

## PART A – GENERAL PROVISIONS

### Article 1 Definitions

- 1.1 **Associated Person:** in relation to Supplier, a person (including an employee, agent, subcontractor or subsidiary) who performs services for or on behalf of the Supplier;
- 1.2 **Supplier:** the other party vis-à-vis TUI in respect of order(s) to supply goods and/or render services and/or perform works;
- 1.3 **Delivery:** the supply of goods and/or the rendering of services and/or the performance of works;
- 1.4 **Agreement:** every agreement concluded between TUI and the Supplier, relating to the supply of goods and/or the rendering of services and/or the performance of works by or on behalf of the Supplier;
- 1.5 **Product:** an article, a service and/or a work;
- 1.6 **TUI:** the Supplier's contractual counterparty as defined in the quotation/agreement, viz.: - the public limited company TUI Nederland N.V., having its registered office and principal place of business at Volmerlaan 3, (2280 AD) Rijswijk, the Netherlands, or;
- the private limited liability company TUI Airlines Nederland B.V., having its registered office and principal place of business at Beechavenue 43, (1119 RA) Schiphol-Rijk, the Netherlands, or;
  - the private limited liability company Kras B.V., having its registered office and principal place of business at Bernseweg 22a, (5324 JW) Ammerzoden, the Netherlands, or;
  - the private limited liability company Tec4Jets B.V., having its registered office and principal place of business at Beechavenue 43, (1119 RA) Schiphol-Rijk, the Netherlands.
- 1.7 **TUI Supplier Code of Conduct:** refers to TUI's supplier policies as recorded in the Supplier Code of Conduct (available on [http://www.tuigroup.com/en-en/about-us/compliance/suppliers\\_code\\_of\\_conduct](http://www.tuigroup.com/en-en/about-us/compliance/suppliers_code_of_conduct)), as updated by TUI from time to time.

### Article 2 Applicability of these Terms and Conditions

- 2.1 These Purchase Terms and Conditions apply to all offers and quotations made by the Supplier, to quotation requests and orders made by TUI, as well as to Agreements relating to the Deliveries by or on behalf of the Supplier to TUI, unless the parties have expressly agreed otherwise in writing.
- 2.2 Unless the parties have expressly agreed otherwise in writing, these Purchase Terms and Conditions shall, after they have been made part of an Agreement, also form part of any (follow-up) Agreement subsequently concluded between the parties, even if no reference was made to these Purchase Terms and Conditions during the conclusion of the latter.
- 2.3 TUI expressly rejects the applicability of purchase, delivery, payment and other terms and conditions of the Supplier (whether or not general), except if and insofar as these have been expressly accepted by TUI in writing.
- 2.4 Deviations from these Purchase Terms and Conditions are only valid insofar as they have been expressly agreed between the parties in writing and only in respect of the Agreement concerned. As a result, the Supplier cannot derive any future rights from agreed deviations from these Terms and Conditions.
- 2.5 In the event of a conflict between what has been separately agreed between the parties in writing and these Purchase Terms of Conditions, what has been separately agreed shall prevail.
- 2.6 If one or more provisions in these Purchase Terms and Conditions or in the Agreement are null or annulled, the other provisions will remain fully in effect. In the event of nullity or annulment, TUI and the Supplier shall consult as soon as possible at TUI's first request to agree new provisions to replace the null and/or annulled provisions, thereby taking

the purpose and meaning of the null or annulled provisions into account in as far as possible.

### Article 3 Conclusion of the Agreement

- 3.1 Agreements between TUI and the Supplier are only concluded after:
- a. TUI has given the Supplier an order (whether or not referred to as a purchase order) and the Supplier has explicitly or implicitly accepted this order (whether or not in writing); or
  - b. TUI has expressly accepted an offer (quotation) made by the Supplier in writing, whichever event occurs first.
- 3.2 An offer made by the Supplier is irrevocable for a term of at least 90 days after it has reached TUI, unless the invitation made by TUI to make an offer contains a deviating term or the Supplier offers a longer term.
- 3.3 All proposals on the part of TUI are without obligation and therefore may be revoked by TUI until they are accepted by the Supplier.
- 3.4 Any costs ensuing from the preparation and submission of an offer or quotation will be borne by the Supplier.
- 3.5 In the case of on-call agreements or framework agreements, the (sub)agreement will be considered to be concluded on each occasion when the order for a (sub)performance, within the context of the on-call agreement or the framework agreement, is sent by TUI. If drawings, models, specifications, instructions, inspection instructions and the like, which have been made available or have been approved by TUI, are used during the performance of the Agreement, these will form part of the Agreement and remain the property of TUI.
- 3.6 The Supplier cannot derive any right to follow-up assignments from this Agreement, unless expressly agreed in writing.

### Article 4 Amendments to the Agreement and Additional Deliveries

- 4.1 TUI is at all times authorised to amend the price, volume, content, delivery time or term and/or nature of the Delivery in consultation with the Supplier.
- 4.2 Amendments will only have legal effect between the parties insofar as they have been agreed between the parties in writing and provided that the Supplier has notified TUI without delay by email, fax or in writing of the consequences of the amendments to the Agreement as far as the price, volume, make-up, nature and time of delivery, packagings, article numbers, articles that are no longer deliverable and/or other aspects are concerned and TUI has expressly accepted these consequences.
- 4.3 TUI has the right to dissolve the Agreement in writing with immediate effect and without notice of default if the Supplier performs or persists in performing the Agreement contrary to the notification duty of Article 4.2. Dissolution pursuant to this paragraph does not entitle either of the parties to compensation for any damage.
- 4.4 The Supplier shall notify TUI without delay of delivery problems and back orders. If Deliveries cannot be supplied by the Supplier within the agreed term, TUI at all times has the right to order such Deliveries from third parties at the expense of the Supplier.
- 4.5 If the Supplier, while the Delivery is being made, discovers that additional Deliveries are necessary that could not have been reasonably foreseen during the conclusion of the Agreement (including extra work, in the broadest sense of the word), the Supplier shall notify TUI thereof as soon as possible. In so doing, the Supplier shall give TUI an indication of any additional costs ensuing therefrom and of the expected delivery term. The additional work may only be performed at the expense of TUI with TUI's prior explicit written permission.

- 4.6 Amendments to the Agreement shall only be valid with respect to the Agreement concerned. As a result, the Supplier cannot derive any future rights from agreed amendments to the Agreement.

### Article 5 Delivery of goods

- 5.1 The Delivery of goods takes place at the place agreed between the parties, in accordance with the Incoterm Delivery Duty Paid (DDP) in force at the time of the conclusion of the Agreement. This means that the Supplier shall take care of the transport of the goods to the destination indicated by TUI at his own risk and expense and shall also pay the import charges and levies and take care of the corresponding formalities.
- 5.2 The Supplier shall keep sufficient stock of goods to be able to deliver from stock. The Supplier guarantees the availability of spare parts and service parts that are necessary for the repair and maintenance of the goods ordered or delivered within the framework of the Agreement at reasonable prices and customary discounts for at least 10 (ten) years after the last delivery or last production date of the goods, whichever date is later. If, after TUI has submitted a request to that effect, the Supplier is no longer able to deliver the above-mentioned parts within one week at market prices and discounts, the Supplier shall on TUI's first demand provide all drawings, tools and the like without delay, so that TUI can manufacture or have these parts manufactured at the expense of the Supplier.
- 5.3 The Supplier shall provide the goods with a packing list stating TUI's purchase order number, the item numbers, quantities and descriptions. The Supplier shall further mark the package as indicated by TUI.
- 5.4 The Delivery of goods shall also comprise the delivery of any appurtenances, certificates, (air) way bills, consignment notes, packing lists, inspection data, drawings, instruction books, manuals, user guides, spare parts list, maintenance instructions, documentation, quality and guarantee certificates and any other documents as prescribed by legislation and/or by TUI. The documents mentioned in the previous sentence shall be drawn up in the Dutch or English language, or be accompanied by a translation in one of these languages. TUI is entitled not to take receipt of the goods to be delivered, if the regulations and provisions of this paragraph have not been complied with. In that case, the goods will be considered not to have been delivered.
- 5.5 Delivery quantities of goods form the essence of the Agreement. TUI is authorised, without notice of default or court intervention, to terminate the Agreement or part thereof and/or to not accept goods, if the Supplier is in default with respect to the delivery quantities, unless TUI has agreed to changed quantities in writing.
- 5.6 Goods that have been sent to TUI in advance of the scheduled delivery date do not have to be accepted by TUI and/or may be returned to the Supplier at the Supplier's expense.
- 5.7 If, as a result of alterations to the underlying specifications or for other reasons, goods delivered by the Supplier become surplus to requirements within three months of delivery, these goods shall be taken back by the Supplier at the invoiced price. TUI will ensure in that case the proper packaging of these goods.

### Article 6 Transfer of Risk and Ownership

- 6.1 Unless otherwise agreed in writing, the risk and ownership of the goods transfers to TUI at the time the Supplier makes the goods available to TUI at the place of delivery mentioned in Article 5 and TUI has accepted the goods (and TUI, if it has expressed the wish to do so, has approved of the goods in accordance with Article 18), unless the goods are already damaged at the time they are offered or the goods are damaged/lost after

delivery due to a fault that was already present before the delivery. In the latter case the risk and ownership of the goods shall be deemed to have never transferred to TUI.

- 6.2 The Supplier shall keep the goods and data owned by TUI in good condition for as long as they are in the Supplier's custody or charge. The Supplier shall bear the risk of the loss or destruction of or damage to those goods and data and shall keep them insured for their replacement cost against the risks mentioned.
- 6.3 If TUI, within the framework of the Agreement, makes partial payments in anticipation of the complete delivery, the Supplier shall transfer now for then the ownership of each separate item (including parts and materials) to TUI for the time that these separate items are present at the Supplier's company, which transfer TUI shall accept now for then. This also applies to the manufacture of goods, where started by the Supplier, insofar as the part payments relate to these goods or this manufacture.
- 6.4 If TUI, within the framework of the Agreement for a performance in the form of a service or advice, makes part payments in anticipation of the complete delivery of this service or advice, the Supplier shall transfer to TUI now for then the ownership of the rights in that part already delivered, which transfer TUI shall accept now for then.
- 6.5 The Supplier shall mark the goods owned by TUI as such and safely store, protect and insure them until the time of delivery to TUI. The Supplier shall not grant third parties access to these goods nor show them at exhibitions or use them or make them available to third parties without TUI's prior written consent.

### Article 7 Performance of services and works

- 7.1 If the situation arises, the Supplier shall, before starting the performance of services and/or works, agree with TUI which part of the premises and buildings of TUI may be used for the performance. It shall also be agreed which utilities the Supplier may use at TUI's premises.
- 7.2 The Supplier shall interrupt the performance of services and/or works if TUI deems that its operating conditions so requires.
- 7.3 If the performance of the services or works (also) takes place on the premises of TUI or third parties, the Supplier shall in any case observe the (legal) safety instructions that apply on those premises, as well as any company rules as laid down by TUI or those third parties.

### Article 8 Performance period

- 8.1 The time at which the Delivery shall be considered to be complete is (are) the day(s) and, if applicable, the time(s) that is (are) stated in the Agreement. The delivery date shall be considered to be the day on which the goods are for the first time offered for delivery to TUI by the Supplier at the agreed address and are accepted by TUI. If the Agreement does not contain a delivery date, the Delivery shall be considered to be complete within a reasonable term.
- 8.2 The delivery term stated in the Agreement is binding and shall be regarded as a deadline. If the Supplier expects to exceed the delivery term, he shall notify TUI without delay in writing and stating reasons, without prejudice to the provisions of Article 8.3. In this case, the Supplier shall do everything and let no opportunity go by to fulfil his obligations.
- 8.3 If the time of Delivery as referred to in Article 8.1 is exceeded, the Supplier is considered to be in default by operation of law and TUI is entitled, without any notice of default being required, to dissolve the Agreement out of court by sending a letter, return receipt requested.
- 8.4 If the delivery term is exceeded as a result of circumstances beyond the control of the Supplier or as a result of TUI failing to make goods, services,

drawings, calculations and other data deemed necessary by the Supplier available to the Supplier in a timely manner, and if TUI agrees to exceeding the delivery time in writing, TUI will not have the right to cancel the order or dissolve the Agreement, or to refuse goods or the performance of works.

### Article 9 Appurtenances

- 9.1 The Supplier shall provide for the appurtenances and materials, tools, machines, workwear and safety equipment that are necessary for the performance of the Agreement.
- 9.2 The Supplier may only use materials, tools and machines belonging to TUI with TUI's prior consent. The use thereof is at the risk and expense of the Supplier and the Supplier will be completely liable for any damage arising from the use thereof.
- 9.3 Materials, drawings, models, instructions, specifications and other appurtenances made available by TUI or purchased and/or manufactured by the Supplier at the expense of TUI will remain the property of TUI or, as the case may be, will become the property of TUI at the time of purchase or manufacture, unless otherwise agreed in writing. The Supplier shall fully cooperate in a transfer of ownership under this paragraph.
- 9.4 The Supplier shall mark the appurtenances as referred to in Article 9.3 in such a manner that they are recognisably the property of TUI and he shall keep them in good condition and at his own risk for as long as the Supplier acts as the holder with respect to these appurtenances.
- 9.5 Alterations to these appurtenances as well as the use of these appurtenances for or in relation to any other purpose than Delivery to TUI, is only permitted with TUI's prior written consent. However, this consent does not affect the guarantee obligations of the Supplier.

### Article 10 Packaging

- 10.1 The Supplier shall take care of the proper packaging and appropriate protection and transport of the goods to ensure delivery at the delivery address in good order, to facilitate easy and safe unloading and to ensure the goods are fit for storage. The Supplier shall use Europallets as much as possible. The Supplier is responsible for compliance with the national and international regulations with respect to packaging and transport by himself as well as by the carriers he contracts. The Supplier shall ensure that the goods are not packed in packagings/ materials that, according to the latest state of the art at the time of delivery, are or are presumed to be harmful to the environment.
- 10.2 If the Supplier fails to properly pack and/or mark the goods, TUI is authorised to refuse delivery of the goods. In this case, the goods will be considered not to have been delivered.
- 10.3 All packagings, with the exception of leased/ hired packaging, will become the property of TUI at the time of delivery. If TUI so desires, the Supplier shall take back the packaging and waste materials free of charge and hand them on in a verifiably environmentally responsible manner to be processed in accordance with environmental legislation. The Supplier shall at TUI's request produce a statement of acceptance of the waste by a bona fide processing company.
- 10.4 Hired/lease packaging shall be clearly marked as such by the Supplier. Return shipments of hired/ leased packaging shall be made to a destination indicated by the Supplier at the risk and expense of the Supplier.

### Article 11 Environmentally hazardous substances

- 11.1 Before the Agreement is concluded or at the latest when it is concluded, the Supplier shall notify TUI if the goods offered and to be delivered contain environmentally hazardous substances, which may be released either during normal use or in the case of the breakdown, repair, maintenance, opening,

a calamity, removal, storage, dumping, moving, disposal, destruction or any other kind of use of the goods concerned.

- 11.2 If the situation arises, the Supplier shall ensure the delivery is accompanied by clear written instructions regarding measures for preventing the release of the hazardous substances. Furthermore, the Supplier shall state in writing which measures must be taken to protect TUI staff in the event of the release of these substances.

### Article 12 Corporate social responsibility

- 12.1 The Supplier is aware that TUI considers corporate social responsibility to be of paramount importance and has drafted the TUI Supplier Code of Conduct to this effect. When performing the agreement, the Supplier shall observe the provisions of that document. If and to the extent that the Supplier makes use of Associated Persons, he guarantees that his Associates Persons shall also observe the provisions of the TUI Supplier Code of Conduct.
- 12.2 In case of any discrepancies between the TUI Supplier Code of Conduct and the text of these Purchase Terms and Conditions, the latter shall prevail.

### Article 13 Duty to warn and to provide information

- 13.1 During the conclusion and performance of the Agreement, the Supplier is under a duty to warn of any inaccuracies in the order insofar as the Supplier knows of or ought reasonably to know of these inaccuracies. The same applies to any (financial) consequences and risks regarding which the Supplier could reasonably understand that TUI has not foreseen them. Furthermore, this duty to warn pertains to faults in and unfitness of materials that directly or indirectly have been made available or approved by TUI and furthermore to errors or shortcomings in appendices, drawings, models, specifications, instructions, inspection instructions, calculations, execution instructions, plans and the like that have been provided or approved by TUI.
- 13.2 The Supplier has acquainted himself sufficiently with TUI's objectives with respect to the order in order to be able to properly perform the order. To this end, TUI has provided the Supplier with sufficient correct information and shall, if desired, provide the Supplier with any further information, insofar as TUI has this information available and this information may be disclosed. The Supplier has acquainted himself sufficiently with all information regarding TUI that is of importance to him with respect to the Delivery, including the organisation, the data processing and communication systems and articles installed or to be installed, including (computer) systems and software.
- 13.3 The parties shall provide each other all information, data and decisions that are necessary for the scheduling, performance and completion of the order as agreed in the Agreement, including the information and data provided by third parties that have been contracted by TUI and/or the Supplier.

### Article 14 Price

- 14.1 The agreed price is exclusive of VAT and will be stated in euros, unless expressly agreed otherwise between the parties in writing.
- 14.2 The prices are fixed during the term of the Agreement and are therefore not subject to rate increases, indexations, wage increases, increases under collective labour agreements or other factors that increase the cost price, unless expressly agreed otherwise between the parties in writing. In the latter case, the manner in which adjustment takes place, will be described in the Agreement. In the absence of such a description, the prices will keep pace with index increases that have been laid down by independent third-party institutions and that are of maximum relevance to the goods, services and/or works to which the Agreement relates.

- 14.3 The Supplier declares that the net prices of the Products sold to TUI under the Agreement are no less favourable than the prices of products recently sold to other customers, which prices were being paid for the same or similar products in equal or smaller quantities. If during the term of the Agreement the Supplier decreases his prices concerning the Products referred to above, the prices of the relevant Products to be invoiced to TUI shall be decreased accordingly.
- 14.4 The agreed price is based upon delivery in accordance with Incoterm Delivery Duty Paid (DDP) at the delivery address stated by TUI.
- 14.5 The agreed price comprises all costs that are directly and/or indirectly related to the Delivery, such as the packaging costs, taxes, administration costs, expenses and advisory costs borne by the Supplier.
- 14.6 On-call Deliveries shall not be performed at a higher price than the most recently agreed price between the parties, unless TUI has approved such a price increase in advance and in writing.

#### Article 15 Invoicing and payment

- 15.1 The amounts to be paid by TUI for the Deliveries that have taken place shall be invoiced by the Supplier.
- 15.2 Invoicing by the Supplier shall take place after the Deliveries have taken place, unless the parties have agreed otherwise in the Agreement. Invoices shall be sent to the invoicing address as stated in the Agreement. Furthermore, with regard to the invoicing, the Supplier shall act upon TUI's instructions.
- 15.3 The invoices shall contain at least the following data:
- Invoice date;
  - Creditor number;
  - Purchase order number and/or contract number;
  - Description of the delivered goods and/or services and quantities;
  - Separate indication of the VAT amount;
  - Separate taxes and charges, levied by third parties.
- 15.4 TUI will pay invoices within sixty (60) days of receipt of the invoice, or within any other payment term agreed in writing, unless the situation as described in Article 15.5 or 15.6 occurs.
- 15.5 If TUI establishes a non-conformity concerning the delivered Product (for instance with respect to the time of delivery, the quantity, the sound condition and/or fitness of the delivered goods, services and/or works), TUI is entitled to refuse payment or to suspend its payment obligations with respect to the Delivery that has (not) taken place and with respect to which the complaints have been expressed.
- 15.6 If TUI disputes an invoice or any item on an invoice or if the invoice has been drawn up or submitted incorrectly in any way, TUI has the right to not pay the disputed amount. TUI shall notify the Supplier of its grounds for disputing the invoice as soon as possible and the parties shall resolve any such dispute as swiftly as possible.
- 15.7 If TUI exceeds a payment term and/or refuses to pay on account of non-conformity as referred to in Article 15.5 and/or disputes the correctness of the invoice or the invoice amount, this does not give the Supplier the right to suspend or terminate his activities or to terminate the Agreement.
- 15.8 Before payment takes place, TUI is authorised to require that, in addition to or instead of a transfer of ownership, the Supplier provides an unconditional and irrevocable bank guarantee issued by a bank that is acceptable to TUI in order to guarantee the fulfilment of the Supplier's obligations. The Supplier shall cooperate fully with such a request.
- 15.9 Payment by TUI does not in any way constitute a waiver of a right or claim and does not in any way discharge the Supplier from any obligation, guarantee and/or liability.
- 15.10 TUI is authorised at all times to set off amounts payable to the Supplier, however they may arise, against amounts owed by the Supplier.

#### Article 16 Advance payments

- 16.1 If TUI and the Supplier agree an advance payment of the price payable, TUI may require that the Supplier produces a stand-by guarantee free of charge which has been drawn up by a Dutch or European bank as referred to in the Dutch Financial Supervision Act and which shall be submitted to TUI in advance for its written approval in order to determine whether the bank concerned will result in the payment of TUI for the stand-by guarantee to be submitted.
- 16.2 Each time TUI has to pay part of the price, a corresponding part of the advance payment is set off against the total price, whether or not the claim for payment of the price has been transferred to a third party. The stand-by guarantee shall be decreased correspondingly.
- 16.3 If Deliveries have not taken place at the agreed place within the agreed term, or if they do not comply with the provisions of the Agreement, the Supplier shall owe the statutory interest rate on the advance payment for the period that the Supplier is in default, whether or not the default is attributable to the Supplier.

#### Article 17 Guarantee

- 17.1 The Supplier guarantees that the Delivery (or parts thereof, including installation/assembly):
- a. complies with what has been agreed;
  - b. is free of faults and shortcomings;
  - c. is unencumbered, free from attachments and other rights of third parties;
  - d. possesses the features that have been promised;
  - e. is suitable for the purpose for which it is intended;
  - f. complies with the national and international legislation and other government regulations valid at the time of delivery or completion, explicitly including but not limited to provisions relating to competition, corruption, the environment, human rights, labour conditions, women's and children's rights and combating discrimination;
  - g. complies with the requirements under the safety, quality and environmental standards of the line of business valid at the time of delivery or completion;
  - h. complies with TUI's (safety) instructions valid at the time of delivery or completion.
- 17.2 The Supplier guarantees that the Products are complete and ready for use. He ensures that, among other things, all parts, auxiliary materials, accessories, tools, spare parts, user guides and instruction manuals that are necessary for realising the purpose stated by TUI are supplied, even if they have not been explicitly mentioned.
- 17.3 The guarantees as referred to in Articles 17.1 and 17.2 shall be valid for the term laid down in the Agreement, or in the absence thereof, for the customary guarantee term of the line of business, but for at least one year following completion of the Delivery. The guarantee term shall be extended for a period equal to the period(s) during which the Products could not or not fully be used due to a fault. New guarantee terms equal to those mentioned above in the first sentence shall apply to Products that have been supplied as replacements as well as to replaced or repaired parts of these Products, also including those parts of the Products that may be affected by replaced or repaired parts. If Products form part of a larger object, for instance a technical installation, the guarantee term shall commence upon the completion of the larger object.
- 17.4 The Supplier guarantees that it will fully take over guarantees from third parties, in any case for the term of his own guarantees.

- 17.5 If a fault arises during the guarantee term as referred to in Articles 17.3 and 17.4, TUI is entitled at its own discretion either (i) to demand that the Supplier on TUI's first demand collects the Products at the Supplier's risk and expense, in which case TUI shall receive an immediate refund of payments made for these Products, or (ii) to demand that the Supplier at his own risk and expense repairs all faults arising during the guarantee term and/or replaces the Products, or faulty parts thereof, on TUI's first demand, both without prejudice to TUI's right to compensation for any (further) damage suffered by TUI and/or third parties.
- 17.6 The Supplier guarantees that he possesses all licences required for the performance of the Agreement.
- 17.7 If the Supplier believes that TUI cannot make a claim under the guarantee provisions as referred to in this Article, the burden of proof is on the Supplier.

#### Article 18 Inspections

- 18.1 At all times TUI has the right (but not the obligation) to (before the Delivery) inspect or have inspected and/or to check or have checked the Deliveries at the place of manufacture or at the agreed place of Delivery, to determine if the part/result of the Delivery complies with what has been agreed. TUI shall notify the Supplier as soon as possible if TUI wishes to use this right. On first demand, the Supplier shall render full assistance free of charge and shall grant TUI or a person designated by TUI access to the places where the goods are manufactured or stored. The Supplier will be notified of the results of the check in writing.
- 18.2 If, on the basis of the (interim) check and/or inspection, TUI finds that the Delivery (or part thereof) that was the subject of the (interim) check and/or inspection does not comply with what has been agreed, TUI – in addition to any right arising from the guarantee obligations of the Supplier or under general law – has the authority, at its discretion:
- a. to reject the Products concerned and to return them at the expense of the Supplier, in which case TUI is entitled to replacement or redelivery without further costs and within a delivery term to be fixed. If the goods have been replaced or redelivered, a repeated (interim) check and/or inspection may take place;
  - b. to keep and to use the rejected Products at a fair reduction of the purchase price, to which the Supplier is obliged to agree;
  - c. in case of an urgent matter, to repair or have the rejected Products repaired by TUI or by a third party or to purchase the Products from a third party at the expense of the Supplier, if possible after having submitted an indicative estimate to the Supplier.
- 18.3 Article 18.2 under (a) does not apply to Deliveries with respect to which TUI has indicated, or with respect to which the Supplier knew or ought to have known, that the originally agreed time of completion of the Delivery was of the utmost importance to TUI and that a repeated (interim) check and/or inspection could not be carried out before that time.
- 18.4 If the results of a repeated (interim) check and/or inspection as referred to in Article 18.2 under (a) show that the replacement or redelivered Product again does not comply with what has been agreed, TUI is not obliged to accept (the result of) the Delivery and TUI is entitled to dissolve the Agreement without notice of default or court intervention, or to use any of its other rights, without the Supplier being entitled to any compensation. In this case, TUI has the right to repair or replace or have the Products repaired or replaced by a third party at the expense of the Supplier.

- 18.5 The costs incurred by the (interim) check and/or inspection will be borne by TUI. If a check and/or inspection as referred to in this Article cannot take place at the intended time due to actions of the Supplier or if an (interim) check and/or inspection must be repeated due to actions of the Supplier, any costs arising therefrom will be borne by the Supplier.
- 18.6 The Supplier is not entitled to invoke the results of (interim) checks and/or inspections carried out previously. Nor does approval or acceptance of the Delivery or part thereof release the Supplier from any guarantee or liability arising under these Purchase Terms and Conditions, the Agreement, his own guarantees and/or legislation.

#### Article 19 Liability for damage; force majeure

- 19.1 The Supplier shall be liable for all damage suffered by TUI or third parties as a consequence of an attributable failure to fulfil obligations arising under the Agreement.
- 19.2 The Supplier indemnifies TUI against claims from third parties to compensation of property damage and/or personal injury on grounds of liability as referred to in Article 19.1 and will on TUI's first demand effect a settlement with these third parties or defend himself in court, in the place of or together with TUI – at the discretion of TUI – against such liability as referred to above.
- 19.3 For the purpose of this Article, staff and employees of TUI are understood to include third parties.
- 19.4 Any failure on the part of TUI to demand a strict performance of the obligations by the Supplier or to refer to provisions in the purchase order, the Agreement or these Purchase Terms and Conditions does not in any way constitute a waiver of a right:
- with respect to the provisions of the purchase order, the Agreement or the Purchase Terms and Conditions, or;
  - with respect to the right to claim damages in the context of any failure or fault on the part of the Supplier; unless parties have explicitly agreed to the failure in writing.
- 19.5 Insofar as the Supplier wishes to invoke force majeure, force majeure shall not include: lack of staff, strikes, illness of employees, late delivery and/or unfitness of materials, raw materials or semi-finished products or services, attributable failure or unlawful acts by third parties engaged by the Supplier, unlawful acts by the Supplier towards third parties and/or liquidity or solvability problems on the part of the Supplier.

#### Article 20 Insurance

- 20.1 The Supplier shall have and maintain sufficient and proper insurance against all risks that may arise from the performance of the Agreement, in any case including: professional liability (risks arising from professional faults), corporate liability (including liability for damage caused to persons or objects belonging to TUI) and liability for loss of and damage to machinery and equipment (including as a consequence of fire and theft), including items belonging to TUI. Upon request, the Supplier shall submit to TUI without delay (a certified copy of) the policies and proofs of premium payments with respect to these insurances.
- 20.2 Without TUI's prior written consent the Supplier shall not terminate the insurance agreement(s) as referred to in Article 20.1 or change the conditions on which the Supplier concluded this (these) agreement(s) or change or lower the insured amount(s) to the disadvantage of TUI.
- 20.3 The Supplier hereby assigns now for then all claims arising from the insurances as referred to in Article 20.1 for damage caused to TUI by the Supplier or damage for which the Supplier may be held liable under the law or these Purchase Terms and

Conditions, which assignment is hereby accepted by TUI now for then. Insurance proceeds paid directly to TUI by insurance companies shall be deducted from the damages to be paid to TUI by the Supplier with respect to the insured incident.

#### Article 21 Confidentiality and prohibition of disclosure

- 21.1 The Supplier shall not in any way disclose any information that comes to his attention during the performance of the Agreement and that he knows or should reasonably suspect is of a confidential nature, except insofar as any statutory regulation or court decision obliges him to disclose the information. This paragraph equally applies to disclosing the existence and contents of the Agreement. For this purpose the Supplier shall not, except with TUI's prior written consent, refer to an order issued by or an Agreement with TUI in publications or advertisements in magazines, newspapers, reports, business letters, brochures or other publications.
- 21.2 Except with TUI's prior written consent, the Supplier shall only disclose information that is available to him to his employees insofar as necessary for the performance of the Agreement. TUI may attach conditions to its consent as well as claim compensation for its consent.
- 21.3 The Supplier shall oblige his staff to comply with the confidentiality provisions of Articles 21.1 and 21.2. If the Supplier acts contrary to this provision, he shall, without any warning or notice of default being required, in each of these cases forfeit to TUI an immediately payable penalty that is not eligible for set-off amounting to €25,000 (twenty-five thousand euros) for each and every occurrence. This penalty does not prejudice TUI's other rights, including the right to damages. This penalty is not eligible for judicial mitigation.
- 21.4 In relation to the data supplied by TUI or information in the custody of the Supplier, the Supplier shall:
- take all reasonable measures to ensure safe custody, and;
  - not keep the data or information in his custody longer than is reasonably necessary for the performance of the Agreement and shall make these data, including any copies, available to TUI again within fourteen days of the full performance of the Agreement or, after TUI's consent, destroy these data.

#### Article 22 Intellectual (property) rights

- 22.1 TUI is the party entitled to all intellectual (property) and similar rights that arise or result from the performance of the Agreement by the Supplier, his staff or third parties engaged by the Supplier. All intellectual (property) and similar rights with respect to the performances for the benefit of TUI shall be transferred to TUI by the Supplier, which transfer will be accepted by TUI now for then immediately after these rights have arisen. This paragraph also applies with respect to all documentation in whatever form that is made available to TUI in connection with the performance of the Agreement.
- 22.2 Insofar as the transfer of such rights requires a deed, TUI hereby irrevocably authorises the Supplier now for then to draw up or have drawn up such a deed and to sign it or have it signed on behalf of the Supplier, without prejudice to the Supplier's obligation to unconditionally render assistance to the transfer of such rights on TUI's first demand. The Supplier irrevocably and unconditionally authorises TUI to register the transfer of the intellectual (property) and similar rights in the relevant registers.
- 22.3 If TUI and the Supplier agree in writing that the transfer of the rights referred to in the previous two paragraphs is impossible or undesirable, the Supplier grants TUI, insofar as necessary, the

irrevocable right to use and maintain or have maintained, to preserve and/or to renew the delivered Products free of rights.

- 22.4 If TUI deems this necessary, TUI is entitled to replace or renew the delivered goods, to perform or have the services performed (again) and to carry out the works (again), whether or not by engaging third parties, thereby making use of drawings, texts, models, manuals, samples, appurtenances, calculations, software, moulds, templates and other documents and data carriers made or used by the Supplier with respect to the Delivery.
- 22.5 If a difference of opinion arises between the parties concerning the ownership of the (results of) performed Deliveries or the intellectual (property) or similar rights resting therein, this ownership is vested in principle in TUI until such time as the Supplier has provided evidence to the contrary.
- 22.6 The Supplier guarantees the free and undisturbed use by TUI of the Products delivered to TUI by or on behalf of the Supplier. The Supplier indemnifies TUI against claims from third parties concerning (any) infringements of intellectual (property) and similar rights of third parties, including similar claims with relation to knowhow, unlawful competition and the like.
- 22.7 Without prejudice to the provisions of these Purchase Terms and Conditions, TUI is entitled to dissolve the Agreement or part thereof in writing, both judicially and extrajudicially, if third parties hold TUI liable for infringements of intellectual (property) or similar rights.

#### Article 23 Termination of the Agreement

- 23.1 Dissolution of the Agreement by TUI will take place by means of a normal or registered letter or bailiff's notification.
- 23.2 TUI is, without prejudice to the provisions of Articles 7:408 paragraph 1 and 6:265 of the Dutch Civil Code and without prejudice to the other grounds for dissolution of the Agreement mentioned in these Purchase Terms and Conditions, entitled, out of court and without a warning or notice of default being required, to dissolve this Agreement with immediate effect by means of a normal or registered letter if:
- the Supplier fails to perform any of the obligations arising under the Agreement;
  - the Supplier has been granted a moratorium (or provisional moratorium) on payments;
  - the Supplier has petitioned for liquidation or has been declared to be in a state of liquidation;
  - the Supplier has requested the application of a debt rescheduling programme pursuant to the Dutch Debt Rescheduling (Natural Persons) Act;
  - the Supplier's company is wound up or taken over;
  - the Supplier is a natural person and dies;
  - the Supplier discontinues his current business;
  - a substantial part of the assets of the Supplier has been attached;
  - the shares in or the assets of the company of the Supplier are transferred to a third party;
  - the Supplier must otherwise be considered to be no longer capable of fulfilling the obligations under the Agreement;
  - facts or circumstances occur or have occurred that indicate or reasonably suggest that the Supplier, or a third party engaged by the Supplier, has concluded the Agreement (also) on criminal grounds or (also) has used the Agreement to commit offences or to avail himself of benefits capable of being expressed in money that have been or will be obtained from offences;
  - an infringement of the provisions of Article 17 (Guarantee) has taken place.
- 23.3 If the Agreement is dissolved by TUI on the grounds of Article 23.2, the Supplier shall return any payments made with respect to undelivered goods, unrendered services and unperformed



works. Except in the event of force majeure, the Supplier shall also compensate any damage suffered by TUI. In this case, TUI is not obliged to pay any compensation, on whatever grounds, to the Supplier. All claims that TUI has or will have in these cases against the Supplier will be payable immediately and in full.

- 23.4 Dissolution of the Agreement does not release the parties from their current obligations under the relevant Agreement, which on account of their nature are intended to continue after termination or dissolution. These obligations include but are not limited to the assignment of insurance proceeds (Article 20), the confidentiality and prohibition of disclosure (Article 21), the indemnification against infringement of intellectual property and similar rights (Article 22), and disputes and applicable law (Article 27).

#### Article 24 Transfer of rights and obligations

- 24.1 Without TUI's explicit consent, the Supplier is not permitted to assign, pledge or transfer under whatever title the rights and obligations arising under this Agreement.
- 24.2 TUI has the right to attach conditions to its consent. Without prejudice to this consent, the Supplier is not released from his obligations under the Agreement and the Supplier will at all times remain responsible and liable to TUI for the faultless performance of the Agreement by a third party/subcontractor.

#### Article 25 Acquisition of TUI employees

During the term of the Agreement and until one year after expiration of this term, the Supplier shall not without TUI's written consent employ or otherwise contract, either directly or indirectly, persons to carry out work or render services who:

- are employed by TUI;
- were employed by TUI and not a year has elapsed since the termination of their employment with TUI.

#### Article 26 Outsourcing; social insurance and tax legislation

- 26.1 The provisions of this Article apply only if the Supplier has engaged or wishes to engage third parties to perform obligations under the Agreement and without prejudice to the provisions of Article 24.
- 26.2 The Supplier is authorised only to outsource any part of the Agreement to third parties or to use workers made available ("hired") with TUI's prior written consent. Within this context, the parties are understood not to include companies belonging to the same group of companies of which the Supplier is part and for which this group expressly acts as guarantor. The Supplier will remain fully responsible and liable for Deliveries performed by third parties in relation to TUI's order.
- 26.3 The Supplier indemnifies TUI against all claims that an employed persons' insurance administration organisation ("uitvoeringsinstantie werknemersverzekeringen") and/or tax authority alleges to have against TUI on the basis of recipients' and/or chain liability.
- 26.4 The Supplier guarantees TUI a timely performance of all his obligations arising under the applicable tax and social security legislation with respect to the employees who are set to work or will be set to work by the Supplier or by a third party engaged by the Supplier.
- 26.5 On TUI's first demand the Supplier shall provide TUI in writing, before and/or after the commencement of the performance of the Agreement, with the name and address of the employed persons' insurance administration organisation with which the Supplier is registered, the number under which the Supplier (as demonstrated by a valid proof of registration) is registered with that administration organisation as well as his wage tax number.

26.6 On TUI's first demand the Supplier shall submit to TUI a statement of the employed persons' insurance administration organisation and the tax authorities pertaining to the payment conduct of the Supplier, which statement shall not be older than three months.

26.7 The Supplier shall prove to TUI's satisfaction that he or the third party engaged by him in the performance of the Agreement keeps the accounts in such a way that the wage tax amounts and premiums concerning social security legislation that are due with respect to the employees engaged in the performance of the Agreement are clearly evident.

26.8 If TUI, on the basis of any articles such as Article 61 of the Dutch Social Insurance (Funding) Act and/or Article 34 or 35 of the Dutch Collection of State Taxes Act 1990 (including future amendments to these Acts), is held liable for premiums or taxes payable by the Supplier or if there is a chance that this will occur, the Supplier shall provide TUI with all the information required to enable TUI to prove that the non-payment is not attributable to TUI or the Supplier or any other subcontractor engaged by the Supplier. TUI is authorised to suspend the performance of every obligation to the Supplier, however arising, if TUI has good reasons for assuming that the Supplier is not fulfilling or has not fulfilled his obligations as referred to in this Article. TUI is entitled at all times to set off any amounts payable to the Supplier against TUI's recourse claim against the Supplier as referred to in, among others, Article 56 of the Dutch Collection of State Taxes Act 1990, whether or not this recourse claim is due and payable or eligible for immediate settlement.

26.9 With respect to Agreements in relation to which TUI is jointly and severally liable for the payment of employee and national insurance premiums and wage tax, TUI is entitled to deduct the relevant amounts from the agreed price and to pay these amounts directly to the employed persons' insurance administration organisation and the tax authorities or to pay them into the guarantee account of the Supplier. The Supplier shall open a guarantee account on TUI's first demand. Upon TUI's request, the Supplier shall at his own expense ensure that statements or specifications to be submitted on the basis of this Article are drawn up by a chartered accountant.

26.10 Insofar as work with respect to the Agreement is carried out on the premises of TUI, the Supplier shall on TUI's first demand, before the commencement of the performance of the Agreement as well as on a weekly basis during that performance, submit to TUI a statement listing all employees who are put to work or will be put to work by him or by a third party engaged by him for the performance of the Agreement, which statement shall contain their surnames, first names, addresses and places of residence, dates and places of birth and personal identification numbers, and for each of these employees a copy of a document as referred to in Article 1 of the Dutch Compulsory Identification Act. With respect to employees holding the nationality of any country other than an EU member state, the Supplier shall also provide copies of their work permits as well as copies of their terms of employment. With respect to employees from an EU member state, the Supplier shall be able to provide secondment statements.

26.11 On TUI's first demand the Supplier shall submit to TUI the wage slips of the aforementioned employees for inspection, as well as written statements of the place or places where these employees have carried out work and of the hours worked by these employees at that place or those places. The Supplier guarantees that his employees and/or the employees of a third party engaged by the Supplier in the performance of the Agreement will be able at all times to identify themselves to TUI upon request.

#### Article 27 Applicable law and disputes

- 27.1 The Agreement is exclusively governed by Dutch law.
- 27.2 Applicability of the United Nation Convention on Contracts for the International Sale of Goods, Vienna 11 April 1980 (CISG) is expressly excluded.
- 27.3 All disputes between the parties in relation to the Agreement or these Purchase Terms and Conditions will in the first instance be settled exclusively by the competent court in Rotterdam.

#### Article 28 Miscellaneous

- 28.1 These Purchase Terms and Conditions were originally drawn up in the Dutch language. In the event of obscurities or differences in interpretation and/or explanation of the translated version of these Purchase Terms and Conditions, the Dutch text is authentic and will prevail at all times.
- 28.2 Article headings are for convenience only and do not form part of or affect the interpretation.

#### PART B – SPECIAL PROVISIONS

This part contains specific provisions for Software to be delivered or delivered to TUI by the Supplier. If these provisions are inconsistent, the provisions of this part B shall take precedence over the provisions of Part A of these Purchase Terms and Conditions.

#### Article 29 Definitions:

- 29.1 **Acceptance:** the written approval by TUI of the Software and/or Equipment and the performance of the Software and/or Equipment in connection with equipment or software of TUI.
- 29.2 **Equipment:** all equipment produced and/or sold by the Supplier on which or in connection with which the Software must function (including the Software running on it, such as applications), as well as equipment not originating from the Supplier which the Supplier accepts for maintenance nevertheless.
- 29.3 **Shortcoming:** any deviation in the Software and/or Equipment compared to the Agreement and/or the accompanying specification as well as any other improper performance of (all or part of) the Software and/or Equipment, including the situation that this results in the fact, in TUI's reasonable opinion, that the normal use of the Software and/or Equipment entails a risk for TUI.
- 29.4 **Software:** all computer software (both standard and custom-made) made available to TUI by the Supplier in execution of an Agreement as well as all new versions, releases, updates or parts of it.
- 29.5 **SLA:** a Service Level Agreement.

#### PART B.1 – SPECIAL PROVISIONS IN CONNECTION WITH SOFTWARE

The provisions of this part B.1 shall apply if and to the extent that TUI and the Supplier have agreed that the Supplier will deliver Software to TUI.

#### Article 30 Acceptance of Software

- 30.1 After the correct Delivery and, to the extent applicable, installation of the Software an acceptance period of thirty (30) days will start within which an acceptance test will be held. If TUI starts to use the Software without carrying out a (complete) acceptance test, but informs the Supplier that an acceptance test will be held at a later time, then the acceptance period shall only end when the acceptance test has been held. The latter acceptance period can never exceed six months.
- 30.2 The acceptance of the Software can be demonstrated only through the issue of written proof of acceptance by TUI or through TUI taking the Software into use for its business operations and purposes other than testing.
- 30.3 The Supplier shall resolve any Shortcomings in the Software that arise during the acceptance period as soon as possible without charging TUI anything for this.

- 30.4 TUI will not withhold acceptance, if the Shortcoming is so minor that this Shortcoming does not bar the intended use of the Software and/or Equipment by TUI, without prejudice to the Supplier's obligation to remedy this Shortcoming free of charge.
- 30.5 The Supplier acknowledges and agrees that the Acceptance of the Software shall not prejudice the rights that TUI has by law or under these Purchase Terms and Conditions, the Agreement and/or the accompanying specifications.

#### Article 31 Licences for standard Software

- 31.1 This article relates to Software that the Supplier has not specifically designed or developed for TUI (standard Software).
- 31.2 The Supplier grants TUI a licence for the Software. The licence for the Software entitles both TUI and third parties using the Software for the benefit of TUI to use the Software without any restrictions as to the site of operation, equipment, duration or otherwise. The licence also comprises the right to sub-licence the Software under an identical licence to companies with whom TUI is associated within the TUI Group.
- 31.3 To the extent that the Supplier itself is not the owner of the copyright in the standard Software, the Supplier guarantees that it has obtained the right to sub-licence the Software concerned to TUI in accordance with the provisions of these Purchase Terms and Conditions from the copyright owner.
- 31.4 The non-exclusive licence for the Software shall commence on the date of the Acceptance of the Software by TUI, cannot be terminated by the Supplier and shall continue for an indefinite period of time.
- 31.5 In no event shall the Supplier introduce security measures in the Software or provide the Software with passwords that (could) prevent the use of the Software. If TUI finds that such security measures are in place, TUI shall be entitled to remove the security measures, or to have them removed, at the expense of and/or by the Supplier.
- 31.6 At TUI's request the Parties shall conclude an agreement with an escrow agent designated by TUI regarding the deposit and issue of the source code of the Software (including the technical documentation that is required to maintain, change and/or correct the source code of the Software or to have it maintained, changed and/or corrected). At least once every two years or so much more frequently as TUI may reasonably deem advisable, there will be a check to see whether that which has been deposited with the escrow agent still corresponds with the source code that is being used by TUI at that time. The Supplier shall render his cooperation in this free of charge. The costs for the escrow agent's services shall be divided equally between TUI and the Supplier.

#### Article 32 Transfer of intellectual property rights in the case of custom-made software

- 32.1 The provisions of this article relate to Software specifically designed or developed by the Supplier for TUI (custom-made Software).
- 32.2 The intellectual property rights to custom-made Software, including the source code (including the technical documentation that is required to maintain, change and/or correct the source code of the Software or to have it maintained, changed and/or corrected) are vested in TUI. These rights are transferred by the Supplier to TUI by virtue of the present Purchase Terms and Conditions, which transfer is accepted by TUI in advance immediately on their creation. To the extent that the transfer of such rights should require a further instrument, the Supplier irrevocably authorises TUI in advance to have such a deed prepared and to sign it on behalf of the Supplier. A compensation for these rights shall be deemed to be included in the price. The Supplier shall ensure that the Software, including the source code, is made available to TUI.

#### Article 33 Guarantee in respect of the Software

- 33.1 The Supplier guarantees that the technical and functional properties of the Software comply and shall continue to comply with the descriptions of the Software in any quotation requests, the Agreement and/or the specifications agreed between the parties, amongst other documents.
- 33.2 All the guarantees given by the Supplier shall apply for a period of twelve (12) months and shall continue in full force and effect if TUI, after obtaining the Supplier's prior written consent, changes the Software or includes it in other software.
- 33.3 The Supplier declares in advance that it is prepared, if the Software does not perform or does not perform in the desired way in connection with equipment and/or software not delivered with the Supplier, to engage in consultations with TUI and the other involved parties invited for the consultations by TUI in order to identify and eliminate the cause of the non-performance or inadequate performance of the Software by mutual cooperation. The Supplier shall not charge any costs in this connection.

#### PART B.2 – SPECIAL PROVISIONS IN CONNECTION WITH EQUIPMENT

The provisions of this part B.2 shall apply if and to the extent that TUI and the Supplier have agreed that the Supplier shall deliver Equipment to TUI.

#### Article 34 Installation conditions

TUI shall prepare and lay out the room in which the Equipment will be placed and installed well before the time of delivery in accordance with the installation conditions provided to TUI by the Supplier in writing. The Supplier shall provide TUI with the installation conditions at least thirty (30) days prior to the date of delivery to TUI, failing which TUI may assume that the room does not have to meet any specific requirements. At TUI's request the Supplier shall timely inspect the room in which and the automation and telecommunication infrastructure with which the Equipment will function and will inform TUI of any shortcomings or flaws in the lay-out of the room and/or the automation and telecommunication infrastructure in writing immediately after the inspection. TUI shall be entitled to attach reasonable conditions to the Supplier's access to the room and the automation and telecommunication infrastructure.

#### Article 35 Use of the Equipment

- 35.1 TUI shall be entitled to do the following with regard to all or part of the Equipment:
- to expand it with items of third parties in a configuration elected by TUI; and/or
  - to connect it to peripherals, equipment or software, to the extent that it is technically possible.
- 35.2 The Supplier guarantees that the Equipment is of high quality, has been manufactured using sound materials and is suitable for the purpose notified to the Supplier by TUI.
- 35.3 The Supplier guarantees that the technical and functional properties of the Equipment meet and shall continue to meet both TUI's reasonable expectations on this point and the requirements and descriptions included for that purpose in the specification and documentation.
- 35.4 The Supplier guarantees that the documentation of the Equipment constitutes an accurate, complete and detailed description of the Equipment and its performance and that the documentation is sufficient to fully enable TUI to use the Equipment and to maintain it or have it maintained.
- 35.5 The Supplier guarantees that the Equipment is complete and ready for use and that all the parts and tools that are necessary in order to meet the specification and documentation have been

included in the delivery, even if they were not explicitly mentioned.

- 35.6 All the guarantees given by the Supplier shall apply for a period of twelve (12) months from the installation of the Equipment.
- 35.7 The Supplier guarantees that all the Equipment and any replacement parts of the Equipment are new or equivalent to new.

#### PART B.3 – SPECIAL PROVISIONS IN CONNECTION WITH MAINTENANCE

The provisions of this part B.3 shall apply if and to the extent that TUI and the Supplier have agreed that the Supplier will carry out maintenance to the Equipment and/or Software or to have such maintenance carried out.

#### Article 36 Description of maintenance to the Equipment and Software

- 36.1 The Supplier shall carry out maintenance to the Software and/or Equipment for TUI, which maintenance has been further specified in the Agreement. Within this framework the Supplier shall be bound to the SLA, to the extent that the Parties have concluded one.
- 36.2 Maintenance within the meaning of these Purchase Terms and Conditions shall in any case comprise:
- a. the delivery of support, whether remotely or otherwise;
  - b. redressing Shortcomings;
  - c. to the extent that it concerns Software: the issue of new versions, releases and/or updates in order to redress Shortcomings, to increase/improve the functionality and/or performance and/or to adjust the Software to (partly) new equipment and/or operating software (releases or versions).
- 36.3 All maintenance shall be available 24 hours a day, throughout the year.
- 36.4 TUI shall be entitled, but not obliged, to purchase all new versions or releases of the Software and the Supplier guarantees that it is and will continue to be able and prepared to carry out maintenance to every version or release of the Software during a period of three (3) years from the delivery of such a version of the Software.

#### Article 37 Remote maintenance and management

- 37.1 Unless explicitly agreed otherwise, the Supplier shall in any event carry out remote maintenance, management and/or monitoring, which shall also be understood to mean advice by e-mail, by telephone or online about the use and performance of the Software. Remote support can be requested 24 hours a day, throughout the year.
- 37.2 In the case of remote maintenance and management TUI shall grant the Supplier access to TUI's system, in which case the Supplier shall observe TUI's rules and procedures and shall keep TUI fully informed of its activities.
- 37.3 The Supplier shall take all necessary measures in order to protect TUI against unauthorized access to TUI's system and data and/or against other forms of abuse of TUI's system. In particular, the Supplier guarantees that no malware will be transferred and that no access will be obtained to TUI's network, system software or databases otherwise and that TUI's rights will not be harmed or infringed as a result of the remote maintenance, management and/or monitoring. The Supplier undertakes to remove any malware that has penetrated TUI's network, system software or databases due to any act or omission on the Supplier's part for its own account as a matter of urgency and to compensate TUI for any resulting costs and/or damage.

#### Article 38 Changes in and/or additions to the Software

- 38.1 If the Supplier makes any changes in and/or additions to the Software, they may not result in a restriction of the performance and/or applications

or application possibilities of the Software, the Equipment on which that Software has been installed and/or the files or data included therein. The Supplier guarantees that the versions, releases and updates of the Software supplied by it are compatible with:

- a. TUI's hardware, peripherals and operating system software;
- b. the previous versions or releases of the Software, and;
- c. the Software and files used by TUI or, if applicable, that this compatibility can be realised while using conversion software made available by the Supplier free of charge.

38.2 The presence of malware causing changes in the Software shall not affect the Supplier's maintenance obligation, regardless of the Party responsible for the presence of malware.

*Rijswijk, 1 July 2016*