requirements which only relate to the Customer's business, and which entail a need for changes in the Services after entering into the Agreement, the Customer will cover the costs associated with such changes and any additional work, see chapter 3.

7.2 INFORMATION SECURITY

7.2.1 Generally, on information security

The Supplier shall take appropriate measures to meet requirements for information security associated with the fulfilment of the Agreement. This entails that the Supplier will take appropriate measures to ensure the availability and confidentiality of the Customer's data, as well as measures to ensure that data does not fall astray. Furthermore, the Supplier will take appropriate measures against the unintended modification and deletion of data and against virus and other malware attacks.

If the Customer has specific requirements as to how the Supplier shall safeguard the information security, the Customer shall specify this in Appendix 1.

7.2.2 The Supplier's obligation to keep the Customer's data separate

Unless otherwise agreed in Appendix 1 and 2, the Supplier is obliged to keep the Customer's data separate from data of any other parties to reduce risk of damage and/or access to data in connection with the delivery of the Services.

Keeping data separate means having implemented and maintained necessary technical measures to protect data against unwanted change and unauthorised access.

Access by the Supplier's employees, or others who do not need the information in their work for the Customer, is also considered unwanted change and unauthorised access.

If the Customer has specific requirements as to how the Supplier shall fulfil the requirement for separation of data, the Customer shall specify this in Appendix 1.

7.2.3 Cloud Service requirements

The Supplier shall ensure that the Cloud Services that the Supplier has recommended or offered, fulfil mandatory legal requirements and the Customer's requirements for certifications specified Appendix 1 and Appendix 2, and shall notify the Customer, if this changes at a later stage.

If the Customer has requirements to how the Supplier shall ensure that the Cloud Service provide sufficient security of Customer's data, the Customer shall specify this in Appendix 1.

7.3 PERSONAL DATA

7.3.1 Obligation to enter into a data processing agreement

If the Supplier processes personal data on behalf of the Customer, the Customer and the Supplier are obliged to enter into a data processing agreement in accordance with the General Data Protection Regulation (GDPR) and any sector-specific privacy legislation that is relevant to the Customer's activities.

A data processing agreement draft is attached to Appendix 11.

The data processing agreement must be entered into before the processing of personal data commences.

7.3.2 Data processing agreement – the Cloud Service

The Supplier and the Customer, or the Supplier and the data controller, if it is not the Customer, may agree that a data processing agreement may be concluded directly between the Cloud Service Provider and the data controller for the processing of personal data that the Cloud Service will perform. The data processing agreement must fulfil the requirements of the General Data Protection Regulation (GDPR) and any sector-specific privacy legislation that is relevant to the Customer's activities.

If the Supplier shall follow up the data processing agreement between the data controller and the Cloud Service Provider on behalf of the data controller, this shall be stated in the requirements for the Services.

Data processing agreements entered into pursuant to this clause shall be included in Appendix 11.

Where the Supplier also acts as the Cloud Service Provider, a separate data processing agreement between the Cloud Service Provider and the data controller is not required. The data processing agreement in Appendix 11 shall cover both the Supplier's processing in its capacity as provider of the Services and the Supplier's processing in its capacity as Cloud Service Provider. Appendix 11 shall clearly distinguish, in respect of each of these capacities, the processing activities, the categories of personal data, the security measures, the sub-processors and the locations of processing.

If the Customer has specific requirements as to how the Cloud Service shall process personal data, this shall be specified in Appendix 1 by the Customer.

7.3.3 Other obligations

7.3.3.1 General

Personal data processed under this Agreement may not be entrusted to other parties for storage, processing or deletion without prior specific or general written permission by the Customer.

The Supplier must ensure that any subcontractors used by the Supplier, and who process personal data, assume obligations corresponding to the obligations set out in this clause.

Personal data may not be transferred to countries outside the EU/EEA without any legal transfer basis and documentation demonstrating that the terms for use of the transfer basis are fulfilled. In such case, the Supplier must document this in Appendix 11.

7.3.3.2 Compensation due to violation of the General Data Protection Regulation

The Parties' liability for damages suffered by a data subject or other natural persons and which is due to a violation of the General Data Protection Regulation (Regulation 2016/679), the General Data Protection Act with regulations or other regulations that implement the General Data Protection Regulation, will follow the provisions of article 82 of the General Data Protection Regulation. The limitation of liability in section 11.5.6 does not apply to liability arising from article 82 of the General Data Protection Regulation.

The Parties are individually liable for administrative fees imposed pursuant to article 83 of the General Data Protection Regulation.

7.4 ARTIFICIAL INTELLIGENCE

7.4.1 Governance, risk practices and compliance with the EU AI Act

If the OneTrack Solution contains any AI components, the Supplier shall establish and maintain governance and risk practices that ensure compliance with the EU AI Act throughout the entire lifecycle of the AI component. In addition, the Customer shall be informed about the OneTrack Solution's risk classification.

7.4.2 Restrictions on use of the Customer's data for AI training

If the OneTrack Solution contains any AI components, the Customer's data shall not be used for training, fine-tuning, or improving the Supplier's own AI models or any third-party AI models unless approved by the Customer.

8. RIGHT OF OWNERSHIP AND RIGHT OF USE

8.1 THE RIGHTS OF THE PARTIES

8.1.1 Generally, about the rights of the Parties

This Agreement does not change the copyright, usage rights or proprietary rights that the Parties had prior to the fulfilment of the Agreement, or which have been established independently thereof, unless otherwise stated below or in the appendices.

Where the Customer purchases licences under this Agreement, the Customer shall acquire the rights set out in the applicable licence agreement in Appendix 10. The Supplier shall ensure that the licence terms grant the Customer at minimum:

- i. the right to use the licensed software for the agreed purpose;*
- ii. the right to transfer the licence on the Customers side (within the group);*
- iii. clear provisions on maintenance and support obligations following purchase.*

If a Purchased Licence does not include ongoing service from the Cloud Service Provider after payment, the Supplier shall specify in Appendix 2 what services (if any) remain part of the Supplier's Services.

8.1.2 The Customer's right of use

8.1.2.1 Software and other material

The Customer is granted a limited right of use for all software and other material the Supplier makes available to the Customer in connection with the delivery of the Services, and which are not covered by clause 8.1.2.2 or 8.1.2.3.

The right of use includes all rights necessary for the Customer to use the Supplier's Services and the Cloud Service in accordance with the Agreement.

8.1.2.2 Cloud Services delivered on Standard Terms

The right of use as set out in the Standard Terms applies for the Cloud Service.

Where the Customer has purchased a perpetual licence rather than a subscription-based right of use to the licences to Cloud Services, the right of use for such Purchased Licences shall follow the applicable licence agreement (as opposed to the Standard Terms applicable to subscription-based Cloud Services) included in Appendix 10 and not be subject to termination solely by the Supplier or Cloud Service Provider upon expiry of an agreement term. The Supplier shall ensure that the licence terms clearly distinguish between:

- i. rights that are perpetual;*
- ii. any conditions under which the licence may be revoked.*
- iii. the perpetual right to use the Purchased Licences shall not be dependent on payment of the applicable maintenance fee.*

The Supplier shall ensure the Standard Terms for Cloud Services that the Supplier has recommended or offered, do not prevent the Customer from using the Services and the Cloud Service in its entirety pursuant to this Agreement and shall notify the Customer if this changes at a later stage.

If the Standard Terms for Cloud Services that the Supplier has recommended or offered contain terms related to the Customer's use of the Cloud Service that the Customer should pay special attention to, the Supplier shall provide clear notice thereof in Appendix 2.

8.1.2.3 Software developed or customised specifically for the Customer

The Supplier hereby grants the Customer a perpetual, non-exclusive right to use the parts of the software developed specifically for the Customer, as well as configurations, integrations, customisations and other elements that the Supplier has developed specifically for the

Customer as part of the Services under this Agreement (hereinafter referred to as customised material).

The right of use includes the right to use, copy, modify and develop the software and customised material, either by itself or with the assistance of a third party (extended right of use), to the extent necessary to be able to utilise the Cloud Service, also after termination of this Agreement.

8.1.2.4 Source code escrow

The Customer may, by written notice to the Supplier, require that the source code for customised material as defined in clause 8.1.2.3 is deposited with an independent escrow agent of Customer's choice on terms to be agreed in Appendix 9. The Supplier shall comply with such requirement within 60 (sixty) calendar days of the Customer's notice. The costs of establishing and maintaining the escrow arrangement shall be specified in Appendix 7.

The Customer shall have the right to access the deposited source code upon the occurrence of any of the following release events:

- i. the Supplier becomes insolvent, enters into bankruptcy, composition with creditors, or is subject to any other form of creditor intervention;*
- ii. the Supplier ceases or gives notice of its intention to cease maintenance or support of the customised material;*
- iii. the Agreement is terminated for cause due to material breach by the Supplier and the source code has not been transferred to the Customer pursuant to clause 2.4.4; or*
- iv. any other release event agreed by the Parties in Appendix 9.*

Where the Customer has purchased Purchased Licences for software that is not delivered as a purely cloud-based subscription service, the Customer may likewise require that the relevant source code is deposited under the same escrow arrangement, to the extent the Licence Provider is contractually permitted to do so. The Supplier shall, if it recommended or offered the relevant Purchased Licence, use reasonable efforts to obtain the Licence Provider's agreement to such deposit.

Upon a release event, the Customer's right to use the source code shall be limited to maintaining, patching, and further developing the software for the Customer's own internal use, in accordance with the extended right of use set out in clause 8.1.2.3.

8.2 ASSOCIATED RESPONSIBILITIES

Each Party is responsible for ensuring that they have the necessary authorisations and rights, etc., to infrastructure, software, and documentation that they utilise under this Agreement.

If either Party uses software etc. that the Party does not own or have rights to, the Party shall ensure the necessary approvals in the form of an underlying agreement with the owner or licensor are established before such software etc. may be used pursuant to this Agreement.

If changes, improvements, or the like are made in connection with the Services delivered under this Agreement, the Supplier is responsible for ensuring that the Customer receives the right of use necessary to continue using the infrastructure and software without hindrance based on other parties' copyright or other rights.

8.3 RIGHTS TO DATA

8.3.1 Generally, on rights to data

The Customer (and its licensors) retains the rights to the data made available to the Supplier and acquires the rights to the data that is collected, processed, edited, generated, arises, or is otherwise managed in accordance with this Agreement. The same shall apply to the results of the processing of such data.

The Supplier shall have access to and the right to use the data mentioned above to the extent necessary for the Supplier to fulfil its obligations in accordance with the Agreement. The Customer shall at all times have access to the data to which it holds the rights and to the results of the Supplier's processing of such data.

Upon termination of the Agreement, the Supplier shall make the data available to the Customer, or to a party designated by the Customer, in a commonly used and machine-readable format, with the original structures and metadata intact, cf. also chapter 2.4.4 second paragraph of the Agreement. Unless otherwise specified in Appendix 1, the Supplier shall, upon termination of the Agreement, delete all of its own copies of the Customer's data.

Under no circumstances shall the Supplier be entitled to exercise the right to withhold regarding the Customer's data.

The Supplier may use anonymised data relating to the Customer's use of the service to improve its services, unless the Customer has expressly prohibited this in Appendix 1. The provision does not prevent the Supplier from using collected or generated data related to establishment to improve its services. This applies, for example, to data on test results, error logs, estimation data, development insights, project reports, etc., provided that this is not related to the Customer's business data, security aspects, or other matters subject to confidentiality pursuant to the Agreement or restrictions under law and regulation.

The Customer may specify other terms and conditions in Appendix 1.

8.3.2 Right to data processed in the Cloud Service

For rights to data, the terms and conditions as set out in the Standard Terms apply for the Cloud Service.

If the Standard Terms for Cloud Services that the Supplier has recommended or offered contain terms and conditions that restrict the Customer's control over or rights to data that are processed in the Cloud Service on behalf of the Customer compared to clause 8.3.1 above, the Supplier shall provide clear notice thereof in Appendix 2.

9. BREACH

9.1 WHAT IS DEEMED TO CONSTITUTE BREACH

9.1.1 Breach on the part of the Supplier

There is a breach on the part of the Supplier if the Services do not conform to what has been agreed and/or the Supplier fails to fulfil its obligations under this Agreement.

If Services and/or other deliveries that the Supplier is responsible for under this Agreement, deviate significantly from what has been agreed or are significantly delayed, this is considered a material breach.

Nevertheless, no breach exists if the situation is caused by circumstances for which the Customer is liable, or by force majeure.

The Customer shall submit a written notice of the breach without undue delay after the breach has been discovered or should have been discovered.

9.1.2 Breach caused by errors in the Cloud Services

The terms and conditions for breach as set out in the Standard Terms, including terms and conditions related to notifications, remedies, price reduction, right of retention, as well as terms and conditions related to sanctions such as standardised economic compensation, indemnity, and termination for cause, shall apply for the Cloud Service.

~~The Supplier is obliged to follow up breach/errors due to the Cloud Service to the extent stated in the Management Document and/or in Appendices 1 and 2 that such follow-up is included in the Services. How potential sanctions shall be applied upon the Cloud Service Provider shall be stated in the Management Document.~~

Where a defect exists in a Purchased Licence (including a failure of the Licence Provider to deliver valid licence rights or a revocation of licence rights), the Supplier shall, at the Customer's request, take reasonable steps to enforce the Customer's rights under the applicable licence agreement. If the Supplier recommended or offered the Purchased Licence, it shall assist the Customer in obtaining a replacement or refund at the Supplier's expense where the defect is attributable to the Supplier's selection of the licence.

Where the Supplier also acts as the Cloud Service Provider, errors, defects, non-availability or other non-conformities in the Cloud Service shall be deemed a breach by the Supplier and shall be subject to the breach regime in clauses 9.1.1 and 9.2 to 9.6. The Customer may pursue remedies under the Agreement, under the Standard Terms, or both, and shall not be required first to exhaust remedies under the Standard Terms.

Where both the Agreement and the Standard Terms provide for liquidated damages or standardised compensation in respect of the same incident, the Customer shall be entitled to the higher of the two amounts, but not to recovery under both. This shall not limit the Customer's right to general damages in accordance with clause 9.6.

9.1.3 Breach by the Customer

There is a breach by the Customer if the Customer fails to fulfil its obligations under this Agreement.

Nevertheless, no breach exists if the situation is caused by circumstances for which the Supplier is liable, or by force majeure.

The Supplier shall submit a written notice of the breach without undue delay after the breach has been discovered or should have been discovered.

9.2 NOTIFICATION OBLIGATION

9.2.1 The Supplier's notification obligation

If all or part of the Services or Cloud Service cannot be delivered as agreed, the Supplier shall notify the Customer of this in writing as soon as possible.

The notification shall state the reason for the problem and, to the extent possible, state when the various parts of the Services or the Cloud Service will be delivered or made available. The same applies if further delays must be expected after the first notice has been given.

9.2.2 The Customer's notification obligation

If the Customer fails to fulfil its obligations under the Agreement, the Customer shall notify the Supplier of this in writing as soon as possible.

The notification shall state the reason for the problem and, to the extent possible, state when the Customer can resume its contracted obligations. The same applies if additional delays must be expected after the first notice has been given.

9.3 THE SUPPLIER'S REQUEST FOR EXTENSION OF DEADLINES

The Supplier may request an extension of deadlines. Such extension must be approved by the Customer in writing in order to be enforceable. The Customer may set conditions for granting extension of deadline.

The Customer shall not be entitled to claim liquidated damages, damages, or other remedies for breach for the period covered by an extension of the deadline.

An extended deadline shall not impact the Customer's right to liquidated damages, damages, or other remedies for breach accrued prior to the extension of the deadline.

9.4 CURE OF BREACH

9.4.1 Cure of breach by the Supplier

The Supplier shall commence and complete the effort of curing its breach without undue delay.

The aim of the cure shall be for the Services, or other obligations which the Supplier is responsible for under the Agreement, to satisfy the agreed requirements and specifications, and function as agreed, and otherwise be in accordance with what has been agreed. Such cure may, for example, take the form of repair, redelivery, or supplementary delivery.

If the Supplier fails to cure the breach within the agreed deadline, or if the conditions for termination for cause are met, the Supplier shall pay all expenses incurred by the Customer when obtaining a cure from a third-party supplier. The Customer may not allow a third party to cure the breach until any extended deadline has expired.

The Customer shall give written notice to the Supplier prior to appointing a third-party supplier.

9.4.2 Cure of breach by the Customer

The Customer shall commence and complete the effort of curing its breach without undue delay.

The Customer is responsible for curing the breach in such a way that circumstances the Customer is liable for under this Agreement correspond with what has been agreed.

9.5 SANCTIONS IN THE EVENT OF BREACH

9.5.1 Price reduction

If the Supplier has not succeeded, despite repeated attempts, to cure the breach, for example, by repair, redelivery or supplementary delivery, the Customer may claim a proportional price reduction.

9.5.2 Right of retention

9.5.2.1 Retention of payment by the Customer

In the event of breach on the part of the Supplier, the Customer may withhold payment, but the retained amount shall not be obviously higher than necessary to secure the Customer's claim resulting from the breach.

9.5.2.2 Limitations in the Supplier's right of retention

The Supplier may not withhold the Services due to a breach on the part of the Customer unless the breach is material, and the Supplier terminates the Agreement because of such breach.

However, the Supplier may not withhold the Services if the Customer exercises its right to a temporary extension of the Agreement against advance payment as specified in clause 4.3.2.

9.5.3 Liquidated damages

9.5.3.1 Basis for imposing liquidated damages

There is a delay if the agreed deadline for completion of the Services for the Customer's Approval Test is not met, or if any other deadline for delivery of the Services that the Parties have specified in Appendix 4 or the Establishment Plan is not met (hereinafter referred to as Delivery Deadline).

If a Delivery Deadline that the Parties in Appendix 4 or the Establishment Plan have subjected to liquidated damages, is not complied with, and this is not caused by force majeure or circumstances for which the Customer is liable, this constitutes basis for imposing liquidated damages.

If the Supplier is delayed regarding the first Delivery Deadline or later Delivery Deadlines for which the Parties have subjected to liquidated damages, the later Delivery Deadline(s) shall be extended corresponding to the number of calendar days that liquidated damages have accrued. If the Supplier, through acceleration, manages to comply with the agreed Delivery Date at the originally agreed time, the previously accrued liquidated damages shall lapse.

The liquidated damages shall accumulate automatically for each calendar day of delay, but limited to a maximum of 100 (one hundred) calendar days. The Parties may specify another term for the liquidated damages in Appendix 7.

If only a part of the Services is delayed on a Delivery Deadline that is subject to liquidated damages, the Supplier may demand a reduction of the liquidated damages that is in proportion to the Customer's ability to utilise the part of the Services that has been delivered.

If only parts of the Services are delayed on the agreed Delivery Deadline, the Supplier may claim a reduction of the liquidated damages proportional to the ability of the Customer to utilise the parts of the Services that have been delivered.

9.5.3.2 Calculation of liquidated damages

The liquidated damages shall amount to 0.15% of the agreed or estimated fees for the establishment of the Services unless another liquidated damages rate or a different calculation basis is specified in Appendix 7. The Customer shall not have the right to terminate the Agreement for cause if liquidated damages continue to accumulate. However, this time restriction shall not apply in the event of wilful misconduct or gross negligence on the part of the Supplier or another party for which the Supplier is liable.

9.5.4 Financial compensation for breach of agreed Service Level

The Customer may require financial compensation for breach of the agreed Service Level, in accordance with the standardized rates specified in Appendix 5.

9.5.5 Termination for cause

9.5.5.1 The Customer's right to terminate for cause

In the event of a material breach, the Customer may, after giving the Supplier written notice and granting a reasonable deadline for remedying the situation, terminate the Agreement for cause with immediate effect, in full or partially.

The Customer may terminate for cause the entire or part of the Agreement with immediate effect if the Services are materially delayed.

There is a material delay when the maximum limit of the liquidated damages has been reached, or when the extended deadline has expired, if it expires later. It is also considered a material delay if material portions of the Services, after repeated attempts of remedy, still are not according to the Agreement.

The Customer may terminate the Agreement for cause for a part of the Services, where milestones subject to liquidated damages apply, and the liquidated damages period in question is exhausted. If the delay is of such a nature that the Services in their entirety must be deemed as materially delayed, e.g., because the already delivered parts or what will be delivered later, cannot be used without the deliveries that are subject to the right of termination, the Customer may terminate the Services in its entirety for cause.

Where a Purchased Licence recommended or offered by the Supplier proves to be invalid, has been revoked, or fails to provide the necessary licence rights under the Agreement, and such defect cannot be remedied within a reasonable time under clause 9.1.2 and 9.4.1, this shall constitute a material breach giving the Customer the right to terminate the affected part of the Agreement for cause in accordance with this clause 9.5.5.1.

9.5.5.2 The Supplier's right to terminate for cause

In the event of payment default, the Supplier may terminate the Agreement for cause if the Customer has failed to settle the overdue payment within 60 (sixty) calendar days after receiving the Supplier's written notice pursuant to clause 6.4.

In the event of other material breach, the Supplier may send the Customer a written notice stating that the Agreement will be terminated for cause if the Customer does not cure the breach within 60 (sixty) calendar days after the receipt of such notice.

The termination for cause cannot take place if the Customer cures the breach before the deadline.

The termination for cause cannot take place if the Customer pays the overdue consideration, with the addition of late payment interest before the expiry of the deadline.

9.5.6 Termination settlement

9.5.6.1 Consequences for the Supplier's Services

If the Agreement is terminated for breach by the Supplier while all or part of the Services are under Establishment, the Customer may claim repayment of fees paid for the Services.

If termination for cause takes place during the Management Phase, the Supplier is entitled to retain the fees paid for the portions of the Services that have been contractually delivered up to the date of termination, with deduction of a price reduction pursuant to clause 9.5.1 and 9.5.4.

If necessary for the Customer's business, the Customer is entitled to utilise the Supplier's Services as agreed after the termination date but must find an alternative service as a replacement for the Supplier's Services as soon as possible. The Customer shall pay a proportionate fee as long as the Customer uses the Services in full or partially, except for the portions of the Services paid in the form of a one-time fee or the like.

If the termination for cause is attributed to payment default by the Customer, the Supplier may make such continued utilisation conditional upon the Customer providing satisfactory security. Clause 4.3 on temporary extension and clause 2.4 on Termination or transfer of the Agreement shall apply correspondingly to termination for cause.

9.6 DAMAGES

9.6.1 The Parties' rights to damages

The Parties may claim damages for any direct loss, including additional costs incurred by the Parties due to substitute purchases, losses caused by additional work and other direct costs in connection with delays, defect, or other breach on the part of the other Party.

Liquidated damages and standardised financial compensation shall be deducted from any damages in respect of the same delay or incident.

Each Party shall, to the best of its ability, implement measures to limit its loss in accordance with general rules concerning loyalty in contractual relationships.

9.6.2 Limitation of liability

The Parties cannot claim damages for indirect loss. Indirect losses include, but are not limited to, loss of profits of any kind, loss of savings and claims from third parties except for awarded damages pursuant to clause 10.4.

Loss of data is considered as indirect loss except for costs related to reconstruction of data in accordance with Appendix 5 and other direct costs the Customer incurs as a result of loss of data.

Unless otherwise stated in Appendix 7, the total damages each Party may claim per year is limited to an amount corresponding to 12 months' agreed fees for the Services in the Management Phase. *Where the Supplier also acts as the Cloud Service Provider, the cap shall additionally include 12 months' agreed fees for the Cloud Services in respect of which the Supplier also acts as the Cloud Service Provider.*

The limitation of liability will not apply in the event of gross negligence or wilful misconduct on the part of a Party or another party for whom it is liable.

The limitation of liability will not apply for indemnification liability for defects in title, see clause 10.4.

10. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES (DEFECT IN TITLE)

10.1 THE RISKS AND RESPONSIBILITIES OF THE PARTIES RELATED TO DEFECTS IN TITLE

Each Party has the risk and responsibility for ensuring that it does not infringe any copyrights or other intellectual property rights of third parties in connection with the fulfilment of the Agreement. There is a defect in title if the fulfilment of the Agreement entails such infringement.

10.2 THIRD-PARTY CLAIMS

If a third party asserts to one of the Parties that there is a defect in title, the other Party shall be informed thereof in writing as soon as possible.

The responsible Party shall handle the claim at its own expense. The other Party shall, to a reasonable extent, assist the relevant Party.

The relevant Party shall commence and complete the effort of curing defects in title without undue delay, by

- a) ensuring that the other Party's rights under this Agreement are safeguarded without infringing any third-party rights, or
- b) fulfilling the Agreement in a manner that does not infringe any third-party rights.

If the defect in title cannot be resolved as set out above, the Parties shall stop any use that infringes third-party rights.

10.3 TERMINATION FOR BREACH

A defect in title that is not cured and is of such a nature that it is of material importance to the other Party, shall give the affected Party the right to terminate the Agreement for cause.

10.4 INDEMNIFICATION OF LOSS RESULTING FROM A DEFECT IN TITLE

A Party may claim full indemnification in respect of any liability for damages imposed on it in relation to a third party and any legal costs incurred, including the Party's own costs for handling the case, attributable to a defect in title that the other Party is liable for. In addition, the Party may claim damages for other loss pursuant to the provisions of clause 9.6.

10.5 DEFECTS IN TITLE IN RESPECT OF THE CLOUD SERVICES

The terms and conditions concerning defect in title as set out in the Standard Terms apply for the Cloud Service.

If the Supplier has recommended or delivered an offer for the Cloud Service, the Customer may demand that the Supplier, at its own expense, on behalf of the Customer, follow-up the Customer's rights pursuant to the Standard Terms with the Cloud Service Provider.

11. OTHER PROVISIONS

11.1 INSURANCE POLICIES

11.1.1 Insurance policies of the Customer

If the Customer is a public body, the Customer shall be self-insured. If the Customer is not self-insured, the Customer is obliged to have insurance policies that are sufficient to cover such claims that the Supplier may set forth because of the risks or responsibilities assumed by the Customer under this Agreement, within the limits defined by ordinary insurance terms and conditions.

11.1.2 Insurance policies of the Supplier

The Supplier shall hold insurance policies that are sufficient to cover such claims that the Customer may set forth because of risks or responsibilities assumed by the Supplier under to this Agreement, within the limits defined by ordinary insurance terms and conditions.

This obligation shall be deemed fulfilled if the Supplier holds liability and risk insurance on terms and conditions that are considered ordinary within the Norwegian insurance business.

The Supplier shall, at the request of the Customer, give account for, and document, those of the Supplier's insurances that are relevant for the fulfilment of this provision.

11.2 ASSIGNMENT OF RIGHTS AND OBLIGATIONS

11.2.1 Assignment by the Customer

If the Customer is a public body, the Customer may assign its rights and obligations under this Agreement to another public body.

The entity to which the rights and obligations are assigned, shall be entitled to corresponding terms and conditions, provided the rights and obligations under the Agreement are jointly assigned.

11.2.2 Assignment by the Supplier

The Supplier may only assign its rights and obligations under the Agreement with the written consent of the Customer.

The same shall apply if the Supplier is de-merged into several companies or in the case of assignment to a subsidiary or another company within the same group, but not if the Supplier is merged with another company. Such consent shall not be unreasonably withheld.

The right to assignment in the paragraph above shall only apply if the new supplier meets the original qualification requirements, no other material changes are made to the Agreement, and the assignment is not made to circumvent the regulations concerning public procurement.

The right to payment under this Agreement may be assigned freely. Such assignment shall not release the relevant Party from its obligations and responsibilities.

11.3 BANKRUPTCY, COMPOSITION WITH CREDITORS ETC.

In the case of debt rescheduling proceedings, composition with creditors, bankruptcy, or any other form of creditor intervention in respect of the business of a Party, the other Party shall be entitled to terminate the Agreement for cause with immediate effect, unless otherwise is stipulated by mandatory law.

11.4 FORCE MAJEURE

Should an extraordinary situation arise, which is beyond the control of the Parties, and which makes it extremely difficult or impossible to fulfil the duties under this Agreement, and which is considered as force majeure under Norwegian law, the other Party shall be notified of this as soon as possible.

The obligations of the affected Party shall be suspended for as long as the extraordinary situation endures. The other Party's payment shall be suspended for the same period.

In force majeure situations, the other Party may only terminate the Agreement with consent from the affected Party, or if the situation continues or is expected to continue for more

than 90 (ninety) calendar days as of the date on which the situation arose, and in such case with 15 (fifteen) calendar days' notice only.

Each Party shall cover their own costs associated with the Termination of the Agreement. The Customer shall pay the agreed fees for the part of the Services that has been delivered in accordance with the Agreement prior to the termination of the Agreement. The Parties may not present any other claims against each other because of the Termination of the Agreement subject to this provision.

The Parties shall, in connection with force majeure situations, have a mutual disclosure obligation towards each other concerning all matters that must be deemed relevant to the other Party. Such information shall be disclosed as soon as possible.

11.5 OTHER PROVISIONS FOR THE CLOUD SERVICE

The terms and conditions of insurance, transfer, composition with creditors and bankruptcy etc., as set out in the Standard Terms shall apply for the Cloud Service.

Where the Supplier also acts as the Cloud Service Provider, clauses 11.1, 11.2 and 11.3 shall apply for the Cloud Service. In particular, the Customer's prior written consent shall be required for any assignment or transfer of the Supplier's rights and obligations in respect of the Cloud Service, irrespective of any contrary provision in Appendix 10.

12. DISPUTES

12.1 NEGOTIATIONS AND MEDIATION

Should a dispute arise between the Parties as to the interpretation or the legal effects of the Agreement, the Parties shall seek to resolve such dispute through negotiations.

If such negotiations do not succeed within 20 (twenty) business days, or a different period agreed by the Parties, each Party may submit the dispute for an assessment by an independent expert or for mediation.

12.2 INDEPENDENT EXPERT

The Parties may when entering into the Agreement, appoint an independent expert, as defined in Appendix 6, with qualifications the Parties deem to be best suited for the Agreement. If this is not done, e.g., because the choice of expert may depend upon the nature of the dispute, the Parties may agree to appointment of an independent expert at the time of dispute.

The Parties shall in advance choose either to

- a) comply with the solution proposed by the expert (binding), or
- b) use the solution proposed by the expert as a basis for reaching a solution themselves (advisory).

The detailed procedure for this work shall be determined by the independent expert, in consultation with the Parties.

12.3 MEDIATION

If a dispute related to this Agreement has not been resolved after negotiations or by using an independent expert, the Parties may attempt to resolve the dispute through mediation.

Mediation may also be used without the prior use of an independent expert.

The detailed procedure for the mediation shall be determined by the mediator, in consultation with the Parties.

12.4 CHOICE OF LAW AND JURISDICTION

The Parties' rights and obligations under this Agreement are governed in their entirety by Norwegian law.

If a dispute has not been resolved after negotiations or mediation, each Party may demand to settle the dispute with final effect before Norwegian courts of law.

The venue shall be the legal venue of the Customer.

Alternatively, the Parties may agree to settle the dispute with final effect through arbitration.

12.5 DISPUTES CONCERNING THE CLOUD SERVICE

The terms and conditions of dispute resolution, choice of law and venue set out in the Standard Terms shall apply for the Cloud Service.

Where the Supplier acts as the Cloud Service Provider, the paragraph above shall not apply. Instead, all disputes relating to the Cloud Service shall be governed exclusively by clauses 12.1 to 12.4.