HydroNET Terms & Conditions

Paragraph 1. General provisions

Article 1   Applicability of the HydroNET Terms & Conditions

1.1   These HydroNET Terms & Conditions apply to all offers and contracts pursuant to which HydroLogic Systems B.V. (hereinafter referred to as 'HydroLogic) delivers software and/or provides services of any nature whatsoever and under whatever name to the client.

1.2   Departures from and additions to these general terms and conditions shall only be valid if they are agreed between the parties in writing.

1.3   The applicability of the client's purchasing or other conditions is specifically excluded.

1.4   If any provision of these general terms and conditions is null and void or is voided, the other provisions of these general terms and conditions shall remain fully in effect. HydroLogic and the client shall in this case consult each other for the purpose of agreeing new provisions to replace the null and void or voided provisions.

Article 2   Offers

2.1   All offers and other communications of HydroLogic are subject to confirmation unless HydroLogic has indicated otherwise in writing. The client guarantees that the information that it has provided or that has been provided on its behalf to HydroLogic and on which HydroLogic has based its offer is accurate and complete.

Article 3   Price and payment

3.1   All prices are exclusive of turnover tax (VAT) and other levies imposed by the government. All prices and payments are in euros (EUR) unless the parties have otherwise agreed in writing.

3.2   The client may not derive any rights or expectations from a cost estimate or budget issued by HydroLogic unless the parties have otherwise agreed in writing. An available budget made known to HydroLogic by the client shall only apply as a (fixed) price agreed between the parties for the performance to be delivered by HydroLogic if this has been expressly agreed in writing.

3.3   If, according to the contract concluded between the parties, the client consists of several natural persons and/or legal entities, each of these natural persons and/or legal entities shall be jointly and severally liable towards HydroLogic for performance of the contract.

3.4   Information from HydroLogic's records shall count as conclusive evidence with respect to the performance delivered by HydroLogic and the amounts owed by the client for delivery of this performance, without prejudice to the client's right to produce evidence to the contrary.

3.5   If a periodic payment obligation on the part of the client applies, HydroLogic shall be entitled to adjust, in writing and in accordance with the index or other standard included in the contract, the applicable prices and rates to the term specified in the contract. If the contract does not expressly provide for the possibility on the part of HydroLogic to adjust the prices or rates, HydroLogic shall always be entitled to adjust, in writing and with due observance of a term of at least three months, the applicable prices and rates. If the client does not agree to the adjustment in this latter case, the client shall be entitled to terminate the contract in writing within thirty days following notice of the adjustment, which termination shall take effect on the date on which the new prices and/or rates would take effect.

3.6   The parties shall record the date or dates on which HydroLogic shall charge the client for the performance agreed in the contract. Amounts owed must be paid by the client in accordance with the agreed payment terms or the payment terms stated on the invoice. The client may not suspend any payment and may also not set off any amounts owed.

3.7   If the client fails to pay amounts due or fails to do so on time, the client shall owe statutory interest for commercial contracts on the outstanding amount without a demand for payment or a notice of default being required. If the client fails to pay the amount due after a demand for payment or a notice of default has been issued, HydroLogic shall be entitled to refer the debt for collection, in which case the client must pay all judicial and extrajudicial costs, including all costs charged by external experts. The foregoing shall be without prejudice to HydroLogic's other legal and contractual rights.

Article 4   Term of the contract

4.1   If and insofar as the contract concluded between the parties is a continuing performance contract, the contract shall be entered into for the term agreed between the parties. A term of one year shall apply if no term has been agreed.

4.2   The term of the contract shall be tacitly extended, each time by the period of time originally agreed, unless the client or supplier terminate the contract in writing with due observance of a notice period of three months prior to the end of the current term.

Article 5   Confidentiality and transfer of personnel

5.1   The client and supplier must ensure that all information received from the other party that the receiving party knows or should reasonably know is confidential is kept secret. This duty of confidentiality shall not apply to HydroLogic if and insofar as HydroLogic is required to provide the information concerned to a third party in accordance with a court decision or a statutory requirement, or if and insofar as doing so is necessary for the proper performance of the contract by HydroLogic. The party that receives the confidential information may only use it for the purpose for which it was provided. Information shall in any case be deemed to be confidential if it has been qualified as such by one of the parties.

5.2   The client acknowledges that software originating from HydroLogic is always confidential in nature and that this software contains trade secrets of HydroLogic and its suppliers or the producer of the software.

5.3   During the term of the contract and for one year following its termination, each of the parties shall not employ or otherwise directly or indirectly engage, for the purpose of performing work, employees of the other party who are or were involved in the performance of the contract unless the other party has given prior written permission. Conditions may be attached to this permission, including the condition that the client must pay reasonable compensation to HydroLogic.

Article 6 Privacy and data processing

6.1 If necessary for the performance of the contract, the client shall on request inform HydroLogic in writing about the way in which the client performs its legal obligations regarding the protection of personal data.

6.2 The client indemnifies HydroLogic against claims of persons whose personal data is recorded or processed in the context of a register of personal data that is maintained by the client or for which the client is otherwise responsible by law, unless the client proves that the facts on which a claim is based are attributable to HydroLogic.

6.3 The client is fully responsible for the data that it processes in the context of using a service of HydroLogic. The client guarantees vis-à-vis HydroLogic that the content, use and/or processing of the data are not unlawful and do not infringe any right of a third party. The client indemnifies HydroLogic against any claim of a third party instituted for whatever reason in connection with this data or the performance of the contract.

Article 7 Security

7.1 If HydroLogic is obliged to provide for a form of information security under the contract, this security shall meet the specifications agreed in writing between the parties regarding security. HydroLogic does not guarantee that the information security provided is effective under all circumstances. If the contract does not include an explicitly defined security method, the security provided shall meet a standard that is not unreasonable in terms of the state of the art, the sensitivity of the information and the costs associated with the security measures taken.

7.2 The access or identification codes and certificates provided by or because of HydroLogic to the client are confidential and must be treated as such by the client, and may only be made known to authorised personnel in the client's own organisation. HydroLogic is entitled to change the access or identification codes and certificates.

7.3 The client must adequately secure its systems and infrastructure and have active antivirus software protection at all times.

Article 8 Retention of title, reservation of rights and suspension

8.1 All items delivered to the client shall remain the property of HydroLogic until all amounts owed by the client to HydroLogic under the contract concluded between the parties have been paid to HydroLogic in full. A client that acts as a reseller may sell and supply all items that are subject to HydroLogic's retention of title insofar as doing so is usual in the context of the client's ordinary course of business.

8.2 The property-law consequences of the retention of title with respect to an item destined for export shall be governed by the laws of the State of destination if those laws contain provisions that are more favourable to HydroLogic.

8.3 As and when necessary, rights shall be granted or transferred to the client subject to the condition that the client has paid all amounts owed under the contract.

8.4 HydroLogic may retain all information, documents, software and/or data files received or created in the context of the contract in spite of an existing obligation to hand over or transfer until the client has paid all amounts owed to HydroLogic.

Article 9 Risk transfer

9.1 The risk of loss, theft, misappropriation or damage of items, information (including user names, codes and passwords), documents, software or data files that are created, supplied or used in the context of performing the contract shall pass to the client at the time at which the client or an auxiliary person of the client comes into actual possession of the items and information referred to.

Article 10 Intellectual property

10.1 If HydroLogic is prepared to undertake to transfer an intellectual property right, such a commitment may only be undertaken expressly and in writing. If the parties agree in writing that an intellectual property right with respect to software, websites, data files, equipment or other materials specifically developed for the client shall transfer to the client, this shall be without prejudice to HydroLogic's right or option to use and/or operate, either for itself or for third parties and without any restriction, the parts, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like on which the developments referred to are based for other purposes. The transfer of an intellectual property right shall likewise be without prejudice to HydroLogic's right to complete developments, either for itself or for a third party, that are similar to or derived from developments that were or are being completed for the client.

10.2 All intellectual property rights to the software, websites, data files, equipment and training, testing and examination materials, as well as other materials like analyses, designs, documentation, reports and offers, including preparatory materials in this regard, developed or made available to the client under the contract are held exclusively by HydroLogic, its licensors or its suppliers. The client shall have the rights of use expressly granted under these general terms and conditions, the contract concluded in writing between the parties and the law. A right accorded to the client is non-exclusive and may not be transferred, pledged or sublicensed.

10.3 The client may not remove or change any indication concerning the confidential nature of or concerning the copyrights, brands, trade names or any other intellectual property right pertaining to the software, websites, data files, equipment or materials, or have any such indication removed or changed.

10.4 Even if not expressly provided for in the contract, HydroLogic may always take technical measures to protect equipment, data files, websites, software made available, software to which the client is granted direct or indirect access, and the like in connection with an agreed limitation in terms of the content or duration of the right of use of these items. The client may not remove or bypass such technical measures or have such technical measures removed or bypassed.

10.5 HydroLogic indemnifies the client against any claim of a third party based on the allegation that software, websites, data files, equipment or other materials developed by HydroLogic itself infringe an intellectual property right of that third party, subject to the condition that the client immediately informs HydroLogic in writing about the existence and content of the claim and leaves the settlement of the claim,

including any arrangements made in this regard, entirely to HydroLogic. The client shall provide the powers of attorney and information required to HydroLogic and assist HydroLogic to defend itself against such claims. This obligation to indemnity shall not apply if the alleged infringement concerns (i) materials made available to HydroLogic by the client for use, modification, processing or maintenance or (ii) changes made or commissioned by the client in the software, website, data files, equipment or other materials without HydroLogic's written permission. If it is irrevocably established in court that software, websites, data files, equipment or other materials developed by HydroLogic itself is or are infringing any intellectual property right held by a third party, or if, in the opinion of HydroLogic, there is a good chance that such an infringement is occurring, HydroLogic shall if possible ensure that the client can continue to use, or use functional equivalents of, the software, websites, data files, equipment or materials supplied. Any other or further obligation to indemnify on the part of HydroLogic due to infringement of a third party's intellectual property right is excluded.

10.6   The client guarantees that making equipment, software, material intended for websites, data files and/or other materials and/or designs available to HydroLogic for the purpose of use, maintenance, processing, installation or integration does not infringe any rights of third parties. The client indemnifies HydroLogic against any claim of a third party based on the allegation that such making available, use, maintenance, processing, installation or integration infringes a right of that third party.

10.7   HydroLogic is never obliged to perform data conversion unless doing so has been expressly agreed in writing with the client.

Article 11 Obligations to cooperate

11.1   The parties acknowledge that the success of work in the field of information and communications technology depends on proper and timely cooperation between the parties. The client shall always extend, in a timely manner, the cooperation reasonably required by HydroLogic.

11.2   The client bears the risk of selecting the items, goods and/or services to be provided by HydroLogic. The client must always exercise the utmost care to guarantee that the requirements that HydroLogic's performance must meet are accurate and complete. Measurements and particulars given in drawings, images, catalogues, websites, offers, advertising material, standardisation sheets and the like are not binding for HydroLogic unless expressly stated otherwise by HydroLogic.

11.3   If the client deploys employees and/or auxiliary persons in the performance of the contract, these employees and auxiliary persons must have the knowledge and experience required. If HydroLogic's employees perform work at the client's location, the client must provide, on time and free of charge, the facilities required, such as a workspace with computer and network facilities. HydroLogic shall not be liable for damage or costs due to transmission errors, malfunctions or the non-availability of these facilities unless the client proves that this damage or these costs are the result of deliberate intent or recklessness on the part of HydroLogic's management.

11.4   The workspace and facilities must meet all legal requirements. The client indemnifies HydroLogic against claims of third parties, including HydroLogic's employees, who suffer injury in the context of performing the contract as a result of acts or omissions of the client or unsafe situations in the client's organisation. The client shall make the company and security rules current in its organisation known to employees deployed by HydroLogic prior to the start of the work.

11.5   If, in connection with HydroLogic's services and products, the client makes software, equipment or other resources available to HydroLogic, the client guarantees that all licences or approvals that HydroLogic may require in relation to these resources shall be obtained.

11.6   The client is responsible for the management, including checking the settings, and use of the products supplied and/or services provided by HydroLogic, and the way in which the results of the products and services are used. The client is also responsible for appropriately instructing users and for the use made by users.

11.7   The client shall itself install, organise, parameterise and tune the software and support software required on its own equipment and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

Article 12 Obligations to provide information

12.1   To enable proper performance of the contract by HydroLogic, the client shall always provide all information reasonably required by HydroLogic to HydroLogic in a timely manner.

12.2   The client guarantees that the information, designs and specifications that it has provided to HydroLogic is or are accurate and complete. If the information, designs or specifications provided by the client contain inaccuracies apparent to HydroLogic, HydroLogic shall contact the client to make enquiries about the matter.

12.3   In connection with continuity, the client shall designate a contact person or contact persons who shall act in that capacity for the duration of HydroLogic's work. The client's contact persons shall have the experience required, specific knowledge of the subject matter and a proper understanding of the objectives that the client wishes to achieve.

12.4   HydroLogic is only obliged to periodically provide information concerning the performance of the work to the client through the contact person designated by the client.

Article 13 Project and steering groups

13.1   If both parties are participating in a project or steering group through one or more employees that they have deployed, the provision of information shall take place in the manner agreed for the project or steering group.

13.2   Decisions made in a project or steering group in which both parties are participating shall only be binding for HydroLogic if the decisions are made in accordance with that which has been agreed between the parties in writing in this regard or, in the absence of written agreements in this context, if HydroLogic has accepted the decisions in writing. HydroLogic is never obliged to accept or implement a decision if, in its opinion, the decision cannot be reconciled with the content and/or proper performance of the contract.

13.3   The client guarantees that the persons that it has designated to participate in a project or steering group are authorised to make decisions that are binding for the client.

Article 14 Terms

14.1 HydroLogic shall make reasonable efforts to comply to the greatest extent possible with the terms and delivery periods and/or dates and delivery dates, whether or not these are firm deadlines and/or dates, that it has specified or that have been agreed between the parties. The interim dates and delivery dates specified by HydroLogic or agreed between the parties shall always apply as target dates, shall not bind HydroLogic and shall always be indicative.

14.2 If a term is likely to be exceeded, HydroLogic and client shall consult with each other about the consequences of the term being exceeded in relation to further planning.

14.3 In all cases, therefore also if the parties have agreed firm deadlines and delivery periods or dates and delivery dates, HydroLogic shall only be in default as a result of a period of time being exceeded after the client has declared HydroLogic to be in default in writing and a reasonable term that the client granted to HydroLogic to remedy the breach has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give HydroLogic the opportunity to respond adequately.

14.4 If it has been agreed that the work under the contract is to be performed in phases, HydroLogic shall be entitled to postpone the start of a phase's work until the client has approved the results of the preceding phase in writing.

14.5 HydroLogic shall not be bound by a date or delivery date or term or delivery period, whether or not final, if the parties have agreed an amendment to the content or scope of the contract (additional work, a change of specifications and so on) or a change in approach with respect to performance of the contract, or if the client fails to fulfil its obligations arising from the contract or fails to do so on time or in full. The need for or occurrence of additional work during performance of the contract shall never constitute a reason for the client to give notice of termination or to rescind (in Dutch: 'ontbinden') the contract.

Article 15 Termination and cancellation of the contract

15.1 Each party shall only be authorised to rescind the contract due to an attributable failure in the performance of the contract if the other party, in all cases after a written notice of default that is as detailed as possible and that grants a reasonable term to remedy the breach has been issued, is culpably failing to fulfil essential obligations under the contract. The client's payment obligations and all obligations of the client or a third party engaged by the client to cooperate and/or provide information apply in all cases as essential obligations under the contract.

15.2 If, at the time of rescission, the client has already received goods or services in the performance of the contract, these goods or services and the associated payment obligations shall not be undone unless the client proves that HydroLogic is in default with respect to the essential part of such goods or services. With due regard to the stipulation of the preceding sentence, amounts invoiced by HydroLogic prior to rescission in connection with what it already properly performed or delivered in the performance of the contract shall remain payable in full and shall become immediately due and payable at the time of termination.

15.3 A contract which, due to its nature and content, does not end in completion and which has been entered into for an indefinite period of time may be terminated by either of the parties in writing following consultation between the parties. Reasons for the termination must be stated. If a notice period has not been agreed between the parties, a reasonable period must be observed when notice of termination is given. HydroLogic is never obliged to pay any compensation due to termination.

15.4 The client may not terminate a contract of engagement that has been entered into for a definite period of time.

15.5 Either of the parties may terminate the contract in writing, in whole or in part, without notice of default being required and with immediate effect, if the other party is granted a moratorium, whether or not provisional, a petition for bankruptcy is filed for the other party or the company of the other party is liquidated or dissolved other than for restructuring or a merger of companies. HydroLogic may also terminate the contract, in whole or in part, without notice of default being required and with immediate effect, if a direct or indirect change occurs in the decisive control of the client's company. HydroLogic is never obliged to repay any amount in money already received or pay any amount in compensation due to termination as referred to in this article. If the client goes irrevocably bankrupt, its right to use the software, websites and the like made available to it shall end, as shall its right to access and/or use HydroLogic's services, without termination by HydroLogic being required.

Article 16 Liability of HydroLogic

16.1 HydroLogic's total liability due to an attributable failure in the performance of the contract or on any legal basis whatsoever, expressly including each and every failure to fulfil a warranty obligation agreed with the client, shall be limited to compensation for direct loss up to a maximum of the price stipulated for the contract concerned (excluding VAT). If the contract is mainly a continuing performance contract with a term of more than one year, the price stipulated for the contract shall be set at the total amount of the payments (excluding VAT) stipulated for one year. HydroLogic's total liability for direct loss, on any legal basis whatsoever, shall never amount to more than EUR 500.000 (five hundred thousand euros), however.

16.2 HydroLogic's total liability for loss due to death or bodily injury or as a result of material damage to items shall never amount to more than EUR 1.250.000 (one million two hundred fifty thousand euros).

16.3 HydroLogic's liability for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of the client's clients, loss arising from the use of items, materials or software of third parties prescribed by the client to HydroLogic and loss arising from the engagement of suppliers prescribed by the client to HydroLogic is excluded. HydroLogic's liability for corruption, destruction or loss of data or documents is likewise excluded.

16.4 The exclusions and limitations of HydroLogic's liability described in articles 16.1 up to and including 16.3 are entirely without prejudice to the other exclusions and limitations of HydroLogic's liability described in these general terms and conditions.

16.5 The exclusions and limitations referred to in articles 16.1 up to and including 16.4 shall cease to apply if and insofar as the loss is the result of deliberate intent or recklessness on the part of HydroLogic's management.

16.6 Unless performance by HydroLogic is permanently impossible, HydroLogic shall only be liable due to an attributable failure in the performance of a contract if the client declares HydroLogic to be in default in writing without delay and grants HydroLogic a reasonable term to remedy the breach, and HydroLogic culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give HydroLogic the opportunity to respond adequately.

16.7 For there to be any right to compensation, the client must always report the loss to HydroLogic in writing as soon as possible after the loss has occurred. Each claim for compensation against HydroLogic shall be barred by the mere expiry of a period of 24 months following the inception of the claim unless the client has instituted a legal action for damages prior to the expiry of this period.

16.8 The client indemnifies HydroLogic against any and all claims of third parties due to product liability as a result of a defect in a product or system that the client supplied to a third party and that consisted in part of equipment, software or other materials supplied by HydroLogic, unless and insofar the client is able to prove that the loss was caused by the equipment, software or other materials referred to.

16.9 The provisions of this article and all other limitations and exclusions of liability referred to in these general terms and conditions shall also apply for the benefit of all natural persons and legal entities that HydroLogic engages in the performance of the contract.

Article 17 Force majeure

17.1 None of the parties shall be obliged to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure on the part of HydroLogic means, among other things: (i) force majeure on the part of the suppliers of HydroLogic, (ii) the failure to properly fulfil obligations on the part of suppliers that were prescribed to HydroLogic by the client, (iii) defects in items, equipment, software or materials of third parties the use of which was prescribed to HydroLogic by the client, (iv) government measures, (v) power failures, (vi) Internet, data network or telecommunication facilities failures, (vii) war and (viii) general transport problems.

17.2 Either of the parties shall have the right to rescind the contract in writing if a situation of force majeure persists for more than 60 days. In such an event, that which has already been performed under the contract shall be paid for on a proportional basis without the parties owing each other anything else.

Article 18 Changes and additional work

18.1 If, at the request or prior consent of the client, HydroLogic has performed work or supplied goods or services that is or are outside the scope of the agreed work and/or provision of goods or services, the client shall pay for this work or provision of goods or services in accordance with the agreed rates or, if no rates have been agreed between the parties, in accordance with HydroLogic's usual rates. HydroLogic is not obliged to honour such a request and may require that a separate contract be concluded in writing for the purpose.

18.2 Insofar as a fixed price has been agreed for the provision of services, HydroLogic shall on request inform the client in writing about the financial consequences of the additional work or additional provision of goods or services as referred to in this article.

Article 19 Transfer of rights and obligations

19.1 The client may not sell, transfer or pledge its rights and obligations under a contract to a third party.

19.2 HydroLogic is entitled to sell, transfer or pledge its claims to payment of amounts owed to a third party.

Article 20 Applicable law and disputes

20.1 Contracts between HydroLogic and client are governed by Dutch law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.

20.2 Disputes that arise by reason of the contract concluded between the parties and/or by reason of any further contracts deriving from it shall be resolved by arbitration in accordance with the Arbitration Regulations of the Foundation for the Settlement of Automation Disputes (Stichting Geschillenoplossing Automatisering - SGOA), which has its registered office in The Hague, the Netherlands, the foregoing without prejudice to the right of each party to request preliminary relief in summary arbitral proceedings and without prejudice to the right of each party to take precautionary measures. Arbitration proceedings shall take place in The Hague.

20.3 If a dispute that arises by reason of the contract concluded between the parties or by reason of any further contracts deriving from it is within the jurisdiction of the cantonal court (in Dutch: kantongerecht), each party, in derogation from the provisions of Article 20.2, shall be entitled to bring the case before the legally competent court as a cantonal court case. The parties shall only be entitled to take the afore- mentioned action if arbitration proceedings concerning the dispute have not yet been instituted in accordance with the provisions of Article 20.2. If, with due observance of the provisions of Article 20.3, one or more of the parties have brought the case before the legally competent court in order for it to be heard and settled, the cantonal court judge of that court shall be competent to hear and settle the case.

20.4 Regarding a dispute that arises by reason of the contract concluded between the parties or by reason of any further contracts deriving from it, each party shall in all cases be entitled to institute ICT mediation proceedings in accordance with the ICT Mediation Regulations of the Foundation for the Settlement of Automation Disputes.
The other party must then actively participate in ICT mediation proceedings that have been instituted. This legally enforceable obligation in any case includes attending at least one joint meeting of mediators and the parties to give this extrajudicial form of dispute resolution a chance of success. Each party shall be free to terminate the ICT mediation proceedings at any time after a joint first meeting of mediators and the parties. The provisions of this article do not prevent a party from requesting preliminary relief in summary arbitral proceedings or from taking precautionary measures if the party deems doing so necessary.

Paragraph 2. Provision of services

The provisions of this 'Provision of services' paragraph shall apply in addition to the general provisions of these general terms and conditions if HydroLogic provides services of whatever nature, whether or not set out in more detail in one of the other paragraphs of these general terms and conditions, to the client.

Article 21 Performance

21.1 HydroLogic shall perform its services with care to the best of its ability, if applicable in accordance with the agreements and procedures agreed in writing with the client. All services by HydroLogic shall be performed on the basis of an obligation to use best endeavours unless and insofar as HydroLogic has expressly promised a result in the written contract and the result concerned has also been defined with sufficient determinability in the contract.

21.2 HydroLogic shall not be liable for loss or costs that are the result of the use or misuse of access or identification codes or certificates unless the misuse is the direct result of deliberate intent or recklessness on the part of HydroLogic's management.

21.3 If the contract has been entered into with a view to performance by one specific person, HydroLogic shall always be entitled to replace this person with one or more persons who have the same and/or similar qualifications.

21.4 HydroLogic is not obliged to follow the client's instructions in the performance of its services, particularly not if these instructions change or add to the content and scope of the agreed services. If such instructions are followed, however, payment shall be made for the work concerned in accordance with HydroLogic's usual rates.

Article 22 Service Level Agreement

22.1 Any agreements concerning a service level (Service Level Agreements) shall only be expressly agreed in writing. The client shall always inform HydroLogic without delay about any circumstances that affect or that could affect the service level and its availability.

22.2 If agreements about a service level have been made, the availability of software, systems and related services shall always be measured such that unavailability due to preventive, corrective or adaptive maintenance or other forms of service announced by HydroLogic in advance and circumstances beyond HydroLogic's control are not taken into account. The availability measured by HydroLogic shall count as conclusive evidence, subject to evidence to the contrary produced by the client.

Article 23 Backups

23.1 If the services provided to the client under the contract include making backups of the client's data, HydroLogic shall make a complete backup of the client's data in its possession in accordance with the periods agreed in writing or once a week if such periods have not been agreed. HydroLogic shall retain the backup for the duration of the agreed term or for the duration of HydroLogic's usual term if agreements have not been made in this regard. HydroLogic shall retain the backup with due care.

23.2 The client remains responsible for the fulfilment of all administrative and retention obligations that apply to it by law.

Paragraph 3. Software as a Service (SaaS)

The provisions of this 'Software as a Service' paragraph shall apply in addition to the general provisions of these general terms and conditions and the provisions of the 'Provision of services' paragraph if HydroLogic performs services under the name or in the field of Software as a Service (SaaS).
For the application of these general terms and conditions, SaaS means a service by which HydroLogic makes software available to the client remotely through the Internet or another data network, and maintains this availability remotely, without providing a physical carrier with the software concerned to the client.

Article 24 Provision of SaaS

24.1 HydroLogic shall only provide SaaS on the instructions of the client. The client may not allow third parties to make use of the services provided by HydroLogic in the field of SaaS.

24.2 If HydroLogic performs work relating to the data of the client, its employees or users pursuant to a request or a competently issued order of a government agency or in connection with a legal obligation, all costs associated with this work shall be charged to the client.

24.3 HydroLogic may change the content or scope of the SaaS delivery model. If such changes result in a change in the client's current procedures, HydroLogic shall inform the client about the matter as soon as possible and the costs of this change shall be borne by the client. The client may in this case give notice of termination of the contract, which termination shall then take effect on the date on which the change takes effect, unless the change is related to changes in relevant legislation or other instructions issued by competent bodies, or HydroLogic bears the costs of this change.

24.4 HydroLogic may continue to provide SaaS using a new or modified version of the software. HydroLogic is not obliged to maintain, modify or add certain features or functionalities of the service or software specifically for the client.

24.5 HydroLogic may temporarily put all or part of the SaaS out of operation for preventive, corrective or adaptive maintenance or other forms of service. HydroLogic shall not allow the period during which the service is out of operation to last longer than necessary and shall ensure if possible that this period occurs outside office hours.

24.6 HydroLogic is never obliged to provide a physical carrier to the client that contains the software provided to and held by the client in the context of the SaaS.

Article 25 Guarantee

25.1 HydroLogic does not guarantee that the software made available and held in the context of the SaaS is free of errors and functions without interruption. HydroLogic shall make efforts to fix the errors in the software referred to in Article 30.3 within a reasonable term if and insofar as the matter concerns software developed by HydroLogic itself and the client has provided a detailed, written description of the defects concerned to HydroLogic. Where there are grounds for doing so, HydroLogic may postpone the fixing of defects until a new version of the software is put into operation. HydroLogic does not guarantee that defects in software that it has not developed itself shall be fixed. HydroLogic is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software.

If the software was developed on the instructions of the client, HydroLogic may charge for the costs of fixing to the client in accordance with HydroLogic's usual rates.

25.2 Based on the information provided by HydroLogic concerning measures to prevent and limit the effects of malfunctions, defects in the SaaS, corruption or loss of data or other incidents, the client shall identify and list the risks to its organisation and take additional measures if necessary. HydroLogic declares that it is prepared to provide assistance, at the client's request, to the extent reasonable and according to the financial and other conditions set by HydroLogic, with respect to further measures to be taken by the client. HydroLogic is never obliged to recover data that has been corrupted or lost.

25.3 HydroLogic does not guarantee that the software made available and held in the context of the SaaS shall be adapted to changes in relevant legislation and regulations on time.

Article 26 Protection of personal data

26.1 Under legislation pertaining to the processing of personal data, such as the Personal Data Protection Act, the client has obligations towards third parties, such as the obligation to provide information and allow the person concerned to inspect his or her personal data, and correct and delete the personal data of the person concerned. The client is fully and solely responsible for the fulfilment of these obligations. The parties maintain that HydroLogic is the 'processor' within the meaning of the Personal Data Protection Act with respect to the processing of personal data.

26.2 To the extent that doing so is technically possible, HydroLogic shall provide support in the context of the obligations that the client must fulfil as referred to in Article 26.1. The costs associated with this support are not included in the agreed prices and payments and shall be borne by the client.

Article 27 Commencement of the service; payment

27.1 The SaaS provided by HydroLogic shall commence within a reasonable term following the conclusion of the contract. The client shall promptly ensure that it has the facilities required to use the SaaS following the conclusion of the contract.

27.2 The client shall owe the payment specified in the contract for the SaaS. In the absence of an agreed payment schedule, all amounts that relate to the SaaS provided by HydroLogic shall be payable each calendar month in advance.

Paragraph 4. Software

The provisions of this 'Software' paragraph shall apply in addition to the general provisions if HydroLogic makes software available to the client for use other than on the basis of SaaS.

Article 28 Right of use and restrictions on use

28.1 HydroLogic shall make the agreed computer programs and agreed user documentation, hereinafter referred to as the 'software', available to the client for use for the duration of the contract on the basis of a licence for use. The right to use the software is non-exclusive and may not be transferred, pledged or sublicensed.

28.2 HydroLogic's obligation to make available and the client's right of use extend only to the software's object code. The client's right of use does not extend to the software's source code. The software's source code and technical documentation prepared during the development of the software shall not be made available to the client, not even if the client is prepared to pay a financial amount for the source code and technical documentation.

28.3 The client shall always strictly comply with the agreed restrictions on the use of the software, regardless of the nature or content of these restrictions.

28.4 If the parties have agreed that the software may only be used in combination with certain equipment, the client shall in the event of any malfunction of this equipment be entitled to use the software on other equipment with the same qualifications during the time that the original equipment remains defective.

28.5 HydroLogic may require that the client only start using the software after having received one or more codes needed for use from HydroLogic, HydroLogic's supplier or the producer of the software. HydroLogic is always entitled to take technical measures to protect the software against unlawful use and/or against use in a manner or for purposes other than the manner or purposes agreed between the parties. The client shall never remove or bypass technical measures intended to protect the software or have such technical measures removed or bypassed.

28.6 The client may only use the software in and for its own company or organisation and only insofar as doing so is necessary for the intended use. The client shall not use the software for third parties, for example in the context of Software as a Service (SaaS) or outsourcing.

28.7 The client may never sell, rent out, dispose of or grant limited rights to, or make available to third parties the software and the carriers on which the software is or will be recorded, in any way whatsoever for whatever purpose or under whatever title. The client may also not grant, whether or not remotely (online), a third party access to the software or place the software with a third party for hosting, not even if the third party concerned only uses the software for the client.

28.8 If so requested, the client shall cooperate without delay in an investigation into compliance with the agreed restrictions on use carried out by or for HydroLogic. Should HydroLogic so demand, the client shall grant HydroLogic access to its buildings and systems. Insofar as such information does not concern the use of the software itself, HydroLogic shall treat all confidential business information that it obtains from the client or at the client's business location in the context of an investigation as confidential.

28.9 The parties maintain that the contract concluded between the parties, insofar as the object of this contract is the making available of software for use, shall never be deemed to be a purchase contract.

28.10 HydroLogic is not obliged to maintain the software and/or provide support to users and/or administrators of the software. If, contrary to the foregoing, HydroLogic is asked to perform maintenance work and/or provide support with respect to the software, HydroLogic may require that the client enter into a separate, written contract for the purpose.

Article 29 Delivery and installation

29.1 At its discretion, HydroLogic shall deliver the software on the agreed type of data carrier or, if no agreements have been made in this regard, on a type of data carrier determined by HydroLogic, or shall make the software available to the client online. At HydroLogic's discretion, any agreed user documentation shall be made available in printed or digital form in a language determined by HydroLogic.

29.2 HydroLogic shall only install the software at the client's business location if this has been agreed between the parties. If no agreements have been made for the purpose, the client shall itself install, organise, parameterise, tune and, if necessary, modify the equipment and operating environment used.

Article 30 Acceptance

30.1 If the parties have not agreed an acceptance test, the client shall accept the software in the state that it is in when delivered ('as is, where is'), therefore with all visible and invisible errors and defects, without prejudice to HydroLogic's obligations under the guarantee scheme as set out in Article 34. In the aforementioned case, the software shall be deemed to have been accepted by the client upon delivery or, if installation by a supplier has been agreed in writing, upon completion of installation.

30.2 The provisions of articles 30.3 up to and including 30.10 shall apply if an acceptance test has been agreed between the parties.

30.3 In these general terms and conditions, 'error' means substantial failure of the software to meet the functional or technical specifications of the software expressly made known by HydroLogic in writing and, if all or part of the software concerns customised software, to meet the functional or technical specifications expressly agreed in writing. An error only applies if it can be demonstrated by the client and if it is reproducible. The client must report errors without delay. Any obligation of HydroLogic is limited to errors within the meaning of these general terms and conditions. HydroLogic does not have any obligation whatsoever with respect to other defects in or on the software.

30.4 If an acceptance test has been agreed, the test period shall amount to 14 days following delivery or, if installation by HydroLogic has been agreed in writing, 14 days following the completion of installation. The client may not use the software for production or operational purposes during the test period. The client shall carry out the agreed acceptance test with qualified personnel and with sufficient scope and depth.

30.5 If an acceptance test has been agreed, the client must check whether the software delivered meets the functional or technical specifications expressly made known by HydroLogic in writing and, if and to the extent that all or part of the software concerns customised software, meets the functional or technical specifications expressly agreed in writing.

30.6 The parties shall deem the software to have been accepted:
   a. if the parties have agreed an acceptance test: on the first day following the test period, or
   b. if HydroLogic receives a test report as referred to in Article 30.7 prior to the end of the test period: at the time at which the errors stated in this test report have been fixed, notwithstanding the presence of errors that, according to Article 30.8, do not prevent acceptance, or
   c. if the client uses the software in any way for production or operational purposes: at the time at which this use occurs.

30.7 If it becomes apparent during performance of the agreed acceptance test that the software contains errors, the client shall report the test results to HydroLogic in writing in a clear, detailed and comprehensible manner no later than on the last day of the test period. HydroLogic shall strive to the best of its ability to fix the errors referred to within a reasonable term. HydroLogic shall be entitled to install temporary solutions, program bypasses or problem-avoiding limitations in this regard.

30.8 The client may not refuse to accept the software for reasons that are not related to the specifications expressly agreed in writing between the parties and, furthermore, may not refuse to accept the software because of the existence of minor errors, these being errors that do not reasonably prevent the operational or productive use of the software, the foregoing without prejudice to HydroLogic's obligation to fix these minor errors in the context of the guarantee scheme referred to in Article 34. In addition, acceptance may not be refused because of aspects of the software that can only be assessed subjectively, such as aesthetic aspects of user interfaces.

30.9 If the software is delivered and tested in phases and/or parts, non-acceptance of a certain phase and/or part shall be without prejudice to the acceptance of a previous phase and/or a different part.

30.10 Acceptance of the software in one of the ways referred to in this article shall serve to discharge HydroLogic of its obligations regarding making the software available and delivering the software and, if installation of the software by HydroLogic has also been agreed, of its obligations regarding installation. Acceptance of the software shall be without prejudice to the client's rights based on Article 30.8 regarding minor defects and Article 34 regarding the guarantee.

Article 31 Availability

31.1 HydroLogic shall make the software available within a reasonable term following the conclusion of the contract.

31.2 Following the end of the contract, the client shall return all copies of the software in its possession to HydroLogic without delay. If it has been agreed that the client must destroy the copies concerned at the end of the contract, the client shall report the destruction of the copies to HydroLogic in writing without delay. At or following the end of the contract, HydroLogic shall not be obliged to provide assistance for the purpose of a data conversion desired by the client.

Article 32 Payment for the right of use

32.1 The client must pay the amount owed for the right of use at the agreed times or, if a time has not been agreed:
   a. if the parties have not agreed that HydroLogic shall install the software:

- when the software is delivered;
- or, in the case of periodically owed payments for the right of use, when the software is delivered and subsequently at the start of each new right of use term;

b. if the parties have agreed that HydroLogic shall install the software:
- upon completion of installation;
- or, in the case of periodically owed payments for the right of use, upon completion of installation and subsequently at the start of each new right of use term.

Article 33 Changes in the software

33.1 Baring exceptions provided for by law, the client may not change all or part of the software without the prior written permission of HydroLogic. HydroLogic is entitled to refuse or attach conditions to such permission. The client shall bear the entire risk of all changes that it makes or changes made by third parties on its instructions, whether or not with HydroLogic's permission.

Article 34 Guarantee

34.1 HydroLogic shall strive to the best of its ability to fix errors within a reasonable term if these errors are reported in writing in a detailed manner to HydroLogic within a period of three months following delivery or, if an acceptance test was agreed, within three months following acceptance. HydroLogic does not guarantee that the software is suitable for actual use and/or the intended use. HydroLogic also does not guarantee that the software will operate without interruption and/or that all errors will always be fixed. Fixing work shall be carried out free of charge unless the software was developed on the instructions of the client other than for a fixed price, in which case HydroLogic shall charge for the costs of fixing in accordance with its usual rates.

34.2 HydroLogic may charge for the costs of fixing in accordance with its usual rates if such work is required as a result of user errors or improper use on the part of the client, or as a result of causes that cannot be attributed to HydroLogic. The obligation to fix errors shall cease to apply if the client makes changes in the software or has such changes made without HydroLogic's written permission.

34.3 The fixing of errors shall take place at a location and in a manner determined by HydroLogic. HydroLogic is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software.

34.4 HydroLogic is never obliged to recover data that has been corrupted or lost.

34.5 HydroLogic does not have any obligation whatsoever, of whatever nature or content, with respect to errors reported after the end of the guarantee period referred to in Article 34.1.

Article 35 Software of suppliers

35.1 If and insofar as HydroLogic makes third-party software available to the client, the licence terms of the third parties concerned shall apply in the relationship between HydroLogic and the client with respect to the software instead of the provisions of these general terms and conditions that differ from those licence terms, provided that the applicability of the licence terms of the third party concerned was reported to the client by HydroLogic in writing and, in addition, a copy of the applicable licence terms was made available to the client prior to the conclusion of the contract. In derogation from the provisions of the preceding sentence, the client shall not be entitled to invoke failure on the part of HydroLogic to fulfil the aforementioned obligation to provide information if the client is a party as referred to in Section 235, subsection 1 or subsection 3 of Book 6 of the Dutch Civil Code.

35.2 If and insofar as, for whatever reason, the terms of third parties referred to above are deemed not to apply or are declared inapplicable in the relationship between the client and HydroLogic, the provisions of these general terms and conditions shall apply in full.

Paragraph 5. Development of software and websites

The provisions of this 'Development of software and websites' paragraph shall apply in addition to the general provisions and the provisions of the Provision of services' paragraph if HydroLogic designs and/or develops software and/or a website for the client and possibly installs the software and/or website.

Article 36 Specifications and development of software/a website

36.1 If specifications or a design of the software or website to be developed have not already been provided prior to the conclusion of the contract or are not provided when the contract is concluded, the parties shall in consultation specify, in writing, the software or website to be developed and the manner in which the development is to be carried out.

36.2 HydroLogic shall develop the software and/or website with due care in accordance with the expressly agreed specifications or design and, if applicable, having regard to the project organisation, methods, techniques and/or procedures agreed in writing with the client. HydroLogic may require that the client agree to the specifications or design in writing prior to commencement of the development work.

36.3 If the parties use a development method based on iterative design and/or development of the software or parts of the software or website or parts of the website (Scrum, for example), the parties shall accept that, at the start, the work shall not be performed on the basis of complete or fully detailed specifications, and also that specifications, which may or may not have been agreed on commencement of the work, may be changed, in consultation and with due observance of the project approach that forms part of the development method concerned, during the performance of the contract. During the performance of the contract, the parties shall make decisions in consultation regarding the specifications that shall apply in the subsequent phase of the project (a time box, for example) and/or in the subsequent, constituent development process. The client accepts the risk that the software and/or the website may not necessarily meet all specifications. The client shall ensure that relevant end users permanently and actively contribute and cooperate with respect to, among other things, testing and (further) decision-making, and that the contributions and cooperation of these end users is supported by the client's organisation. The client guarantees that the employees whom it deploys and who are appointed to key positions shall have the decision-making powers required for these positions. The client guarantees expeditiousness with respect to the progress-related decisions that it must make during the performance of the contract. If the client fails to make clear progress-related decisions in a timely

manner in accordance with the project approach that forms part of the development method concerned, HydroLogic shall be entitled, though not obliged, to make the decisions that it deems to be appropriate.

36.4 The provisions of Article 30.1, Articles 30.4 up to and including 30.8 and Article 34.1 shall not apply if the parties use a development method as referred to in Article 36.3. The client shall accept the software and/or website in the state that it is in at the end of the last development phase ('as is, where is'). HydroLogic shall not be obliged to fix errors after the last development phase unless otherwise agreed in writing.

36.5 In the absence of specific agreements on the matter, HydroLogic shall commence the design and/or development work within a term that it deems reasonable following the conclusion of the contract.

36.6 If so requested, the client shall make it possible for HydroLogic to perform work outside the usual working days and working hours at the office or location of the client.

36.7 HydroLogic's performance obligations with respect to the development of a website do not include making a content management system available.

36.8 HydroLogic's performance obligations do not include maintaining the software and/or the website, and/or providing support to users and/or administrators of the software and/or the website. If, contrary to the foregoing, HydroLogic must also perform maintenance work and/or provide support, HydroLogic may require that the client enter into a separate, written contract for the purpose. HydroLogic shall charge for this work in accordance with HydroLogic's usual rates.

Article 37 Delivery, installation and acceptance

37.1 The provisions of Article 29 concerning delivery and installation apply *mutatis mutandis*.

37.2 Unless, pursuant to the contract, HydroLogic must host the software and/or website on its own computer system for the client, HydroLogic shall deliver the website to the client on a data carrier and in a form determined by HydroLogic, or shall make the software and/or website available to the client online.

37.3 The provisions of Article 30 of these general terms and conditions concerning acceptance apply *mutatis mutandis*.

Article 38 Right of use

38.1 HydroLogic shall make the software and/or website developed on the instructions of the client and any associated user documentation available to the client for use.

38.2 The source code of the software and the technical documentation prepared during development of the software shall only be made available to the client if this has been agreed in writing, in which case the client shall be entitled to make changes to the software.

38.3 HydroLogic is not obliged to make available the support software and program or data libraries required for the use and/or maintenance of the software.

38.4 The provisions of Article 28 concerning right of use and restrictions on use apply *mutatis mutandis*.

38.5 No restrictions on use of the software and/or website shall apply to the client, contrary to the stipulation of Article 38.4, only if the content of the written contract expressly shows that all design and development costs shall fully and exclusively be borne by the client.

Article 39 Payment

39.1 In the absence of an agreed payment schedule, all amounts that relate to the design and development of software and/or websites shall be payable each calendar month in arrears.

39.2 The price for the development work includes the payment for the right to use the software or website during the term of the contract.

39.3 The payment for the development of the software does not include a payment for support software and program and data libraries, and any installation services and any modification and/or maintenance of the software required by the client. The payment also does not include the provision of support to users of the software.

Article 40 Guarantee

40.1 The provisions of Article 34 concerning the guarantee apply *mutatis mutandis*.

40.2 HydroLogic does not guarantee that the website that it has developed functions well with all (new versions of) web browser types and possibly other software. HydroLogic also does not guarantee that the website functions well with all types of equipment.

Paragraph 6. Software maintenance and support

The provisions of this 'Software maintenance and support' paragraph shall apply in addition to the general provisions of these general terms and conditions and the provisions of the 'Provision of services' paragraph if HydroLogic performs services in the field of software maintenance and support in the use of software.

Article 41 Maintenance services

41.1 If agreed, HydroLogic shall perform maintenance work with respect to the software specified in the contract. The maintenance obligation includes fixing errors in the software within the meaning of Article 30.3 and, exclusively if agreed in writing, making new versions of the software available in accordance with Article 42.

41.2 The client must report errors discovered in the software in detail. Following receipt of the report, HydroLogic shall strive to the best of its ability to fix errors and/or implement improvements in later, new versions of the software in accordance with its usual procedures. Depending on the urgency and HydroLogic's version and release policy, the results shall be made available to the client in a manner and within a term determined by HydroLogic. HydroLogic is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the software. The client shall itself install, organise, parameterise and tune the corrected software or the new version of the software made available, and, if necessary, modify the equipment and operating environment used.

41.3 The provisions of articles 34.3 and 34.4 apply *mutatis mutandis*.

41.4 If HydroLogic performs maintenance work online, the client shall promptly ensure that a proper infrastructure and network facilities are in place.

41.5 The client shall extend the cooperation required by HydroLogic in the context of maintenance, including temporarily ceasing use of the software and making a backup of all data.

41.6 If the maintenance work relates to software that was not supplied to the client by HydroLogic, the client, if HydroLogic believes this is necessary or desirable for the maintenance work, shall make the source code and the technical (development) documentation of the software, including data models, designs, change logs and the like, available. The client guarantees that it is entitled to make the aforementioned items available. The client grants HydroLogic the right to use and change the software, including the source code and technical (development) documentation, in the context of performing the agreed maintenance work.

41.7 The maintenance work performed by HydroLogic does not affect the client's own responsibility for managing the software, including checking the settings and the way in which the results arising from operating the software are used. The client shall itself install, organise, parameterise and tune the software and support software required and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires.

Article 42 New versions of software

42.1 Maintenance shall include making new versions of the software available only if and insofar as this has been agreed in writing. If maintenance includes making new versions of the software available, they shall be made available at HydroLogic's discretion.

42.2 Three months after an improved version has been made available, HydroLogic shall no longer be obliged to fix errors in the previous version and to provide support and/or perform maintenance work with respect to a previous version.

42.3 HydroLogic may require that the client enter into a further written contract with HydroLogic for a version with new functionality and that a further payment be made for this this version. HydroLogic may incorporate functionality from a previous version of the software in unaltered form, but does not guarantee that each new version includes the same functionality as the previous version. HydroLogic is not obliged to maintain, modify or add certain features or functionalities of the software specifically for the client.

42.4 HydroLogic may require that the client modify its system (equipment, software and the like) if doing so is necessary for the proper functioning of a new version of the software.

Article 43 Support services

43.1 If the services provided by HydroLogic under the contract include the provision of support to users and/or administrators of the software, HydroLogic shall provide, by telephone or email, advice on the use and functioning of the software specified in the contract. HydroLogic may set conditions with respect to the qualifications and the number of persons eligible for support. HydroLogic shall handle properly substantiated requests for support within a reasonable term in accordance with its usual procedures. HydroLogic does not guarantee the accuracy, completeness or timeliness of replies or the support offered. Support services shall be performed on working days during HydroLogic's usual business hours.

43.2 If the services provided by HydroLogic under the contract include the provision of standby services, HydroLogic shall ensure that one or more staff members are available on the days and during the times specified in the contract. The client shall in this case be entitled in the event of urgency to call in the support of staff members on standby if there is a serious malfunction in the operation of the software. HydroLogic does not guarantee that all malfunctions will be repaired speedily.

43.3 The maintenance and other agreed services as referred to in this paragraph shall be performed as from the date on which the contract is concluded, unless the parties have agreed otherwise in writing.

Article 44 Payment

44.1 In the absence of an expressly agreed payment schedule, all amounts that relate to the maintenance of the software and the other services as referred to in this paragraph and laid down in the contract shall be payable each calendar month in advance.

44.2 Amounts relating to the maintenance of the software and the other services as referred to in this paragraph and laid down in the contract shall be payable from the moment of commencement of the contract. The payment for maintenance and other services shall be due regardless of whether or not the client is using the software or exercising the option of maintenance or support.

Paragraph 7. Advice and consultancy

The provisions of this 'Advice and consultancy' paragraph shall apply in addition to the general provisions of these general terms and conditions and the provisions of the 'Provision of services' paragraph if HydroLogic provides services in the field of advice and consultancy.

Article 45 Performance of advisory and consultancy services

45.1 The completion time of an assignment in the field of advice and consultancy depends on various factors and circumstances, such as the quality of the data and information provided by the client and the cooperation of the client and relevant third parties. Unless otherwise agreed in writing, therefore, HydroLogic shall not commit to an assignment completion time in advance.

45.2 HydroLogic's services shall only be performed on HydroLogic's usual working days and during HydroLogic's usual business hours.

45.3 The use that the client makes of advice and/or a consultancy report issued by HydroLogic shall always be at the client's risk. The onus to prove that the advisory and consultancy services or the way in which they are performed are not in conformance with that which has been agreed in writing or may be expected from a competent supplier acting reasonably is entirely on the client, without prejudice to HydroLogic's right to furnish evidence to the contrary through all means.

45.4 Without HydroLogic's prior written permission, the client may not disclose HydroLogic's way of working, methods and techniques and/or the content of HydroLogic's advice or reports to third parties. The client may not provide HydroLogic's advice or reports to a third party or otherwise make HydroLogic's advice or reports public.

Article 46 Reporting
46.1 HydroLogic shall periodically inform the client, in the manner agreed in writing, about the performance of the work. The client shall inform HydroLogic in advance and in writing about circumstances of importance or circumstances that could be of importance to HydroLogic, such as the manner of reporting, the issues to be addressed, the client's prioritisation, the availability of resources and personnel of the client, and special facts or circumstances or facts or circum- stances of which HydroLogic is possibly unaware. The client shall ensure that the information provided by HydroLogic is further disseminated and noted within the client's organisation and that it is assessed partly on the basis of this inspection, and shall inform HydroLogic about this inspection and assessment.

Article 47 Payment
47.1 In the absence of an expressly agreed payment schedule, all amounts that relate to the services provided by HydroLogic as referred to in this paragraph shall be payable each calendar month in arrears.

Paragraph 8. Education and training
The provisions of this 'Education and training' paragraph shall apply in addition to the general provisions of these general terms and conditions and the provisions of the 'Provision of services' paragraph if HydroLogic provides services, under whatever name and in any manner whatsoever (for example in electronic form), in the field of education, training, workshops, seminars and the like (hereinafter referred to as 'training course').

Article 48 Registration and cancellation
48.1 A course must be registered for in writing. Registration is binding following its confirmation by HydroLogic.
48.2 The client is responsible for the choice and suitability of the training course for the participants. A lack of prior knowledge on the part of a participant does not affect the client's obligations under the contract. The client may replace a training course participant with another participant with HydroLogic's prior written permission.
48.3 If, in the opinion of HydroLogic, the number of registrations is a reason for doing so, HydroLogic shall be entitled to cancel the training course, to combine it with one or more training courses or provide it at a later date. HydroLogic reserves the right to change the location of the training course. HydroLogic is entitled to change the training course in organisational terms and in terms of content.
48.4 The consequences of cancellation of participation in a training course by the client or participants are governed by HydroLogic's usual rules. A cancellation must always be effected in writing prior to the training course or the part of the training course concerned. Cancellation or non-attendance does not affect the client's obligations under the contract.

Article 49 Provision of the training course
49.1 The client accepts that HydroLogic determines the content and depth of the training course.
49.2 The client shall inform the participants about the obligations under the contract and the rules of conduct and other rules prescribed by HydroLogic for participation in the training course, and shall ensure compliance with these obligations and rules.
49.3 If HydroLogic uses its own equipment or software to provide the training course, it does not guarantee that this equipment or software is free of errors and will function without interruption. If HydroLogic provides the training course at the client's location, the client shall ensure the availability of properly operating equipment and software.
49.4 Administering an examination or test does not form part of the contract.
49.5 The client shall owe a separate payment for the documentation, training materials or training resources made available or produced for the training course. The preceding stipulation also applies to any certificates of training or copies of such certificates.
49.6 If the training course is provided on the basis of e-learning, the provisions of the 'Software as a Service (SaaS)' paragraph shall apply *mutatis mutandis* to the greatest extent possible.

Article 50 Price and payment
50.1 HydroLogic may require that the client pay the amounts owed prior to the start of the training course.
The suppler may exclude participants from the training course if the client fails to ensure payment on time, without prejudice to the other rights of HydroLogic.
50.2 Unless HydroLogic has expressly indicated that the training course is exempt from VAT within the meaning of Section 11 of the Turnover Tax Act 1968, the client shall also owe VAT on the payment. HydroLogic shall be entitled to adjust its prices following the conclusion of the contract in the event of a change in the VAT regime for training courses established under or pursuant to the law.

Paragraph 9. Hosting
The provisions of this 'Hosting' paragraph shall apply in addition to the general provisions of these general terms and conditions and the provisions of the 'Provision of services' paragraph if HydroLogic provides services, under whatever name, in the field of hosting and related services.

Article 51 Hosting services
51.1 HydroLogic shall perform the hosting services agreed with the client.
51.2 If the contract's object is to make disk space of equipment available, the client shall not exceed the agreed disk space unless the contract expressly provides for the consequences of doing so. The contract shall include making disk space available on a server specifically

reserved for the client only if this has been expressly agreed in writing. All use of disk space, data traffic and other loading of systems and infrastructure shall be limited to the maximums agreed between the parties. The data traffic that is not used by the client in a given period may not be transferred to a subsequent period. If the agreed maximums are exceeded, HydroLogic shall charge an additional amount in accordance with the usual rates.

51.3 The client is responsible for the management, including checking the settings, and use of the hosting service, and the way in which the results of the service are used. In the absence of specific agreements on the matter, the client shall itself install, organise, parameterise and tune the software and support software required and, if necessary, modify the equipment, other software and support software and operating environment used in this regard, and effect the interoperability that it desires. HydroLogic is not obliged to perform data conversion.

51.4 The contract's objects shall include the provision or making available of backup, contingency and recovery services only if this has been expressly agreed in writing.

51.5 HydroLogic may temporarily put all or part of the hosting service out of operation for preventive, corrective or adaptive maintenance. HydroLogic shall not allow the period during which the service is out of operation to last longer than necessary and shall ensure if possible that this period occurs outside office hours, and, according to circumstances, have this period commence following consultation with the client.

51.6 If, pursuant to the contract, HydroLogic performs services for the client with respect to a domain name, such as the application, extension or sale or transfer to a third party, the client must observe the rules and working method of the body or bodies concerned. If so requested, HydroLogic shall provide a written copy of the aforementioned rules to the client. HydroLogic expressly does not accept any responsibility for the accuracy and timeliness of the provision of services or achievement of the results intended by the client. The client must pay all costs associated with the application and/or registration in accordance with the agreed rates or, in the absence of agreed rates, HydroLogic's usual rates. HydroLogic does not guarantee that a domain name desired by the client will be granted to the client.

Article 52 Notice and Take Down

52.1 The client shall at all times act with due care and lawfully towards third parties, particularly by respecting the intellectual property rights and other rights of third parties and the privacy of third parties, by refraining from disseminating information in a manner that is contrary to the law, from granting unauthorised access to systems and from spreading viruses or other harmful programs or data, and by refraining from committing criminal acts and violating any other legal obligation.

52.2 To prevent liability towards third parties or limit the consequences thereof, HydroLogic is always entitled to take measures with respect to an act or omission of or at the risk of the client. Should HydroLogic so demand in writing, the client shall delete data and/or information from HydroLogic's systems without delay. If the client fails to do so, HydroLogic shall be entitled at its own discretion to delete the data and/or information itself or make it impossible to access the data and/or information. In addition, in the event of a breach or an imminent breach of the provisions of article 52.1, HydroLogic shall be entitled to deny the client access to HydroLogic's systems with immediate effect and without prior notice. The foregoing shall be without prejudice to any other measures or the exercise of other legal and contractual rights by HydroLogic against the client. HydroLogic shall in this case also be entitled to terminate the contract with immediate effect without being liable towards the client for doing so.

52.3 HydroLogic cannot be expected to form an opinion on the merits of the claims of third parties or the client's defence, or be involved in any way whatsoever in a dispute between a third party and the client. The client shall deal with the third party concerned regarding the matter and inform HydroLogic in writing. The information provided in this context must be properly substantiated by supporting documents.