



tailored telecom & IT

## General Terms and conditions of PHC Telecom B.V.

Valid as of 1 January 2023

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## 1. General provisions

### Article 1: Definitions

In these General Terms and Conditions, the capitalised terms have the following definitions, in which respect words in the singular will also refer to the plural and vice versa, and verb conjugations will be interpreted the same as the verb in question with due observance of the context:

1. Connection: the connection to the Network.
2. Subscription: an Agreement based on which the amounts due will be charged periodically.
3. Activation Date: The date on which the SIM card used for the mobile services is activated on the Network.
4. General Terms and Conditions: these general terms and conditions.
5. Equipment: the equipment delivered based on the Agreement, such as a mobile phone, router, installations, computers, cables, physical connections, and instruments.
6. Annexe: a document that is part of the Agreement.
7. Bundle: the credit to be used (if applicable) in advance for calls, texting, data/internet traffic, expressed in euros, which is paid by the Customer afterwards or in advance.
8. Service: each delivered or provided Telecommunications Service or another service.
9. Service Description: an Annexe to the Agreement which sets out the Service.
10. User: the natural person who uses the Service/Project provided by PHC for the benefit of the Customer.
11. Customer: the person who has received or will receive an offer or who has concluded or will conclude an Agreement with PHC.
12. Supplier: the Supplier of PHC with which the Customer can potentially enter PHC a direct contractual relationship as specified in the Agreement.
13. Netherlands: the Netherlands located in the EU, not in the special municipalities, such as Saba, Saint Eustatius, Saint Martin, and the islands of Aruba, Bonaire, and Curaçao.
14. Network: the entirety of technical components used by PHC to make fixed and mobile telecommunications possible.
15. Agreement: the agreement between PHC and the Customer.
16. PHC: P.H.C. Telecom B.V., established in Eindhoven and registered with the Chamber of Commerce with number 17096277.
17. Roaming: the use by the Customer of mobile telecommunications networks outside the Netherlands and in border areas.
18. Written/In Writing: including communication by email.
19. SIM Card: the chip that enables the use of the network in combination with a Connection and Ancillary Equipment.
20. Software: the software provided to the Customer by PHC in relation to the Services.
21. Rates Overview: an overview of rates and other costs related to the Goods and/or Services.
22. Telecommunications Service: a public electronic communication service to make use of the Network (including based on a Subscription).
23. Workdays: Mondays to Fridays from 09:00 to 18:00, except for general public holidays in the Netherlands.
24. Goods: tangible goods, equipment, installation kits for vehicles, physical network connections, SIM Cards, Software, hardware, quotations, calculations, analyses, designs, drawings, images, reports, documentation, flyers, samples, models, preparatory materials, accessories, or other materials delivered or provided by PHC.

## **Article 2: Applicability of these General Terms and Conditions**

1. These General Terms and Conditions govern all legal relationships (including quotations and Agreements) based on which PHC delivers Services, Goods and/or Subscriptions to the Customer.
2. These General Terms and Conditions consist of a general section and special sections. Provisions from the relevant special section will apply depending on the Services, Goods and/or Subscriptions to be provided by PHC. In case of conflicts between provisions from a special section and provisions of the general section, the provisions from the special section will take precedence.
3. These General Terms and Conditions are an integral part of the Agreement. In case of conflicts between a provision of the Agreement and a provision of these General Terms and Conditions, the provision of the Agreement will take precedence.
4. Deviations from and/or additions to these General Terms and Conditions will only be valid if agreed on In Writing between the parties.

## **Article 3: Quotations and conclusion**

1. All quotations of PHC are non-binding and will be valid for a period of fourteen (14) days from the date on which they are issued, unless indicated otherwise In Writing by PHC.
2. PHC cannot be required to uphold a quotation if the Customer can reasonably understand that (a part of) the quotation contains a manifest (spelling) error.
3. A compound quotation does not require PHC to deliver part of the offered Goods and/or Services at a corresponding part of the price.
4. An Agreement between the parties will only be concluded once a corresponding request of or on behalf of the Customer is accepted by PHC In Writing or if PHC starts with the execution of the Agreement.
5. PHC may always refuse a request.
6. PHC will always have the right to terminate the negotiations with the Customer without substantiation and without being required to pay any form of compensation or to continue the negotiations.

## **Article 4: Prices**

1. All prices do not include sales tax and other levies imposed by the government. Travel time, travel and accommodation expenses, additional hours, and other special costs associated with the work can be charged separately by PHC.
2. The quotation issued by PHC and the agreed price are based on the price-determining factors in effect at the moment of the quotation or the Agreement. If the prices of these factors increase before or during the execution of an Agreement, PHC will have the right to charge a resulting price increase to the Customer.
3. If a price in a quotation is based on data indicated by the Customer and these data are determined to be incorrect or incomplete, PHC will have the right to adapt the prices based on the prices reasonably belonging to the correct data, even if the Agreement has already been concluded.
4. If the Customer consists of several natural persons and/or legal entities based on the Agreement, each of these persons or entities will be jointly and severally liable vis-à-vis PHC for the fulfilment of the Agreement.
5. If a Project or order is delivered in phases, PHC has the right to submit an invoice for the hours worked, the Goods already delivered, per delivered phase, or on a monthly basis.
6. PHC has the right to amend the prices agreed with the Customer with effect from January 1 of each year based on developments in the field of wage costs, transport costs, components prices, and the like, based on the price index figures (the service price index)

as determined and published by Statistics Netherlands. The year 2015 (2015=100) will be the reference year for the service price index. PHC strives to inform the Customer of the price changes at least thirty (30) days before the date on which the change takes effect.

7. If the Customer purchases – and pays for – Software or Services from a different supplier through PHC, PHC can amend the corresponding price with immediate effect to pass on a change to the price charged by this different supplier. The provisions of Article 4(6) of these General Terms and Conditions will not apply in this case.

#### **Article 5: Payment**

1. Invoices must have been paid within fourteen (14) days of the invoice date, unless agreed otherwise In Writing
2. If the parties have agreed that payment will take place by means of direct debit, the Customer will grant PHC a mandate to collect the invoices.
3. If PHC fails to receive the amounts due in a timely fashion, for any reason (including charge-backs and inadequate balance), the Customer will be in default after the expiry of the payment period and will owe the statutory commercial interest and the extrajudicial collection costs from that time.
4. If the parties have agreed that the payment will take place in instalments, the following instalments will apply, unless indicated otherwise in the quotation or the Agreement:
  - a) 1st instalment: 50% immediately after the confirmation of the Agreement by PHC;
  - b) 2nd instalment: 40% before delivery;
  - c) 3rd instalment: 10% + invoice for the actual work, after the delivery.
5. PHC has the right to submit invoices to the Customer by electronic means (by email/online). If the Customer wishes to receive paper invoices, PHC may charge costs for this.
6. The Customer may not suspend its payment obligations vis-à-vis PHC or apply any deductions or settlement.
7. If an invoice is not paid in a timely fashion, PHC has the right to suspend its obligations arising from the Agreement and any other obligations arising from other agreements concluded with the Customer than those to which the unpaid invoice relates. PHC is not liable for any damage arising from such suspension.
8. In case of liquidation, bankruptcy, or suspension of payments of the Customer, the obligations of the Customer vis-à-vis PHC will be immediately exigible, and PHC will have the right to suspend or terminate its work.
9. The Customer must bear all costs associated with recovering an invoice that was not paid by the Customer, including all extrajudicial costs. These costs will be calculated using the Extrajudicial Collection Costs Table and will at least amount to €250.
10. Objections to the amounts charged must have been communicated to PHC In Writing within no more than fourteen (14) days of the invoice date. After the expiry of this date, the Customer will be deemed to have accepted the amount and contents of the invoice.
11. The Customer must inspect the first invoice following an amendment to the Agreement. If the amounts charged are incorrect, this must be communicated to PHC In Writing within no more than fourteen (14) days of the invoice date. PHC can never be required to provide compensation for more than one instalment invoice.

#### **Article 6: Execution of the Agreement**

1. PHC will strive to execute the Agreement to the best of its ability with due observance of adequate care and craftsmanship.
2. Execution periods and delivery periods will be indicative. PHC will not be in default by merely exceeding a period.

3. In order to allow the proper execution of the Agreement by PHC, the Customer will always provide PHC with all data or information reasonably requested by PHC in a timely fashion. The Customer is responsible for the accuracy and completeness of the data, information, designs, and specifications provided to PHC. If PHC requests specific cooperation and the Customer fails to provide this cooperation within one month, PHC will have the right to start invoicing the Service and the effective period of the Agreement will be deemed to have started at the moment on which PHC started submitting invoices.
4. The Customer is responsible for arranging a working connection site (IS/RA site) at the location where the Services must be provided, if a copper connection will be delivered.
5. Hardware for connectivity services (specifically optic fibre connections) will always be delivered in a 19" format. The Customer must arrange a suitable space and fixed power connections.
6. If the Customer fails to fulfil the obligations arising from the Article, PHC will have the right to charge additional costs and the period of the execution or delivery of the project may possibly be exceeded.
7. PHC has the right to engage third parties for the execution of the Agreement and accept any general terms and conditions and limitations of liability of these third parties on behalf of the Customer.
8. The Customer can purchase Services through PHC which PHC purchases from third parties in turn (such as Software as a Service services of Microsoft). PHC will clearly indicate in the Agreement that these are services provided by a third party in these cases. The general terms and conditions of these third parties will apply in this case.
9. Unless it has been agreed In Writing that PHC will arrange this, the Customer must have an adequate level of security to prevent unauthorised third parties from accessing the network and/or the systems of the Customer and/or to prevent the penetration by or installation of viruses, worms, and/or other harmful software or systems on the network.
10. If PHC incurs higher costs during the execution of the Agreement than set out in the Agreement, the Customer will be required to bear these costs as additional work if these costs are the result of (a) an additional contract granted by the Customer, or (b) a change to the state of technology, or (c) data provided to PHC by the Customer that do not correspond to reality.
11. The Customer is responsible for all the use or abuse of the Service and the Numbers, domain names, IP addresses, usernames, passwords, and email addresses provided for this purpose. The Customer is responsible for the security of the data it places on its systems and for the security of Equipment and Goods against unauthorised use by third parties.
12. The Customer will not remove or otherwise obscure type numbers, serial numbers, logos and/or other forms of markings placed on the Equipment or Goods.
13. The Customer is responsible for installing (security) updates unless an explicit management agreement exists.  
PHC will not be responsible if the product or its service fails to operate (properly) because of the failure to install updates.

#### **Article 7: Duration, termination, and dissolution**

1. Unless agreed otherwise In Writing, the Agreement will be concluded for an (initial) effective period of one year.
2. Unless one of the parties terminates the Agreement In Writing at least one month before the end of the initial period, the Agreement will be tacitly renewed for an indefinite period and can subsequently be terminated by either party In Writing at any time with effect from the end of the calendar month with due observance of a notice period of one calendar month unless agreed otherwise In Writing. The Agreement will remain in force as long as not all Services have been terminated.

3. Unless agreed otherwise In Writing, a termination by the Customer can only be processed once PHC has received a correct and complete termination statement from the Customer. The notice period in accordance with Article 7(2) of these general terms and conditions will start at that time.
4. If the Customer terminates a Service and/or Agreement before the expiry of the (minimum) contract period, PHC will charge the remaining monthly instalments to the Customer. In case of cancellation or termination of the Agreement by the Customer before the execution of the Agreement, PHC will charge the non-recurring costs and the monthly instalments to the Customer, potentially increased by the costs incurred separately by PHC or its vendor.
5. PHC can always suspend its obligations arising from the Agreement with immediate effect and without prior notice being required without any obligation to pay compensation (including by (temporarily, permanently, wholly, or partially) blocking or disabling one or more Connection(s) or Services) and to dissolve the Agreement fully or partially in the following circumstances,
  - a) if the Customer does not (fully) fulfil its obligations arising from the Agreement (in a timely fashion);
  - b) if PHC learns of circumstances – after the conclusion of the Agreement – that give it valid grounds to fear that the Customer will not fulfil its obligations;
  - c) if the actual use of the Goods and/or Services is not in line with the Agreement, does not correspond to the regular use on which the applicable rates are based, or deviates significantly from the use that may be reasonably expected;
  - d) if the Customer was requested to provide security for the fulfilment of its obligations when this Agreement was concluded and this security is not provided or is insufficient;
  - e) if PHC can no longer be required to continue to execute the Agreement based on the conditions originally agreed on due to delays attributable to the Customer;
  - f) if circumstances arise that are such that fulfilment of the Agreement will become impossible or unaltered continuation of the Agreement cannot be reasonably required of PHC.
6. Each party can dissolve the Agreement with immediate effect and without notice of default being required in case of (a) a request for debt restructuring; (b) suspension of payments; (c) bankruptcy; (d) liquidation, or (e) dissolution suffered by the other party, unless the liquidator or administrator decides to maintain the Agreement and immediately provides adequate security in accordance with Article 10 and the other party accepts the continuation of the Agreement.
7. The Customer must immediately inform PHC In Writing in case of a (possible) bankruptcy, suspension of payments, or debt remediation scheme.
8. PHC can impose additional instalments or conditions before continuing to provide its services if one of the situations set out in Article 7(4) or 7(5) occurs. If the Service must be reactivated after a suspension, PHC has the right to charge a non-recurring fee.

### **Article 8: Liability**

1. Except in case of intent or gross failure attributable to PHC or its management, PHC will not be liable for any form of direct or indirect damage (including consequential damage, loss of profits, lost savings, loss of goodwill, damage due to claims by purchasers of the Customer, corruption or loss of company data, and damage due to business standstill). PHC will also not be liable for the following circumstances and any resulting damage:
  - a) actions by or omissions of third parties engaged by PHC (including providers of Telecommunications Networks or Services and information services, content services, or text message services).

- b) for the manner in which the Customer uses the Services, Connections, or other facilities. The Customer indemnifies PHC and the supplier against all claims by third parties related to the content of the telecommunications traffic (including audio, images, and data, irrespective of the medium) and/or the data transmitted by the Customer using the Services;
  - c) the unavailability of Telecommunications Services as a result of (temporary) physical limitations, required maintenance, or force majeure;
  - d) the (potentially unauthorised) use of access codes and SIM cards
  - e) the suspension of obligations, the blocking and the removal of the access to Connections and Services.
2. If Goods are delivered by the Customer or the use of certain Goods is stipulated by the Customer or on its behalf, PHC will not be liable for shortcomings arising from the use of the Goods or any resulting damage.
  3. The overall liability of PHC based on any grounds is limited to compensation for direct damage up to the amount paid based on the relevant agreement. The overall liability for damage will never be more than €50,000.
  4. The liability of PHC for damage due to death or physical injury will never exceed an amount of €100,000 per event leading to damage, in which respect a series of related events will be considered a single event.
  5. Any claim for compensation of the Customer will always expire 12 months after the Customer became or should reasonably have become aware of the damage arising from an event or circumstance for which PHC is or could be liable.
  6. The Customer indemnifies PHC against claims concerning the failure to comply with licence obligations by the Customer and/or third parties (including Users) subject to the responsibility of the Customer.
  7. All limitations and exclusions of liability will not apply if the damage is caused by the intent or deliberate recklessness of PHC or its management.

#### **Article 9: Inspection, acceptance, repairs/exchanges of Goods and/or Services**

1. The Customer will inspect the Good and/or Service within seven (7) Workdays of its receipt and inform PHC if the Customer believes that the Good and/or Service contains a shortcoming and it cannot accept the Good and/or Service. If PHC has not received any complaints or remarks during the mentioned period, the Customer will be deemed to have accepted the Services and/or Goods unconditionally.
2. Goods and Services will be considered to have been accepted if:
  - a) PHC has delivered the Goods and/or Services by email or informed the Customer that the Goods and/or Services are ready for use or completed;
  - b) the Customer has not declared not to accept the Goods and/or Services in a detailed Written document within seven (7) Workdays of the receipt of the delivery document (or, if no delivery document has been provided, the delivery of the Good and/or Service); or
  - c) uses or has used the Goods and/or Services for operational purposes.The Customer may not refuse to accept the Goods and/or Services because they contain minor shortcomings (including shortcomings that do not have a significant negative impact on the main features).
3. If the Customer has refused to accept the Goods and/or Services in a timely fashion in accordance with the conditions set out above, PHC will do the following if it has attributable failed to fulfil its obligations:
  - a. in case of Services, resolve (or have another party resolve) the shortcoming, provided that the Service does not operate in accordance with the documented specifications of this Service;

- b. in case of Goods, such at the discretion of the Customer, resolve (or have another party resolve) the shortcoming or to exchange the faulty Good for a comparable Good, provided that:
  - the Good in question was provided to the Customer by PHC;
  - this Good does not operate in accordance with the documented Specifications of this Good;
  - the Good has been returned in a complete condition, in its original packaging, with all provided documentation and proof of purchase; and
  - the shortcoming to the Good was not caused after the moment of delivery or due to a cause attributable to the Customer.
4. If the Customer concludes that the Good contains a Shortcoming, PHC will assess whether the manufacturer of this Good will resolve the Shortcoming based on the warranties granted to PHC by this manufacturer or whether it will exchange the faulty Good for a comparable Good. If this is the case, PHC will, at its discretion, and without this leading to additional costs for the Customer, resolve (or have another party resolve) the shortcoming or exchange (or have another party exchange) the faulty Good for a comparable Good, provided that:
  - a) the Good in question was provided to the Customer by PHC;
  - b) this Good does not operate in accordance with the documented Specifications of this Good;
  - c) the Shortcoming has been reported to PHC as soon as possible after the discovery of the Shortcoming, at the latest within 12 (twelve) months after the delivery; and
  - d) the Good has been returned in a complete condition, in its original packaging, with all provided documentation and proof of purchase;
  - e) if the Good concerns equipment, the serial number and/or IMEI number of this Equipment correspond(s) to the serial number and/or IMEI number on the packaging; and
  - f) the shortcoming to the Good was not caused due to a cause attributable to the Customer.
5. PHC has the right to charge investigation costs and is not required to resolve (or have another party resolve) the shortcoming in the Service and/or Good or to exchange (or to have another party exchange) the faulty Good if PHC has purchased this Service and/or Good from a third party and it becomes clear that this third party is not required to carry out such repairs or exchange or fails to do so, even though it is required to.
6. Besides the provisions of this Article 9, PHC does not have any obligations in relation to (shortcomings in) the performance of Goods and/or Services.
7. The discovery of a shortcoming in a delivered Good does not lead to the right of the Customer to suspend any of its obligations.

#### **Article 10: Security, reservation of ownership, and transfer of risk**

1. PHC will always have the right, at its discretion, to require the Customer to provide (additional) security by means of advance payment of the fees due (up to the amount the Customer would reasonably owe to PHC for a period of six months) or the payment of an advance.
2. All Goods delivered to the Customer will remain the property of PHC until all amounts which the Customer owes to PHC pursuant to the Agreement concluded between the parties have been paid to PHC in full.
3. Delivery of Goods by PHC will take place to the delivery address indicated by the Customer, in which case the risk of the Goods will transfer to the Customer at the moment on which they arrive at the address in question, or, if it has been agreed that the Customer will sign



an order slip, at the moment on which the order slip is signed. Delivery of goods by PHC outside of the Netherlands will take place ex-works (Incoterms 2010).

4. If no delivery is possible at the agreed time due to circumstances attributable to the Customer, PHC will have the right to store the Goods and to charge the storage costs and additional transport costs to the Customer.

#### **Article 11: Force majeure**

1. In case of a non-attributable shortcoming ("Force Majeure") of PHC, the Customer cannot require PHC to fulfil its obligations. In case of Force Majeure, these obligations will be suspended until the moment on which PHC is able to fulfil them in the agreed manner without any form of liability.
2. Force Majeure will – inter alia – exist if PHC is unable to fulfil its obligations due to acts or omissions of the Customer, defects and/or shortcomings in the Goods, the systems and/or the network of the Customer, improper use of or breach of the Goods (such as telephony systems) of the Customer, ransomware at the Customer and/or customers of the Customer, defects and/or shortcomings in the infrastructure, fraud, abuse, maintenance, (risk of) war, unrest, acts of terrorism, terrorist attacks, vandalism, fire, water damage, frost, unworkable weather, lightning strike, storm, violations, earthquakes, (nuclear) explosions, work strikes, company occupations, government measures such as amendments to laws and regulations, or the revocation of telephone numbers by authorities, disruptions in the provision of electricity, safety and environmental requirements (such as contaminated soil, displacement of the surface and/or buildings, and asbestos), refused and/or restricted access to plots and/or buildings because of conditions imposed by land owners (such as the installation of decorative paving or certain work), delays in the acquisition of required permits, cable breakage caused by third parties, and disruptions or shortcomings in services provided by third parties.

#### **Article 12: Intellectual property**

1. All intellectual property rights to the Goods and/or Services developed or provided by or on behalf of PHC are vested solely with PHC, its affiliates, its licensors, or suppliers.
2. The Customer will have the right to use the Goods and/or Services delivered by PHC for the purposes set out in the Agreement for the duration of the Agreement or the time specified in the Agreement. A right of use accruing to the Customer is non-exclusive and cannot be transferred, forwarded, or made subject to a lien.
3. The Customer accepts the licence conditions belonging to any Software and documentation. The Customer may not let third parties use this Software and/or documentation. The Customer indemnifies PHC against the consequences of violations of intellectual property rights of PHC or third parties caused by the use of Services and Equipment in violation of the Agreement.
4. The Customer can obtain the intellectual property rights of products and/or Services developed specifically for the Customer, but only if this has been explicitly agreed In Writing. PHC will always keep the (intellectual property) right to continue to use components or materials used as the basis for these specific products for PHC or third parties. This does not restrict PHC from developing and selling a comparable product, unless agreed otherwise In Writing.
5. PHC may take technical measures to secure the products, for example, using passwords or encryption. If PHC has secured the products by means of technical security measures, the Customer may not remove or bypass these security measures.
6. The Customer guarantees that no rights of third parties will oppose the provision of Goods, materials intended for websites, data files and/or other products and/or designs to PHC for

the purposes of use, maintenance, processing, installation, or integration. The Customer indemnifies PHC against any claim by third parties based on the allegation that such provision, use, maintenance, modification, installation, or integration violates any right of this third party.

7. PHC is never required to conduct data conversion activities, unless agreed otherwise In Writing in the Agreement.

#### **Article 13: Privacy**

1. PHC can process personal data of the Customer in the context of the Agreement, for example, concerning the staff or customers. In this case, PHC will do so as a processor. The Customer will be the controller for the processing of these personal data.
2. PHC will do the utmost to secure the personal data of the Customer and will at least arrange suitable, technical, and organisational measures. These are the measures set out in the Agreement. If no relevant agreements have been set out in the Agreement, PHC will observe its default measures. If the Customer wants to learn which measures PHC will take and how PHC secures personal data, PHC will inform the Customer upon request.

#### **Article 14: Confidentiality and non-acquisition clause**

1. The parties will treat any information they provide to each other before, during, or after the execution of the Agreement in a confidential manner if this information has been labelled confidential or if the recipient should reasonably know or suspect that the information was intended to be confidential. The parties will also impose this obligation on their employees and any third parties engaged by them to execute the Agreement. The confidentiality obligation will not apply if a statutory obligation demands disclosure of this information and will end one year after the end of the Agreement, unless agreed otherwise In Writing.
2. PHC will not access the data kept and/or distributed by the Customer using the Services of PHC, unless this is required for the proper execution of the Agreement or the quality of the Project and/or if PHC is required to do so based on a statutory provision or court order. In this case, PHC will strive to minimise its access to the data to the greatest extent possible, insofar as it has the power to do so.
3. Both during the effective period of the Agreement and for a period of two (2) years following its termination, the Customer may not hire, directly or indirectly enter PHC a commercial relationship, or have employees of PHC perform work, except for work in the context of the Agreement, without the prior Written permission of PHC. If the Customer violates this article, it will forfeit an immediately exigible fine of €10,000 per violation to PHC, to be increased by €500 for each day on which the violation persists, without prejudice to the obligation to provide compensation for the damage actually incurred insofar as this exceeds the amount of the fine.

#### **Article 15: Transfer**

1. The Customer cannot transfer, forward, or otherwise make its rights and obligations arising from the Agreement, including the use of Services, available to third parties in any other manner than set out in the Agreement without the prior Written permission of PHC.
2. PHC may fully or partially transfer the obligations arising from the Agreement to its affiliates.

**Article 16: Competent court and applicable law**

1. The legal relationship between PHC and the Customer is governed exclusively by the laws of the Netherlands.
2. Disputes will exclusively be settled in first instance by the competent Court of Zeeland-West-Brabant (Breda), unless PHC chooses to bring the case before the court competent in the place of establishment of the Customer.

**Article 17: Final provisions**

1. PHC has the right to amend these conditions, which amendments will take effect at the announced time. PHC will provide the Customer with the amended conditions well in advance. If the date on which the amendments take effect has not been announced, any amendments will take effect vis-à-vis the Customer once it has been informed of this amendment.
2. If any provision of these General Terms and Conditions becomes invalid or void, the remaining provisions of these General Terms and Conditions will remain in full force and effect. In this case, PHC and the Customer will discuss the situation in order to agree on new provisions to replace the invalid or void provision.

## 2. Connectivity

In addition to Chapter 1 of these General Terms and Conditions, this chapter governs connectivity services (such as Internet and other fixed services) provided using a carrier. Examples of carriers: optic fibre, copper, or radio connections (including radio-relay connections, 4G, 5G, and satellite).

### Article 18: Delivery and acceptance

1. PHC will always reserve the right to cancel the Agreement or to amend it in consultation with the Customer if PHC cannot reasonably be expected to maintain its offer (for example, as a result of excessive excavation and installation costs).

### Article 19: Price and payment

1. With respect to the calculation of the connection costs, PHC assumes the following concerning the excavation and installation work (insofar as applicable) (i) the work will not include underground obstacles or issues (such as, but not limited to, contaminated soil), or contaminated buildings (such as, but not limited to, asbestos); (ii) does not include crane and/or rappel work; (iii) can and will be performed by a contractor appointed by PHC and in accordance with the specifications imposed by PHC, and (iv) can be performed on Workdays. Costs associated with deviations from the provisions above will be charged separately to the Customer by PHC based on the actual work and must be paid by the Customer.
2. Additional non-recurring and/or recurring costs for patches and/or interconnectivity on locations not managed by PHC can be charged separately by PHC based on the actual work and must be paid by the Customer.

### Article 20: Services and availability

1. If desired and against remuneration, PHC can deliver Goods for the purpose of using the Service. The Customer will always be responsible for these Goods and their configuration after the delivery, unless agreed otherwise In Writing
2. The Customer may only use the Service and any resulting bandwidth for its own purposes. The Customer may not subrent, sell, or provide the Service and the resulting bandwidth to third parties, unless PHC has given explicit prior written permission for this.
3. PHC is required to cooperate with any requests by competent (government) bodies to share personal data or to provide (real-time) insight PHC telephone and/or data traffic of the Customer. PHC has no obligation to provide information vis-à-vis the Customer.
4. PHC will strive to ensure that the Customer can make use of the Networks directly or indirectly connected to the Network of PHC. PHC cannot guarantee that these Networks are available at any time. The use of Networks of third parties may be subject to statutory and contractual conditions. PHC will strive to inform the Customer about this in a timely fashion.
5. The availability and quality of the Service partially depend on a number of external factors, including the Internet connection of the Customer if, for example, a VOIP service is purchased.

### Article 21: Maintenance and disruptions

1. PHC has the right to temporarily make the Services or parts thereof unavailable for the purpose of maintenance, modifications, or improvements. PHC will strive to schedule such unavailability outside of office hours to the greatest extent possible and to inform the

Customer of the scheduled unavailability in a timely fashion. However, PHC will never be required to provide compensation for damage caused in relation to such unavailability, unless explicitly agreed otherwise In Writing.

2. PHC is only required to have a backup location or other backup facilities if this has been explicitly agreed upon In Writing.
3. PHC has the right to change the operation and technical specifications of the Service at any time in the interest of the continued availability of the Service. Unless this is not reasonably possible, PHC will inform the Customer of these modifications in a timely fashion. PHC is not liable for the damage arising from these modifications.
4. PHC will investigate any disruptions as soon as possible. PHC will strive to resolve the disruption as soon as possible. Please refer to the Service Level Agreement (SLA), which is part of the Agreement, for the way disruptions must be reported and how these will be handled, as well as the response times.

#### **Article 22: Usage and costs**

1. The Customer will use the Service in a proper manner. If agreed on, PHC has the right to charge excessive use of the Service to the Customer.

### 3. PHC Mobile

In addition to Chapter 1 of these General Terms and Conditions, this chapter applies to services that are supplied by PHC to the Customer by making several SIM cards available, possibly in combination with Equipment.

#### Article 23: Formation of the Agreement

1. The Customer is obliged to provide the information as specified in the Agreement and/or required for the delivery of the Service and to provide the documents mentioned below to PHC:
  - for natural persons: proof of identification as referred to in the Dutch Compulsory Identification Act and proof of a permanent place of residence in the Netherlands;
  - for companies and/or legal persons: an extract of their registration at the Dutch Chamber of Commerce no older than two months and an identification certificate (as referred to in the Dutch Compulsory Identification Act) of the competent representative of the company or legal persons.
2. Without prejudice to his obligations pursuant to the Agreement, the Customer is responsible for (timely) cancelling or changing his existing agreement(s) with other suppliers of (telecommunications) services ("Existing Suppliers") where comparable services are supplied (such as internet services) or where the services of the Existing Suppliers depend on the Services (such as PIN or alarm services). PHC is not responsible for the payment of any termination fees that the Customer must pay to the Existing Suppliers or for paying change costs in related to being able to continue to purchase the services of that Existing Supplier.

#### Article 24: General Duration

1. The (initial) duration of the Agreement is calculated from the date on which the first SIM card was activated, unless otherwise agreed in the Agreement in writing. This does not apply to SIM cards from numbers transferred, i.e. ported, to PHC. For this, the term of the Agreement per SIM card is calculated separately from the date of transfer of the number to PHC, unless otherwise agreed in the Agreement in writing. Invoicing of a Service takes place from the Activation Date of the SIM card.
2. If the Agreement is prematurely cancelled or terminated by the Customer, that is, before the end of the initial term, then - without prejudice to the other rights of PHC - a lump sum payment is due immediately after the premature cancellation or termination by the Customer. In addition to the outstanding invoiced amounts for the Service, this lump sum payment consists of: (i) 100% of the fixed monthly rate for the Service, to be multiplied by the number of months that the Agreement was cancelled or terminated too early, and - if applicable - (ii) the monthly variable rates for the Services, for the full initial term of the Agreement. The part of the lump sum payment that relates to the monthly rates for the Services is determined by multiplying the average monthly volume generated by the Service by the number of months that the Agreement has been cancelled or terminated too early and - if applicable - (iii) the fixed recurring monthly rate for the purchase of the mobile device, to be multiplied by the number of months that the Agreement was cancelled or terminated too early. If the Customer cancels the Service before delivery of the Service, he also owes the one-off rate for the installation and/or delivery of the Service to PHC, without any discounts.

## **Article 25: Mobile Services**

1. Unless otherwise agreed in writing in the Agreement, the Service consists of the provision by PHC of a SIM card, with which, whether or not in combination with the Equipment, the possibility is offered to send and receive calls and/or data over the network.

## **Article 26: Service Level and Use of the Service**

1. The Customer adheres to the requirements involved in reasonable use of the Services.
2. The Service is intended for individual use by the Customer. Unless otherwise agreed in the Agreement, it is not permitted to resell the Service or otherwise to use the Service for commercial purposes, such as making the connection available (against payment) to third parties or making the connection available to multiple users.
3. The telecommunication traffic offered by the Customer must have its origins on the Network, unless there is Roaming or if otherwise agreed. The Customer is therefore not allowed to use the Service if the telecommunication traffic offered has its origins outside the Network, for example the Customer's company network. The Customer is not allowed, without prior permission from PHC, to convert the mobile telephone traffic that is made possible by the Services as fixed telephone traffic before it is routed to the final destination by PHC. For example, the Customer is not allowed to use SIM or mobile phone boxes or similar Equipment.
4. The Customer is not allowed to set up a dedicated voice connection with data-only SIM cards.
5. The Customer is obliged to use a 06 number only in devices with which a speech connection can be established.
6. PHC can provide access codes for certain Services (such as the management portal). The Customer is responsible for storing and securing these access codes by third parties and immediately informs PHC in the event of unauthorised use. In the event of (a suspicion of) unauthorised use, PHC is entitled to block the access codes immediately.
7. The Services work with the help of radio signals. These signals can be disturbed by external circumstances on which PHC has no influence whatsoever. Partly because of this, PHC cannot guarantee the quality of the connection. Due to maintenance or malfunctions, there may be temporarily little or no reception at all. In this respect, PHC is not liable for any damage resulting from this. PHC owes a compensation (as referred to in Article 7.1a of the Dutch Telecommunications Act) if the delivery of the Service as a result of a malfunction in the Network is fully interrupted for a continuous period of more than 12 hours.
8. PHC can make changes with regard to the countries and/or networks from which mobile calling and calling abroad is possible. The Customer can use these roaming networks, with due observance of the uses, quality characteristics and regulations that apply to the country or network in question. PHC is not responsible for the quality of the network in question.
9. PHC reserves the right to change, expand, suspend or terminate network standards, network specifications, networks in general, technologies and techniques if PHC considers this necessary in connection with business, technical and/or commercial reasons, this exclusively at the discretion of PHC, or if PHC can no longer have the disposal of specific Items and/or Services that are supplied by third parties.
10. Unless agreed in writing in the Agreement, the Customer is not allowed to use the Services for machine-to-machine (M2M) applications.
11. The Customer may not use the Services in such a way that (a) there are artificial handles, including SIM boxes or automatic call systems, whereby the Customer or a third party achieves financial benefits, and/or (b) damage is caused to PHC and/or third parties, and/or (c) the integrity of the Network is endangered and/or (d) there is a disproportionate strain on the Network.

12. If PHC has well-founded indications that the Customer does not comply with the provisions in this article and/or in the event of abuse and/or unreasonable use, PHC, depending on the seriousness of the shortcoming, is entitled to immediately suspend or terminate the Agreement and/or Services and/or Connections in whole or in part, without prejudice to the right of PHC to claim the full operating costs in accordance with Article 31, paragraph 1 of the General Terms and Conditions. PHC will not be liable for any damage of the Customer as a result.

#### **Article 27: SIM Cards and Equipment**

1. A SIM card made available to the customer by PHC is and remains the property of PHC. After the first request of PHC for this purpose, the Customer must return the SIM card to PHC after the end of the Agreement. The Customer must possibly purchase suitable (replacement) Equipment himself to be able to use the Services.
2. PHC has the right to replace the SIM cards. PHC may charge costs for the replacement of a stolen or defective SIM card. These costs are stated in the rates list associated with the purchased mobile price plan.
3. A pin code (personal identification number) and a PUK code (personal deblocking key) are attached to each SIM card. The Customer must take all possible precautions to protect the pin and PUK codes against loss, theft and/or damage and is responsible for unauthorised use.
4. In the event of theft or loss of the SIM card, the Customer must immediately take the relevant connection out of service. The Customer will remain liable for the Usage Costs until the moment on which the Connection is blocked.
5. The Customer may only use the SIM card in combination with CE-certified Equipment. If research by PHC shows that complaints from the Customer with regard to the operation of Services are not due to the Network, the Customer may be obliged to offer the Equipment to PHC for a check-up. If PHC determines that the Customer's Equipment disrupts the proper functioning of the Network, PHC is entitled to immediately put the relevant SIM card out of that Equipment out of operation.

#### **Article 28: Phone Numbers and Number Porting**

1. For the benefit of the Service, PHC can provide the Customer with one or more telephone number(s). The Customer cannot assert any rights with regard to the use or preservation thereof, subject to applicable legal regulations. If necessary due to the continuation of the Service or network infrastructure of PHC or due to amended legislation or if a competent authority orders this, PHC is entitled to change or withdraw numbers as referred to in this article.
2. If the Customer wishes to port a number to another provider, the Customer must send the request to this provider. If the Customer ports the number to another provider before the end of the initial term, this is considered a premature termination and the premature termination regulation of Article 24, paragraph 2 of the General Terms and Conditions applies.
3. Number porting and number retention is not possible with data-only SIM cards. In that case, the mobile number will be cancelled upon termination of the Agreement.
4. Number retention is a separate service to be agreed to which conditions apply. The Customer accepts that PHC accepts no responsibility or liability for the success of requested number retention.
5. One month after the Agreement has been terminated, the number will be cancelled unless the Customer has requested number retention in time



### **Article 29: Content and Content Services**

1. Intellectual property rights apply to Content and/or Content Services and other services and/or products made available by PHC by virtue of the Agreement. These intellectual property rights belong exclusively to PHC, to its affiliated companies, licensors or other third parties. PHC grants the Customer a non-exclusive and non-transferable right to use these products and/or Content and/or Content Services during the term of the Agreement and in accordance with the intended use, as referred to in Article 26 of the General Terms and Conditions, among other things . The Customer is not allowed to edit or copy Content, to send it to third parties or to reproduce it or make it public.
2. Access to, use and/or purchase of Content Services by the Customer does not lead to any intellectual property right on Content being transferred to the Customer.
3. The Customer indemnifies PHC and compensates PHC for the consequences of infringements of intellectual property rights of PHC or third parties, caused by the use of Content in violation with these General Terms and Conditions and the Agreement.
4. The Customer must have properly functioning Equipment and software applications required for the Content and/or Content Services. PHC is not responsible or liable for the not (proper) functioning of Content Services as a result of defects in the Equipment and/or Software used by the Customer.
5. PHC is not responsible or liable for the content and operation of Content Services that the Customer takes from third parties.
6. The Customer will adhere to any conditions that apply to Content Services.
7. PHC reserves the right to change, temporarily decommission or stop Content Services (such as the management portal) without prior notice. PHC strives to replace an equivalent Service for this.

### **Article 30: Maintenance and Disruptions**

1. PHC can, for maintenance on the network or if incidents require to do so, take the network out of use completely or partly. PHC will communicate the decommissioning as timely as possible and in advance, unless it concerns short or limited interruptions.
2. Any disruptions will be investigated by PHC as soon as possible. PHC will strive to resolve the disruption as soon as possible. The legal compensation applies to disruptions.
3. The technical properties of Services and/or the Network can be changed by PHC. Without good or urgent reasons, PHC will not temporarily limit or stop a Service.

### **Article 31: Operating Costs and Payments**

1. Unless otherwise agreed in the Agreement in writing, the Customer owes the following for the use of the delivery of the Services:
  - A fee per call and/or data received or sent and/or a user-dependent and/or a destination-dependent rate (this also includes Roaming rates);
  - A fee for other service-specific consumption based on a consumer rate;
  - A fixed rate agreed with the Customer monthly;
  - A one-off rate for the installation and/or delivery of the Service;
  - Optional: a monthly fixed rate agreed with the Customer for the purchase of a mobile device, until the purchase price is paid.
2. The Customer agrees that the rates mentioned in the Agreement are considered an alternative rate, as referred to in the EU Roaming Regulation.
3. If a Bundle has been agreed, the Bundle is personal and linked to the Service. Unused credit cannot be taken to the following month. The Customer cannot have his Bundle refunded, remitted or otherwise transferred to a third party. The Bundle remains owned by PHC until the fees due have been paid by the Customer. The Bundle will automatically

lapse if the Agreement is terminated without the Customer being able to claim any form of reimbursement or compensation.

4. In cases other than after termination of the Agreement, PHC reserves the right to charge the Customer the costs of a disconnection and/or re-connection of the Service or parts thereof.

### **Article 32: Reasonable Use**

1. The Subscriptions are intended for consumers/users with a place of residence in the Netherlands, or a stable link with the Netherlands, which is shown in a frequent and substantial presence.
2. PHC reserves the right to take measures to prevent overloading its network.
3. PHC interprets "improper use" or "abuse" to include at least, but not exclusively:
  - Use that stems from the fact that the Customer has no residence in the Netherlands and/or has no stable link with the Netherlands. This can be expressed, for example, in the fact that over a period of at least 4 months, the presence and/or the use of (data) services abroad are greater than in the Netherlands, the SIM card is inactive for longer periods and/or only used to roam or for telephone calls in or from the EU or USA;
  - Use that results from (organised) resale of the Subscriptions to persons without residence in the Netherlands and/or without a stable link with the Netherlands;If PHC determines that there is improper use or abuse, it reserves the right to charge the maximum regulated wholesale rate for roaming traffic and/or to charge the use at regular rates as included in the rates overview, to recover the damage and/or to terminate the services (temporarily or permanently for wholesale).
4. If unlimited calls in the EU (or EU/USA) or the bundle 'Unlimited calling to the EU' is part of the Subscription, a maximum of 300 different international fixed and mobile numbers per month can be called per Subscription (with the exception of service numbers) based on a reasonable use.
5. PHC reserves the right, in the case of violation of reasonable use with unlimited calls in the EU (or EU/USA) or with the bundle of 'Unlimited calling to the EU', to charge the use against the regular rates as included in the rates overview or to disconnect the use in the EU (or EU/USA). PHC also reserves the right to contact the Customer in the event of unreasonable use.
6. In the case of (a suspicion of) circumvention of the provisions regarding reasonable use or use in a way for which the Subscriptions are not intended, i.e. improper use, PHC has the right to temporarily suspend the connection or to temporarily limit the speed or quality of the connection. PHC will inform the Customer in advance. PHC has the right to change the Subscription to the highest possible internet subscription with a national limit or to terminate the Agreement. PHC is not liable for any damage resulting from it and the Customer owes any costs incurred.

### **Article 33: (Changes) and General Termination Provisions**

1. In connection with the provisions of Article 26, paragraph 8 of the General Terms and Conditions, PHC is entitled to terminate the Agreement in whole or in part, with due observance of a notice period of at least one month. In that case, PHC offers a replacement service if possible. If the Customer does not wish to accept the replacement service, or if no replacement service is available, the Agreement will be terminated as of the (announced) date that PHC ceases the service.

## 4. Telecom

In addition to Chapter 1 of these General Terms and Conditions, this chapter will apply if PHC provides telephony Services using a computer network and associated services, such as (X)DSL, mobile, and VOIP.

### **Article 34: Execution**

1. The Customer can provide Goods for the purpose of using the Service, if desired and against remuneration. The Customer will always remain responsible for these Goods and their configuration after the delivery.
2. The Customer may not subrent the Service set out in this module or make it otherwise available to third parties without the Written permission of PHC.

### **Article 35: Services and availability**

1. PHC does not offer any guarantees concerning the precise extent of the availability unless agreed otherwise In Writing.
2. Unless proof to the contrary is provided, the availability and service level measured by PHC will serve as comprehensive evidence.
3. PHC will strive to ensure that the Customer can make use of the networks directly or indirectly connected to the network of the Customer. The use of networks of third parties may be subject to statutory and contractual conditions. PHC will strive to inform the Customer about this in a timely fashion.
4. The availability and quality of the Service partially depend on a number of external factors, including the Internet connection of the Customer if, for example, a VOIP service is purchased.

### **Article 36: Maintenance**

1. PHC has the right to temporarily make the Services or parts thereof unavailable for the purpose of maintenance, modifications, or improvements. PHC will strive to schedule such unavailability outside of office hours to the greatest extent possible and to inform the Customer of the scheduled unavailability in a timely fashion. However, PHC will never be required to provide compensation for damage caused in relation to such unavailability unless explicitly agreed otherwise In Writing.
2. PHC is only required to have a backup location or other backup facilities if this has been explicitly agreed In Writing.
3. PHC has the right to change the operation and technical specifications of the Service at any time in the interest of the continued availability of the Service. Unless this is not reasonably possible, PHC will inform the Customer of these modifications in a timely fashion. PHC is not liable for the damage arising from these modifications.

### **Article 37: Usage and costs**

1. The Customer will use the Service in a proper manner. If agreed on, PHC has right to charge excessive use of the Service to the Customer
2. PHC can set a limit on the telephone connection usage (total time of calls) of the Customer in the context of the Service per month. If this limit is exceeded, PHC has the right to charge an additional fee in accordance with the amounts for additional telephone connection usage set out in the quotation.

3. Additional telephone connection usage or additional costs associated with the Service will be specified and charged separately to the Customer on a monthly basis.
4. A Fair Use Policy will apply if PHC has not imposed a limit on the monthly telephone connection usage of the Customer. In this case, a realistic telephone connection usage will be determined based on the average use of all customers. If the Customer exceeds this usage several times, PHC will contact the Customer to find a reasonable solution, such as a higher fee.

### **Article 38: Number management**

1. The Customer can choose a new telephone number for the Service, possibly bound to a geographical area, or transfer a telephone number from an agreement with a third party.
2. The Customer must observe the instructions given by PHC for the number retention, insofar as possible. PHC has the right to charge non-recurring costs to the Customer for the number retention. PHC is not liable for the termination of ongoing agreements with a third party concerning the telephone number in question.
3. If applicable, the Customer declares that it will only use the geographical telephone number in the geographical area for which the number is intended. The Customer indemnifies PHC against all potential consequences if the above is not complied with.
4. If PHC considers this necessary for the proper performance of the Service or in order to comply with laws and regulations, it has the right to change the telephone number of the Customer. When doing so, PHC will keep the interests of the Customer in mind to the greatest extent possible. PHC is not required to pay any form of compensation as a result of the change.
5. If the Agreement is terminated, the telephone number of the Customer will expire unless the Customer makes use of the option of number retention and houses the telephone number with a third party.

## 5. Installation

In addition to Chapter 1 of these General Terms and Conditions, this chapter will apply if PHC installs Equipment, electrical installations, network systems and/or cabling (hereinafter referred to as: the "System") at the Customer (hereinafter: "Installation Work").

### Article 39: Obligations of the Customer

1. The Customer will provide the connection options and the electricity required for the System, the installation work, and the corresponding testing in a timely fashion, at the latest before the start of the installation work. The Customer will bear the costs of the required electricity.
2. The Customer will arrange the connection of the System or the installation to a public telecommunications network. The Customer will bear the associated (connection) costs. If agreed In Writing, PHC will give instructions concerning the relevant connection to a public telecommunications network.
3. The Customer must ensure that the work to be performed by third parties (such as structural work) and/or deliveries that are not part of the installation work but are necessary for the correct and timely performance of the installation work by PHC will be performed in such a manner and in a timely fashion that the installation work does not experience any delays or inconveniences. The Customer must immediately inform PHC if delays occur (or are expected) as referred to in this article.
4. If the start and the progress of the installation work are delayed due to circumstances for which the Customer is responsible, any resulting damage for PHC must be borne by the Customer, provided that this damage is related directly to the delay. Both the Customer and PHC will strive to mitigate the aforementioned damage to the greatest extent possible.
5. With respect to the installation work, the Customer must ensure the timely availability of adequate and secure equipment and tools for the horizontal and vertical transport of the heavy components required for the system and for the availability and accessibility of the location of the system, as well as for the suitability of the access roads to the location of the installation work.
6. The Customer is liable for damage to and loss of materials, components, and tools brought by PHC or third parties engaged by PHC for the installation work and managed by the Customer, unless such damage and/or such losses are attributable to PHC.
7. The Customer will allow PHC to place name signs and advertising at the location of the installation or on the System, at no cost, during the period in which PHC performs (installation and/or maintenance) work.

### Article 40: Special provisions

1. The Customer guarantees that it will ensure that the intangible property where PHC conducts (or will conduct) the installation will comply with the applicable construction standards. The system may not be exposed to fluids, weather influences, or ultraviolet light. If it becomes clear at any time that the system is being or will be exposed to the above, PHC will have the right to suspend the execution of the Service at the risk and account of the Customer. PHC will discuss the situation with the Customer in this case.
2. The Customer is responsible for and will bear the costs of all requests associated with the permits, exemptions, and additional local requirements imposed by the government and/or utility companies related to the installation and the system and the drawings to be performed in the context as creation for the structure of the system.
3. If applicable, the Customer will inform PHC about the correct location of the (underground) cables and pipelines in or near the location of the installation and the system. In case of

the performance of drilling work at the request of the Customer, PHC will exclusively observe the instructions of the Customer, which will mark the drilling locations on the floor and/or the wall. If PHC accidentally damages a pipeline at a location designated by the Customer, PHC will not be liable for any resulting damage.

4. The Customer is responsible for and will bear the costs of the implementation of adequate and effective measures in order to create a safe work environment based on the Working Conditions and Environmental Legislation. Moreover, the Customer is required to enable the mitigation of the consequences of health damage. After a suspension as set out in this article, PHC will continue with the installation once the Customer has satisfactorily demonstrated that a safe situation has been created and has provided compensation for the costs that had to be incurred by PHC (such as investigation costs, monitoring costs, and the costs incurred to purchase protective equipment).
5. The Customer bears the risk for all circumstances as set out in this article and will provide compensation to PHC for all damage suffered by it as the result of such a circumstance. The Customer will indemnify PHC against all claims by third parties, including the supplier leverancier and/or the Customer and/or third parties and/or employees engaged by PHC due to a circumstance suffered by the Customer as set out in this article. The aforementioned liability is supplementary/in line with the liability arising from law.
6. The Customer guarantees that it will always turn off the electricity of the relevant part of the system at the request of PHC to ensure that employees of PHC or third parties will not suffer any health damage and/or material damage as a result.

## 6. Leasing and/or lending of Equipment

In addition to Chapter 1 of these General Terms and Conditions, this Chapter governs the leasing and/or lending of Equipment (including managed routers and managed firewalls) to Customers.

### Article 41: Delivery

1. PHC can require the Customer to cooperate with an inspection of the delivered products. The Equipment will be provided to the Customer after a positive inspection. A report of the inspection may be drawn up.
2. The Customer will install the Equipment itself, unless the parties agree otherwise In Writing.

### Article 42: Use

1. The Customer may only use the Equipment at its own company for the purpose for which it is intended.
2. Without the Written permission of PHC, the Customer is not permitted to subrent or otherwise provide the Equipment to third parties. The Customer will never use (a component of) the Equipment as a security or collateral object in any way vis-à-vis a third party.
3. The Customer will use the Equipment as a good caretaker. The Customer will handle the Equipment with care, take precautionary measures, and observe all instructions provided with the Equipment or by PHC.
4. If the Customer discovers shortcomings in the Equipment, it must immediately inform PHC In writing.
5. The Customer is fully liable vis-à-vis PHC for damage to the Equipment caused by any other use than regular (foreseeable) use. The Customer must always report any damage that has occurred to PHC In Writing.
6. The Customer may not modify or alter the Equipment without the Written permission of PHC, unless this concerns modifications and additions that can be reversed without incurring significant costs at the end of the rental period and can be removed. The Customer is required to reverse these modifications and changes.
7. PHC will always have the right to refuse the permission referred to in the previous paragraph or to make its permission subject to conditions. In this respect, the Customer has the right to increase the rental fees for Equipment if the modification or change justifies this.
8. Damage to the Equipment caused by modifications or changes can never be considered damage that must be borne by PHC as defined in Article 7:204 DCC.
9. If the Equipment becomes the subject of a preservation or enforcement order, the Customer must immediately inform PHC In Writing. This notice must contain as much information as possible, at least including the identity of the party levying attachment and the reason for this. The Customer is also required to provide the partying levying attachment with the Agreement concluded with PHC.

#### **Article 43: Obligations of PHC**

1. PHC will resolve shortcomings within a reasonable period, unless this is impossible or involves expenses that cannot be reasonably be demanded from PHC.
2. PHC will not resolve shortcomings if these are shortcomings which:
  - were accepted by the Customer upon the conclusion of the Agreement
  - have occurred due to irregular use or due to actions of the Customer, its staff, or visitors to its location;
  - are the result of careless, improper, or incompetent use of the Equipment or use in violation of regulations, documentation, and the like;
  - are the result of use in violation of Article 42 of these General Terms and Conditions.
3. If PHC resolves a shortcoming as referred to in the previous paragraph, it has the right to charge costs to the Customer.
4. PHC has the right to replace the Equipment with a new or comparable version instead of resolving a shortcoming.
5. PHC has the right to conduct preventive maintenance on the Equipment. The Customer is required to cooperate with this maintenance. The parties will discuss this in advance to decide on a date and time for the maintenance. The Customer is not entitled to replacement Equipment during the maintenance period.

#### **Article 44: Termination**

1. The Customer is required to return the Equipment to PHC upon the termination of the Agreement. Any costs incurred to transport the Equipment from the Customer to PHC will be borne by the Customer.
2. If the parties have drawn up a report upon the delivery (as referred to in Article 36 of these General Terms and Conditions), the Customer is required to return the Equipment in the same condition as it was in upon acceptance, except for permitted modifications, additions, wear and tear, and shortcomings caused by regular use. If no report has been drawn up, the Customer will be deemed to have received the Equipment in the condition it is in upon the end of the Agreement, unless PHC proves otherwise.
3. PHC can require the Customer to cooperate with a final inspection. If the Customer refuses to cooperate, PHC will conduct a final inspection, which will be considered an inspection conducted by both parties.
4. If PHC identifies shortcomings during the final inspection that must not be borne by PHC, as the lessor, PHC will charge the costs incurred to repair and/or replace the object to the Customer. The Customer will always have the right to refute this cost claim by demonstrating that any shortcomings and damage are the result of regular wear and tear, depreciation, and use of the Equipment.
5. The Customer is responsible for the transfer of its data, or for creating backups, and the like upon the termination. Unless agreed otherwise, PHC does not offer the opportunity of providing any data still present on the Equipment to the Customer after the Equipment has been returned.



## 7. Maintenance and support

In addition to Chapter 1 of these General Terms and Conditions, this chapter governs Services that consist of the installation, configuration and/or maintenance of Goods and Services.

### Article 45: Maintenance

1. 'Maintenance' is defined as follows in this chapter:
  - a) preventive maintenance: the inspection, configuration, and cleaning of the equipment considered necessary by PHC to reduce the risk of disruptions;
  - b) corrective maintenance: resolving disruptions in the Equipment, as defined in this article, caused during the regular use of the equipment as a result of regular wear and tear and due to inherent defects in the Equipment, as well as the performance of the required repairs and the replacement of worn or damaged components;
  - c) remote preventive maintenance: preventive maintenance using a connection to the equipment created using telecommunications facilities;
  - d) remote corrective maintenance: corrective maintenance using a connection to the equipment created using telecommunications facilities.
2. A 'disruption' is defined as follows in this chapter: the failure to comply with the Specifications of the equipment agreed In Writing (without interruptions). A disruption will only exist if it can be demonstrated by the Customer and reproduced.
3. Unless agreed otherwise In Writing, the maintenance will be performed on Workdays.
4. If maintenance has started during Workdays and the maintenance staff of PHC considers it necessary to continue with the work outside of these hours, the applicable rates will be charged to the Customer for this work. In general, the work will not continue outside of office hours for more than one hour.

### Article 46: Obligations of PHC

1. During the effective period of the Agreement, PHC undertakes to resolve disruptions that have been reported to it by the Customer in accordance with Article 45(2) to the best of its ability. The obligation to perform maintenance within the agreed rates solely covers Equipment included in the current agreed Equipment list of the Customer. The Customer will ensure that the Equipment list is always up to date in consultation with PHC. If PHC performs maintenance with respect to Equipment not included in the installed base at the moment of the work, PHC will perform this work based on its regular rates for its actual work.
2. If the parties have agreed on a period within which the repairs must be performed, this must be set out in the Agreement or a Service Level Agreement (SLA), which will be part of the Agreement.
3. Components will be replaced if PHC considers this necessary to resolve or prevent disruptions. The replaced components will be the property of PHC.

### Article 47: Maintenance conditions and terms of use

1. The Customer can relocate the Equipment at its expense after prior Written permission of PHC, which permission will not be refused based on unreasonable grounds.
2. In case of a disruption, the Customer will inform PHC using a detailed description of the disruption drawn up by an employee of the Customer with expertise in this field. The disruption will be reported using the method indicated by PHC. The Customer is required to immediately grant staff of PHC or third parties designated by PHC access to the location of the Equipment and to grant all other necessary assistance.

3. The Customer has the right to connect Equipment not delivered by PHC. The costs of investigating and resolving disruptions that arise from connecting – and keeping connected – Equipment not delivered by PHC will be borne by the Customer.
4. If PHC believes that the maintenance of the Equipment requires testing the connection of the Equipment to other systems or Equipment, the Customer will make these other systems or Equipment and the relevant test procedures and information carriers available to PHC.
5. The Customer is responsible for and will bear the costs of the technical, spatial, and telecommunications facilities required for the operation of the Equipment. The maintenance explicitly does not cover the aforementioned facilities and connections.

#### **Article 48: Exclusions**

1. Work related to investigating and resolving disruptions arising from the incompetent use of the Equipment or external causes such as shortcomings in communication cables or in electricity facilities, or connections with or use of Equipment not covered by the Agreement, will not be included in the maintenance obligations of PHC based on the Agreement and will be charged separately to the Customer based on the applicable rates.
2. Unless explicitly agreed otherwise In Writing, the maintenance fee does not include:
  - a) the replacement of consumables, such as (magnetic or digital) storage media, laser caps, batteries, or antennae, or replacement costs of components and maintenance services to resolve disruptions that were fully or partially caused by attempts to resolve disruptions or work performed by others than PHC or its auxiliaries;
  - b) work for the partial or full overhaul of the Equipment;
  - c) modifications to Equipment;
  - d) relocation or reinstallation of Equipment or work arising from this;
  - e) disruptions that occur if Equipment is not used in regular office environment conditions;
  - f) disruptions or damage related to the use or installation of consumables or components not prescribed by the manufacturer;
  - g) upgrades of Equipment or software.

#### **Article 49: Updates and improvements**

1. Exclusively if this is part of the Agreement, PHC will strive to amend the Goods from time to time to improve their functionality or to resolve errors, whether or not this takes place based on instructions and requests of the Customer or based at its own initiative if this has been determined in the Agreement.
2. PHC will strive to keep the Goods up to date if this is part of the Agreement. However, PHC depends on its supplier(s) and third parties in many cases. PHC has the right not to install certain updates or patches if it believes that this would not benefit the proper operation of the software or is not in the interest of the Service.
3. PHC will strive to add changes and new features requested by the Customer to the Goods. PHC will always have the right to refuse such a request if it believes that this is not possible or would impede the proper operation or availability of the Goods. Adding changes and new features to the Goods at the request of the Customer involves costs. PHC will inform the Customer of these costs in advance.
4. If a modification, update, or patch leads to changes to the features in a Service or Project that has already been developed that have significant consequences for the operation of other Goods, systems, and the like, PHC and the Customer will discuss the consequences of these changes. If the parties decide to introduce this change, update, or patch, PHC has the right to invoice the costs incurred for this purpose based on the actual work.

5. The Customer is not allowed to make changes to the Goods without the explicit prior Written permission of PHC. If the Customer modifies the Goods independently, this will take place entirely at the risk and responsibility of the Customer. In this case, PHC is not required to make (or continue to make) an effort to resolve bugs or errors.

**Article 50: Remote support**

1. Remote support will be provided by phone, email, and/or ticket.
2. At the request of the Customer, PHC will propose Software that can be used to contact the computers that require support remotely. The Customer is responsible for ensuring that its network and security environment allows the operation of this Software.
3. If it becomes clear that remote support does not lead to a satisfying solution or is not feasible because of the nature of the issue, PHC will discuss the situation with the Customer to find a solution.

## 8. Training courses

In addition to Chapter 1 of these General Terms and Conditions, this Chapter governs training courses.

### **Article 51: Specific provisions on training courses**

1. PHC can offer various courses
  - A course is defined as: a course, workshop, training programme, or lecture arranged or offered by PHC.
  - A general course is defined as: a course arranged at the initiative of PHC intended for several parties.
  - An internal course is defined as a course arranged at the request of, at the location of, and aimed at employees of the Customer.
2. Unless agreed otherwise, a separate fee will be due for lesson materials in addition to the fee due for the course.
3. In case of an internal course, the Customer will be responsible for arranging the facilities required by PHC (at least including sufficient course space, computers, beamers, an Internet connection, food, and drinks) for the course, as well as for handling the registrations and cancellations.
4. In case of a general course, PHC will arrange the facilities required for the general course in question.
5. In case of an internal course, the Customer will have the right to cancel or reschedule the course fourteen (14) calendar days before the (first) date of the course. Any cancellation or rescheduling costs for any facilities already reserved (including travel costs or hotel accommodation costs for the people presenting the course) will be borne by the Customer.
6. PHC may change the content, location, and the dates/times of the general course. The Customer will be informed of this no later than two (2) weeks before the start of the general course.
7. The Customer has the right to cancel its participation up to five (5) Workdays before the (first) date of the general course. The participation fees will be waived in this case. In case of cancellation later than five (5) workdays, the agreed fee will remain due. The Customer will have the right to register a substitute up to the (first) day of the general course. This will not be considered a cancellation.
8. Payment will take place in advance before the course.