

GENERAL TERMS AND CONDITIONS (Click on name of the company issuing your Purchase Order)	Location
<b>AVG Distribuidora de Tecnologias do Brasil Ltda.</b>	Brazil
<b>AVG Distribution Switzerland AG</b>	Switzerland
<b>AVG Ecommerce CY Limited</b>	Netherlands
<b>AVG Mobile Technologies Ltd</b>	Israel
<b>AVG Netherlands B.V.</b>	Netherlands
<b>AVG Technologies AU Pty Ltd</b>	Australia
<b>AVG Technologies Canada Inc.</b>	Canada
<b>AVG Technologies CZ, s.r.o.</b>	Czech Republic
<b>AVG Technologies FRA, SAS</b>	France
<b>AVG Technologies GER GmbH</b>	Germany
<b>AVG Technologies N.V.</b>	Netherlands
<b>AVG Technologies Norway AS</b>	Norway
<b>AVG Technologies UK Limited</b>	England
<b>AVG Technologies USA, Inc.</b>	US
<b>Location Labs, Inc.</b>	US
<b>Norman Data Defense Systems AG</b>	Switzerland
<b>Norman Data Defense Systems B.V.</b>	Netherlands
<b>Norman Data Defense Systems GmbH</b>	Germany
<b>Privax d.o.o Beograd</b>	Serbia
<b>Privax Limited</b>	England
<b>Privax Services (UK) Limited</b>	England
<b>TuneUp Software GmbH</b>	Germany

# AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

## I. General

### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

x. **GST:** Has the same meaning as in the GST Law.

xi. **GST Law:** Has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

## II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes (including GST), sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws.

## III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("**Additional Work**") shall not entitle Supplier to any

extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

## IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

## V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid tax invoice in the proper form prescribed by the GST Law, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("**Unpaid Taxes**") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed

penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### VII. Intellectual property rights

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### VIII. Insurance

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving

notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of Victoria excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the non-exclusive jurisdiction of the courts of Victoria over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

## AVG Termos e Condições Gerais de Compra

(doravante denominadas “Condições”)

### I. Disposições Gerais

#### 1. Determinadas Definições

i. **Contrato:** Essas Condições, juntamente com (a) um pedido de compra ou ordem de serviço emitida pela AVG e aceita pelo Fornecedor (a “*Ordem*”), e/ou (b) qualquer contrato de compra e venda, contrato de prestação de serviços, ou outro contrato assinado pelas Partes (o “*Contrato*”), em cada caso ao qual essas Condições são atribuídas ou ao qual essas Condições sejam de outra forma aplicáveis de acordo com a Cláusula I.2, abaixo. Exceto conforme as Partes acordem expressamente por escrito, o Contrato não inclui os termos pré-impressos em qualquer reconhecimento ou outro formulário comercial semelhante do Fornecedor.

ii. **AVG:** A pessoa jurídica AVG Technologies ou as pessoas jurídicas identificadas pelo Contrato.

iii. **Encargos:** O preço, as taxas, os custos e os encargos referentes aos Entregáveis (e todos os serviços acessórios), conforme estabelecido no Contrato.

iv. **Entregáveis:** Quaisquer mercadorias, produtos ou serviços que o Fornecedor se comprometer a fornecer à AVG, ou em seu benefício, nos termos do Contrato.

v. **Evento de Força Maior:** Qualquer evento que impeça, prejudique ou atrase o cumprimento, por uma parte, de suas obrigações nos termos deste Contrato, que surja diretamente de qualquer hipótese abaixo, e que não teria sido impedido ou atenuado pela implementação, pela parte afetada, de um plano de recuperação de desastre ou de continuidade de negócio razoavelmente comercial: (a) um caso fortuito; (b) um ato do governo local ou central; (c) guerra, guerra civil, conflito armado ou atos de terrorismo; (d) bloqueio ou embargo; (e) qualquer contaminação química, biológica ou nuclear ou radiação ionizante; (f) epidemia; (g) incêndio, inundação, terremoto ou terremoto, explosão, tumulto ou comoção civil; e (h) greve oficial ou não oficial, greve patronal, redução de produtividade ou outra disputa industrial que afete um terceiro (para o qual não haja um substituto imediatamente disponível).

vi. **Boas Práticas do Setor:** O grau de competência, cuidado, prudência, fidelidade e prevenção que seria normalmente esperado de uma fornecedora de serviços especializada, qualificada e experiente líder no setor ou em um setor semelhante ao dos serviços pertinentes compreendidos nos Entregáveis.

vii. **Parte:** A AVG ou o Fornecedor, conforme exigido pelo contexto.

viii. **Especificação:** A especificação pertinente de cada um dos Entregáveis juntamente com qualquer especificação adicional acordada periodicamente pelas Partes.

ix. **Fornecedor:** Uma parte do Contrato que não seja a AVG.

2. Em caso de conflito entre os diversos documentos que compõem o Contrato, a ordem de prioridade para os fins de interpretação é, em ordem decrescente: a Ordem, o Contrato e essas Condições.

3. Exceto conforme as Partes acordem de outra forma por escrito, essas Condições também serão aplicáveis a pedidos e contratos futuros entre a AVG e o Fornecedor.

### II. Preços

1. Os Encargos são estabelecidos com relação ao prazo de vigência do Contrato e não sofrerão aumento pela inflação ou

## AVG General Purchasing Terms and Conditions

(hereinafter referred to as “Conditions”)

### I. General

#### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the “*Order*”), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the “*Contract*”), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

de outra forma.

2. Os Encargos cobrem todos os serviços acessórios e o Trabalho Adicional exigido nos termos do Contrato (por exemplo, encargos de frete para o endereço de entrega, acondicionamento, seguro, custos de inspeção e de viagem e subsistência).

3. A menos que seja de outra forma previsto no Contrato, os Encargos não incluem nenhum imposto sobre valor agregado, impostos sobre vendas, tributos aduaneiros, tributos ou lançamentos governamentais de natureza semelhante locais, estaduais ou estrangeiros que possam ser passíveis de encargos com relação aos pagamentos (conjuntamente denominados "Impostos"), e a AVG será responsável pelo pagamento de todos os Impostos adequadamente exigíveis sobre suas compras, exceto impostos baseados nos bens ou na receita líquida do Fornecedor. A AVG poderá reter e deduzir de qualquer pagamento devido ao Fornecedor todos os impostos retidos aplicáveis, se e na medida em que exigido por quaisquer leis, regulamentos ou tratados aplicáveis. Caso a AVG entregue ao Fornecedor a documentação adequada para justificar uma isenção de impostos, o Fornecedor não deverá cobrar impostos da AVG em conformidade com as leis aplicáveis. Os impostos sobre valor agregado ("IVA") incluem qualquer imposto sobre valor agregado nos termos da Constituição brasileira, Lei Federal nº 87/96 e Decreto nº 7.212/2010.

### III. Cláusulas e Prazo de Entrega

1. Os prazos de entrega estabelecidos no Contrato são vinculativos, e o prazo é condição essencial. O Fornecedor não fará uma entrega parcial ou entrega antecipada sem o prévio consentimento por escrito da AVG. A necessidade do Fornecedor realizar trabalho adicional ou alterações para cumprir as Especificações exigidas ("*Trabalho Adicional*") não dará ao Fornecedor nenhum direito de prorrogar o prazo de entrega, a menos que a AVG conceda antecipadamente e por escrito (inclusive por e-mail).

2. O Fornecedor notificará a AVG imediatamente caso ela tenha, a qualquer momento, razão para acreditar que não poderá cumprir quaisquer de suas obrigações nos termos do Contrato, ou não conseguirá cumpri-las dentro do prazo programado.

3. Caso o Fornecedor não forneça qualquer Produto até a data exigida pelo Contrato, a AVG poderá, além de outros recursos que possam estar disponíveis judicialmente ou por equidade, deduzir dos Encargos um valor equivalente a 2% dos Encargos atribuíveis aos Entregáveis em mora por semana de atraso da entrega ou de parte dela, estabelecido que nenhuma dedução dessa natureza será superior a 10% dos Encargos totais.

4. A menos que seja de outra forma expressamente acordado, as cláusulas de entrega são "DDP" de acordo com os Incoterms 2010.

5. A titularidade dos Entregáveis será transferida à AVG mediante o seu recebimento no local de entrega ou em outro endereço semelhante especificado pelo Contrato ou, caso isso ocorra antes, na data em que a AVG fizer o pagamento correspondente. Caso a AVG concorde em fazer o pagamento total ou parcial de qualquer Produto antes da entrega, o Fornecedor fará uma marcação visível identificando claramente que os Entregáveis são de propriedade da AVG e manterá os Entregáveis separados das outras mercadorias e materiais que possam estar em poder do Fornecedor.

### IV. Acondicionamento, marcação e recebimento

As disposições desta Cláusula IV serão aplicáveis aos Entregáveis que forem mercadorias tangíveis.

1. O Fornecedor irá acondicionar e embalar os Entregáveis

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "Taxes"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("VAT") includes any value added tax under Brazilian Constitution, Federal Law No. 87/96 and Decree No. 7,212/2010.

### III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("*Additional Work*") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

### IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that

de uma maneira que os proteja de danos e de perda de valor durante o transporte ao local de entrega e durante um período razoável de armazenamento de forma adequada para esse fim.

2. O Fornecedor irá marcar os Entregáveis em conformidade com as instruções da AVG, desde que essas instruções não limitem a obrigação do Fornecedor de garantir que os Entregáveis também sejam marcados de acordo com suas propriedades no que diz respeito à fragilidade, resistência climática etc., e conforme seja de outra forma exigida pelas leis. Cada remessa deverá incluir um romaneio com o número do contrato da AVG (se houver), e ser acompanhado de qualquer manual de usuário e instruções pertinentes.

3. O Fornecedor providenciará à AVG uma notificação por e-mail quando os Entregáveis forem enviados, notificação essa que especificará a data de entrega estimada e incluirá as instruções referentes a qualquer manuseio ou armazenamento especial que possa ser necessário.

#### **V. Faturamento e pagamento**

1. O Fornecedor irá emitir uma fatura à AVG dos Entregáveis no cronograma estabelecido no Contrato ou, na ausência desse cronograma, após a entrega completa dos Entregáveis. Cada fatura deverá (a) incluir o número da Ordem de Compra aplicável da AVG, (b) declarar a(s) data(s) na(s) qual(is) o Fornecedor entregou os Entregáveis, (c) declarar separadamente quaisquer Impostos aplicáveis aos Entregáveis, (d) constituir uma fatura de IVA válida, e (e) mostrar em detalhes razoáveis a maneira na qual os Encargos totais foram calculados.

2. A AVG pagará cada fatura adequadamente emitida, precisa e incontestável dentro do prazo para pagamento especificado pelo Contrato ou, na ausência de um prazo para pagamento, dentro de 45 dias do recebimento da fatura.

3. O pagamento pela AVG não será considerado a aceitação de quaisquer dos termos ou condições estabelecidos na fatura do Fornecedor, a aceitação de qualquer Produto, ou a renúncia a qualquer garantia ou a outros direitos nos termos deste Contrato.

4. A AVG não terá nenhuma obrigação de pagar quaisquer valores não expressamente previstos neste Contrato ou de outra forma aprovados antecipadamente e por escrito pela AVG. Sem prejuízo a quaisquer direitos ou recursos que ela possa ter, na máxima extensão permitida de acordo com as leis aplicáveis, a AVG reserva-se o direito de compensar qualquer valor devido a qualquer momento pelo Fornecedor contra qualquer valor devido pela AVG ao Fornecedor nos termos deste Contrato. A AVG poderá exigir uma garantia bancária ou outra garantia aceitável à AVG, a ser emitida a expensas do Fornecedor, por qualquer pagamento adiantado dos Encargos.

5. O Fornecedor é obrigado a cumprir a legislação fiscal aplicável, e a enviar à autoridade fiscal competente, da forma e maneira exigidas nos termos da legislação fiscal aplicável, todos os Impostos arrecadados da AVG pelo Fornecedor com relação a quaisquer pagamentos feitos pela AVG nos termos deste Contrato. Caso a AVG tenha feito o pagamento dos Impostos ao Fornecedor com relação a um pagamento e recebido posteriormente uma exigência de uma autoridade competente para pagar esses Impostos por não terem sido adequadamente remetidos à autoridade competente ("Impostos Não Pagos") e a AVG pague os Impostos Não Pagos à autoridade fiscal, o Fornecedor irá, imediatamente após receber uma solicitação por escrito da AVG, reembolsar ou de outra forma pagar o valor documentado dos Impostos Não Pagos, mais qualquer multa ou juros lançados à AVG. Até ao limite máximo permitido pela lei aplicável, caso o Fornecedor deixe de pagar os Impostos Não Pagos mais

protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

#### **V. Invoicing and payment**

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, to the maximum extent permitted under applicable law, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. To the maximum extent permitted under applicable law, if Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

qualquer multa ou juros à AVG, a AVG tem o direito de creditar o montante dos Impostos Não Pagos mais qualquer multa ou juros contra qualquer conta a receber do Fornecedor pela a AVG.

#### **VI. Qualidade e garantias**

1. O Fornecedor garante que todos os Entregáveis serão fornecidos ou realizados de acordo com as Boas Práticas do Setor e que cumprirá a Especificação. O Fornecedor garante, ainda, que cada Produto estará livre de defeitos substanciais, será adequado à sua finalidade pretendida e estará em conformidade com todas as leis e regulamentos aplicáveis, inclusive, entre outros, todas as leis e regulamentos aplicáveis relacionados às disposições sobre proteção ambiental, saúde ocupacional e segurança.

2. Caso o Fornecedor viole a garantia estabelecida na Cláusula VI.1, a AVG, a seu exclusivo critério e além de outros recursos que possam estar disponíveis judicialmente ou por equidade, poderá, a qualquer momento, exigir que (a) o Fornecedor, a suas próprias expensas e custos, dentro de 5 (cinco) dias úteis do recebimento da reivindicação de garantia da AVG, reproduza, conserte ou substitua os Entregáveis defeituosos, ou (b) rejeite os Entregáveis defeituosos e receba um reembolso integral dos Encargos pagos por eles.

#### **VII. Direitos de propriedade intelectual**

1. O Fornecedor garante que os Entregáveis não violarão nem farão com que a AVG ou qualquer produto da AVG viole as patentes, os direitos autorais, os segredos de negócio, as marcas ou outros direitos de propriedade intelectual de qualquer terceiro. O Fornecedor defenderá, indenizará e isentará a AVG e suas afiliadas de todas as responsabilidades, custos, danos e despesas (inclusive custos de acordo e honorários advocatícios razoáveis) decorrentes ou relacionados a qualquer reivindicação (a) de que os Entregáveis violam ou supostamente violam qualquer patente, direito autoral, segredo de negócio, marca ou direitos semelhantes de um terceiro ou (b) que surja ou que esteja relacionada a qualquer distribuição ou uso dos Entregáveis.

2. Os projetos, desenhos, modelos, perfis estatísticos, transmissores de dados e correlatos, bem como quaisquer materiais fornecidos pela AVG ou nos quais a AVG reivindique quaisquer direitos de titularidade ou direitos de propriedade intelectual permanecerão de propriedade da AVG ("Propriedade Intelectual da AVG"). Toda a Propriedade Intelectual da AVG poderá ser protegida por lei de patente, lei de direito autoral, lei de direitos morais, lei de segredos de negócios, lei de marcas e todos e quaisquer outros direitos de propriedade intelectual semelhantes. O Fornecedor não poderá nem usar nem divulgar essa Propriedade Intelectual da AVG (inclusive os Entregáveis) em nenhum momento, inclusive após a expiração deste Contrato, por qualquer motivo sem a prévia autorização por escrito da AVG. Ademais, o não cumprimento do acima exposto concederá à AVG o direito de deixar o Contrato, total ou parcialmente, sem pagamento de indenização.

#### **VIII. Seguro**

1. O Fornecedor, às suas próprias expensas, contratará e manterá uma apólice ou apólices de seguro que deverão incluir seguro de danos materiais, seguro de indenização profissional, cobertura de responsabilidade pública, cobertura de seguro de fidelidade, seguro automóvel, seguro de transporte e seguro para todos os equipamentos do Fornecedor nas dependências da AVG, com um nível de cobertura de seguro adequado para cobrir todas as perdas e responsabilidades que possam ser incorridas pelo Fornecedor nos termos do Contrato.

#### **VI. Quality and warranties**

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### **VII. Intellectual property rights**

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### **VIII. Insurance**

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. O Fornecedor, mediante solicitação da AVG, enviará à AVG uma comprovação por escrito do cumprimento, pelo Fornecedor, de suas obrigações nos termos da Cláusula VIII.1. Caso o Fornecedor não o faça, a AVG poderá, às expensas do Fornecedor, contratar uma apólice ou apólices de seguro com relação aos assuntos descritos na Cláusula VIII.1.

#### IX. Disposições Diversas

1. Todas as notificações, solicitações, exigências, aprovações e outras comunicações nos termos do Contrato deverão ser feitas por escrito ao endereço especificado pelo Contrato e deverão ser consideradas devidamente entregues a uma Parte (i) quando entregues pessoalmente ao endereço especificado no Contrato; (ii) se entregues por correio ou courier, quando enviadas por correio pelo serviço postal adequado com porte pago, ou entregues por courier, à outra Parte ao endereço especificado no Contrato; (iii) quando enviadas por fax, quando enviadas ao número de fax e com uma indicação de que sejam entregues aos cuidados da pessoa indicada para comunicações no Contrato (com confirmação de transmissão bem sucedida); ou (iv) quando enviadas por e-mail (a), se ao Fornecedor, quando enviadas ao endereço de e-mail declarado no Contrato ou (b), se à AVG, quando enviadas para **generalnotices@avg.com** (estabelecido que, em cada caso, não seja devolvido nenhum e-mail indicando falha na entrega ou período de ausência). Não obstante qualquer disposição em contrário contida no Contrato, as notificações enviadas pelo Fornecedor à AVG por e-mail a um endereço que não seja o **generalnotices@avg.com** não constituirão uma notificação. As alterações dos detalhes de endereço para o recebimento de notificações deverão ser fornecidas por notificação em conformidade com esta cláusula. As notificações alegando violação das obrigações da AVG ou comunicando a rescisão do Contrato deverão ser enviadas para **generalnotices@avg.com**, com cópia para **legalnotice@avg.com**.

2. As alterações do Contrato deverão ser somente válidas se feitas por escrito e assinadas pelo representante autorizado de cada Parte.

3. A interpretação, a validade e o cumprimento do Contrato e de todas as obrigações não contratuais decorrentes ou relacionadas ao Contrato deverão ser regidos pelas leis do Brasil.

4. Cada Parte concorda irrevogavelmente em submeter-se à competência exclusiva dos tribunais da Cidade de São Paulo, Estado de São Paulo sobre qualquer reivindicação ou questão decorrente ou relacionada ao Contrato. Esta cláusula é sem prejuízo ao direito de cada Parte de pleitear medida cautelar contra a outra Parte (tal como liminar) através de qualquer tribunal competente, para proteger os seus direitos e interesses, ou para fazer valer as obrigações da outra Parte.

5. O Contrato prevê todos os termos acordados entre as Partes e substituirá todos os acordos prévios ou contemporâneos entre as Partes relacionados ao seu objeto.

6. A relação entre as Partes é a de contratadas independentes e não deverá ser considerada uma relação de agência, joint venture, parceria ou de outra forma. Nenhuma Parte está autorizada a atuar em nome da outra Parte, e cada Parte deverá atuar na qualidade de contratada independente comprando por si e vendendo em seu próprio nome e a seu próprio risco.

7. Os títulos das cláusulas do Contrato não afetam sua interpretação. O uso de qualquer gênero inclui todos os gêneros. O singular inclui o plural e vice-versa. Quando uma palavra ou frase for definida, suas outras formas gramaticais

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of Brazil.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of the City of São Paulo, State of São Paulo over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a



terão significado correspondente.

8. Caso quaisquer disposições do Contrato sejam consideradas ilegais, inválidas ou inexecutáveis nos termos de quaisquer leis aplicáveis, todas as outras disposições do Contrato deverão permanecer em pleno vigor e efeito.

9. Nenhuma Parte será responsável perante a outra Parte por qualquer atraso ou descumprimento de suas obrigações nos termos deste Contrato na medida em que isso ocorrer devido a um Evento de Força Maior, estando a parte que sofrer o Evento de Força Maior sujeita a (i) notificar imediatamente a outra parte por escrito do motivo do atraso ou descumprimento, do impacto previsto sobre este Contrato e a duração estimada do atraso ou descumprimento; e (ii) envia-los seus melhores esforços para limitar o efeito desse atraso ou descumprimento sobre a outra Parte. Caso o Evento de Força Maior persista por um período superior a 10 dias, a Parte que não sofrer o Evento de Força Maior poderá rescindir o Contrato imediatamente por meio da entrega de uma notificação por escrito à outra Parte.

10. A não insistência, por qualquer Parte, no cumprimento estrito de quaisquer dos termos, condições e disposições do Contrato não será considerada uma renúncia ou desistência do cumprimento futuro do Contrato, e os termos, condições e disposições do Contrato deverão permanecer em pleno vigor e efeito. Nenhuma renúncia a qualquer termo ou condição do Contrato por qualquer Parte será válida para qualquer finalidade a menos que essa renúncia seja feita por escrito e assinada por essa Parte. A renúncia por qualquer Parte a uma violação de qualquer disposição do Contrato pela outra Parte não deverá ser considerada uma renúncia contínua a essa violação ou uma renúncia às outras violações das mesmas ou de outras disposições do Contrato.

11. O Fornecedor não poderá ceder seus direitos ou obrigações nos termos do Contrato ou subcontratar qualquer parte de seu cumprimento nos termos do Contrato sem o consentimento da AVG. A AVG poderá ceder ou de outra forma transferir seus direitos ou delegar suas obrigações nos termos do Contrato (no todo ou em parte) sem o consentimento do Fornecedor a qualquer afiliada da AVG, ou compradora do quaisquer das ações ou unidade de negócios da AVG. Nenhuma disposição do Contrato, expressa ou tácita, tem a intenção de conferir ou conferirá a qualquer pessoa (exceto as Partes) qualquer direito, benefício ou recurso de qualquer natureza nos termos ou devido ao Contrato.

12. Nenhuma Parte deverá, sem o consentimento da outra Parte (consentimento esse que não será injustificadamente negado ou postergado), anunciar a existência ou os termos do Contrato, ou a relação das Partes, em um comunicado à imprensa ou em outro material promocional.

13. Este Contrato não será regido pela Convenção das Nações Unidas sobre Contratos para a Venda Internacional de Mercadorias, cuja aplicação é expressamente excluída. Caso surja uma ambiguidade ou dúvida sobre a intenção ou interpretação, em qualquer processo judicial ou de outra forma, os termos do Contrato deverão ser interpretados como tendo sido elaborados conjuntamente pelas Partes, e não deverá surgir nenhuma presunção ou ônus da prova que favoreça ou desfavoreça qualquer Parte em virtude da autorização de quaisquer disposições do Contrato.

corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

# AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

## I. General

### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

## II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, provincial, federal or foreign value added taxes, sales taxes, customs duties, levies or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from Tax, Supplier shall not charge Tax to AVG in accordance with applicable laws. Value added taxes ("**VAT**") includes goods and services tax/harmonized sales tax and Quebec Sales Tax and any future value-added tax.

## III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required

Specifications ("**Additional Work**") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

## IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

## V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) satisfy the input tax credit/input tax refund information requirements pursuant to the applicable VAT legislation; and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation and to remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("**Unpaid Taxes**") and AVG pays such Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented

amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### VII. Intellectual property rights

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### VIII. Insurance

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than

**generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the Province of Ontario, Canada and the federal laws of Canada applicable therein excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of the Province of Ontario, Canada over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

## Obchodní podmínky (dále jen "Podmínky")

společnosti AVG Technologies CZ, s.r.o, IČ: 44017774, DIČ: CZ44017774, se sídlem v Brně, Holandská 4, PSČ 639 00, zapsaná v obchodním rejstříku vedeném Krajským soudem v Brně, oddíl C, vložka č. 3681

### I. OBECNÉ

#### 1. Některé definice

i. **Smlouva:** Tyto Podmínky, spolu s (a) objednávkou zboží nebo díla učiněné AVG a potvrzené Dodavatelem (dále jen "Objedávka"), a / nebo (b) jakoukoliv smlouvou kupní, servisní smlouvou nebo jinou smlouvou uzavřenou oběma Stranami (dále jen "Smlouva"), a to vždy za předpokladu, že jsou k ní tyto Podmínky připojeny nebo se tyto Podmínky aplikují dle čl. I. odst. 2 Podmínek. S výjimkou případu, kdy se Strany výslovně dohodnou písemně, Smlouva nezahrnuje předtištěné podmínky na potvrzení Dodavatele nebo jiném podobném dokumentu.

ii. **AVG:** Společnost AVG Technologies CZ s.r.o. nebo jiný subjekt uvedený ve Smlouvě.

iii. **Občanský zákoník:** zákon č. 89/2012 Sb., Občanský zákoník, ve znění pozdějších předpisů.

iv. **Poplatky:** Cena, poplatky, náklady a taxy za Zboží (a všechny doplňkové služby), jak jsou uvedeny ve Smlouvě.

v. **Zboží:** Veškeré zboží, výrobky nebo služby, které se zaváže Dodavatel poskytnout pro nebo ve prospěch AVG podle Smlouvy.

vi. **Události vyšší moci:** Každá událost, která brání, překáží nebo oddaluje výkon povinností strany podle Smlouvy, vyplývající přímo z některé z následujících skutečností, které nebylo možné předejít nebo zmírnit její důsledky ani v případě, že by poškozená strana zajistila přiměřenou kontinuitu provozu a plán předcházení a nápravy katastrof: (a) vyšší moc v užším smyslu (zásah shůry), (b) akt místní správy nebo ústřední vlády, (c) válka, občanská válka, ozbrojený konflikt nebo činy terorismu, (d) blokády nebo embargo, (e) jakékoli chemické, biologické nebo jaderné kontaminace nebo ionizujícího záření; (f) epidemie, (g) požár, povodeň, zemětřesení nebo bouře, výbuch, vzpoury nebo civilní nepokoje, a (h) oficiální nebo neoficiální stávková, zastavení provozu, omezení provozu nebo jiný průmyslový spor ovlivňující třetí stranu (za předpokladu, že ji nelze nahradit jinou třetí osobou).

vii. **Praxe Good Industry:** Jedná se o stupeň péče, dovednosti, prozíravosti, věrnosti a prognózy, které se normálně očekávají od odborníka, kvalifikovaného a zkušeného předního dodavatele služeb stejné nebo obdobné povahy k těm službám souvisejícím se Zbožím.

viii. **Strana:** AVG nebo Dodavatel, v závislosti na kontextu.

ix. **Specifikace:** Relevantní specifikace každého Zboží spolu s případnou doplňkovou specifikací dohodnutou Stranami.

x. **Dodavatel:** Smluvní strana Smlouvy odlišná od AVG.

2. V případě nesrovnalostí mezi jednotlivými dokumenty, které jsou součástí Smlouvy, mají dokumenty prioritu v tomto pořadí: Objedávka, Smlouva, Podmínky.

3. Tyto Podmínky se aplikují i na budoucí objednávky a smlouvy uzavřené mezi AVG a Dodavatelem, nedohodnou-li se Strany písemně jinak.

### II. CENY

1. Poplatky jsou pevně stanovené na celé období trvání Smlouvy a nebudou se zvyšovat např. z důvodu inflace nebo z jiného důvodu.

2. Poplatky zahrnují cenu za všechny doplňkové služby a Doplňkové práce (viz čl. 3 odst. 1) vyžadované Smlouvou (např. náklady na dopravu na adresu dodání, balení, pojištění, náklady spojené s kontrolou a cestovní a pobytové náklady).

## AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

of AVG Technologies CZ, s.r.o., ID-no.: 44017774, tax reg. no.: CZ44017774, seated in Brno, Holandská 4, PSČ 639 00, registered in the Business Register kept by the Regional Court in Brno, section C, entry no. 3681

### I. GENERAL

#### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "Order"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "Contract"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Civil Code:** Act No. 89/2012 Coll., Civil Code, as amended.

iv. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

v. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

vi. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vii. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables

viii. **Party:** AVG or Supplier, as the context requires.

ix. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

x. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. PRICES

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work (see article 3 para 1) required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Není-li ve Smlouvě stanoveno jinak, Poplatky nezahrnují místní, státní, federální nebo cizí daň z přidané hodnoty, daně z obrátu, celní poplatky, cla či vládní výměry obdobné povahy, které by mohly být účtovány v souvislosti s platbami (souhrnně "Daně"), a AVG je odpovědná za zaplacení všech Daní v souvislosti se svými nákupy, s výjimkou daně založené na čistém příjmu Dodavatele nebo jeho majetku. AVG může zadržet a odečíst od jakékoliv platby splatné Dodavatel všichni příslušné srážkové daně, pokud a v rozsahu, v jakém je to vyžadováno jakýmkoliv platnými právními předpisy, nařízením nebo mezinárodními smlouvami. Tam, kde AVG poskytuje Dodavatel příslušnou dokumentaci za účelem dosažení osvobození od Daně, nesmí Dodavatel účtovat Daň AVG v souladu s platnými předpisy. Daň z přidané hodnoty ("DPH") zahrnuje jakoukoliv daň z přidané hodnoty podle směrnice Rady ze dne 28. listopadu 2006 o společném systému daně z přidané hodnoty (směrnice 2006/112/ES).

### III. ČAS DODÁNÍ A SOUVISEJÍCÍ UJEDNÁNÍ

1. Čas dodání stanovený ve Smlouvě je závazný s tím, že tento časový údaj je zásadní podmínkou smlouvy. Dodavatel není oprávněn provádět dílčí dodávky, nebo dodávku s předstihem bez předchozího písemného souhlasu AVG. Případná potřeba Dodavatele provést doplňkové práce nebo změny za účelem splnění požadované Specifikace ("Doplňkové práce") neopravňuje Dodavatele k žádnému prodloužení lhůty pro dodání, s výjimkou případů, kdy dá AVG předchozí písemný (včetně formy emailu) souhlas s takovým prodloužením.

2. Pokud bude mít Dodavatel jakékoliv podezření, že nebude schopen splnit své závazky dle Smlouvy, nebo že je nebude schopen splnit v dohodnuté lhůtě, bezodkladně o tom vyzoomí AVG.

3. V případě, že Dodavatel nedodá Zboží ve lhůtě stanovené Smlouvou, případně dřív dle Podmínek, má AVG nárok, vedle ostatních nároků dle platných právních předpisů, na smluvní pokutu ve výši 2% z Poplatků vztahujících se ke Zboží, s jehož dodáním je Dodavatel v prodlení, za každý (byť i jen započatý) týden prodlení s dodávkou tohoto Zboží nebo jeho části s tím, že smluvní pokuta nepřesáhne 10% výše takových Poplatků. Smluvní pokuta nevylučuje ani neomezuje nárok AVG na náhradu škody.

4. Není-li výslovně dohodnuto jinak, bude Zboží dodáno za podmínky DDP Incoterms 2010.

5. Vlastnické právo ke Zboží přechází na AVG okamžikem dodání Zboží do místa dodání nebo na jinou adresu specifikovanou ve Smlouvě, nebo okamžikem zaplacení jeho ceny, pokud se tak stane dříve, než je Zboží dodáno. Pokud AVG souhlasí s platbou celé nebo části ceny Zboží před jeho dodáním, je Dodavatel povinen jasně a jednoznačně označit Zboží jako majetek AVG viditelným označením a ponechat Zboží oddělené od ostatního zboží a materiálu, který má případně Dodavatel v držení. Nebezpečí škody na Zboží přechází na AVG okamžikem předání Zboží AVG.

### IV. BALENÍ, OZNAČENÍ, DORUČENÍ

Ustanovení čl. IV. se aplikují v případě, že Zboží má hmotnou podobu.

1. Dodavatel zabalí Zboží takovým způsobem, aby bylo chráněno před poškozením či jakoukoliv ztrátou hodnoty v průběhu přepravy na místo dodání a po přiměřenou dobu skladování v podmínkách přiměřených povaze Zboží.

2. Dodavatel označí Zboží v souladu s instrukcemi AVG s tím, že takové instrukce nezabývají Dodavatele povinností označit Zboží také s ohledem na jeho vlastnosti, jako např. křehké, vodě odolné, atp., nebo s ohledem na platné právní předpisy. Každá zásilka musí obsahovat průvodní list s objednávkovým číslem AVG (pokud zde takové je) a veškeré související manuály a instrukce.

3. Dodavatel oznámí AVG prostřednictvím emailu, že Zboží bylo odesláno, přičemž v tomto oznámení bude specifikována předpokládaná doba doručení a instrukce týkající se případného speciálního zacházení a skladování Zboží, které je vyžadováno.

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "Taxes"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from Tax, Supplier shall not charge Tax to AVG in accordance with applicable laws. Value added taxes ("VAT") includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

### III. DELIVERY TIME AND CLAUSES

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("Additional Work") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law, has right to contractual penalty in the amount equal to 2% of the Charges attributable to the late Deliverables for each (even a commenced) week of delayed delivery or part thereof, provided that such contractual penalty shall not exceed 10% of the Charges. The contractual penalty shall be without prejudice to the AVG's right to claim compensation for damages.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession. Risk of damage of Deliverables passes to AVG upon handover of the Deliverables.

### IV. PACKAGING, MARKING AND RECEIVING

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

**V. FAKTURACE A PLATBA**

1. Dodavatel vystaví AVG fakturu - daňový doklad na Zboží v souladu s časovým rámcem stanoveným Smlouvou nebo, v případě absence takového časového rámce po kompletním dodání Zboží AVG. Každá faktura - daňový doklad musí a) obsahovat objednávkové číslo AVG, (b) stanovit datum (data), kdy bylo Zboží doručeno Dodavatelem, (c) zvlášť uvádět Daně, které se v souvislosti se Zbožím uplatní, (d) musí představovat platný daňový doklad, a (e) v rozumné míře obsahovat způsob výpočtu Poplatků.

2. AVG uhradí řádně předloženou, správnou a nerozporovanou fakturu - daňový doklad ve lhůtě stanovené ve Smlouvě, nebo, není-li zde taková lhůta stanovena, ve lhůtě 45 dní od doručení faktury - daňového dokladu. AVG si vyhrazuje právo vrátit faktury - daňové doklady, které obsahují chyby, nesprávné výpočty či jiné nesrovnalosti, Dodavateli. V takovém případě běží lhůta splatnosti až od okamžiku doručení nové, opravené faktury - daňového dokladu - AVG.

3. Jakákoliv platba ze strany AVG není považována za akceptaci jakýchkoliv podmínek či lhůt uvedených ve faktuře - daňovém dokladu Dodavatele, akceptaci jakéhokoliv Zboží, nebo jako vzdání se záruky či jiných práv dle Smlouvy.

4. AVG nemá povinnost hradit jakékoliv platby, které nejsou výslovně uvedeny ve Smlouvě, nebo nebyly předem písemně odsouhlaseny ze strany AVG. AVG si vyhrazuje právo započíst jakékoliv své pohledávky za Dodavatelem oproti pohledávkám Dodavatele za AVG z titulu Smlouvy s tím, že toto nemá vliv na jakákoliv jiná práva či nároky, které mohou AVG vzniknout. AVG může započíst svou pohledávku na zaplacení smluvní pokuty oproti jakékoli pohledávce Dodavatele, bez ohledu na ustanovení § 1987 odst. 2 Občanského zákoníku. AVG může požadovat bankovní záruku či jiné zajištění přijatelné pro AVG, a to na náklady Dodavatele, v případě jakékoliv platby Poplatků předem.

5. Dodavatel je povinen postupovat v souladu s aplikovatelnými daňovými a celními předpisy a poukázat příslušným úřadům ve formě a způsobem předvídaným platnými celními a daňovými předpisy veškeré Daně, které Dodavatel přijal od AVG v souladu s jakýmkoliv platbami dle Smlouvy. Pokud AVG uhradila Daně Dodavateli v souvislosti s předmětnými platbami a následně obdrží požadavek od celního/daňového úřadu k úhradě takové Daně s odůvodněním, že nebyly řádně uhrazeny („Nezaplacené Daně“) a AVG uhradí takové Nezaplacené daně příslušnému orgánu, je Dodavatel povinen bez zbytečného odkladu po obdržení výzvy AVG, nahradit či jinak zaplatit AVG zdokumentované množství Nezaplacených Daní navýšených o jakékoliv vyměřené penále, pokuty či úroky. V případě, že Dodavatel neuhradí Nezaplacené Daně a/nebo vyměřené penále, pokuty či úroky, AVG je oprávněna započíst Nezaplacené Daně a/nebo vyměřené penále, pokuty či úroky oproti jakékoliv pohledávce Dodavatele za AVG. V případě prodlžení Dodavatele se zaplacením Nezaplacených Daní je Dodavatel povinen zaplatit AVG smluvní úrok z prodlžení ve výši 0,25% z Nezaplacených Daní za každý den prodlžení.

**VI. KVALITA A ZÁRUKY**

1. Dodavatel zaručuje, že všechno Zboží bude provedeno či zajištěno v souladu s Praxí Good Industry a bude odpovídat Specifikaci. Dodavatel dále zaručuje, že veškeré Zboží bude prosto jakýchkoliv materiálních vad a bude způsobilé pro zamýšlené účely, v souladu s aplikovatelnými právními předpisy a vyhláškami, včetně a bez omezení veškerých právních předpisů a vyhlášek vztahujících se k ochraně životního prostředí, bezpečnosti a ochrany zdraví při práci, a že si tyto vlastnosti uchová po dobu nejméně dvou let od jeho řádného předání AVG.

2. V případě porušení záručních podmínek stanovených v čl. VI. odst. 1 Podmínek Dodavatelem, je AVG oprávněna, na základě vlastního uvážení a vedle dalších nároků jí vyplývajících z platného práva, požadovat, aby (a) Dodavatel na své náklady a výdaje znovu provedl, opravil nebo vyměnil vadné Zboží, a to do 5 pracovních dnů od doručení reklamace AVG, nebo (b) odmítnout vadné Zboží - odstoupit od uzavřené Smlouvy s tím, že AVG obdrží plnou náhradu Poplatků již uhrazených za Zboží. AVG může také nárokovat slevu z Poplatků.

**V. INVOICING AND PAYMENT**

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice. AVG reserves the right to return any invoice which contains mistakes, improper calculations or other apparent incorrectness back to the Supplier. In such a case the new maturity period shall commence on the date of delivery of a new revised invoice to AVG.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by the Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may set off its claim to the payment of a contractual penalty against any claim of the Supplier, irrespective of Section 1987(2) of the Civil Code. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes and/or any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG. In case of delay to pay the Unpaid Taxes the Supplier is obliged to pay to AVG contractual interest on late payments in amount of 0,25% of Unpaid Taxes for every day of delay.

**VI. QUALITY AND WARRANTIES**

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety for at least two years from its proper handover to AVG.

2. If Supplier breaches the warranty set forth in Section VI.1 of these Conditions, AVG, in its sole discretion and in addition to such other remedies as may be available at law, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables – withdraw from the concluded Agreement and receive a full refund of the Charges paid for them. AVG may claim a discount of the Charges as well.

**VII. PRÁVA DUŠEVNÍHO VLASTNICTVÍ**

1. Dodavatel zaručuje, že Zboží či jakákoliv jeho část, nebude porušovat ani nezapříčiní, aby AVG či jakýkoliv její produkt porušovala patenty, ochranné známky, obchodní tajemství, autorská práva či jiné duševní vlastnictví jakékoliv třetí strany. Dodavatel se zavazuje bránit, odškodnit a zajistit, aby AVG a její přidružené společnosti nebyly nijak poškozeny, a to ani pokud jde o odpovědnost, náklady, škody, výdaje (včetně nákladů na vyrovnání a přiměřené odměny právního zástupce) vyplývající nebo související z jakéhokoli nároku (a) uplatněného z důvodu, že Zboží porušuje, nebo údajně porušuje patent, autorské právo, obchodní tajemství, ochrannou známkou či jiné podobné právo třetí strany, (b) který vznikl, nebo souvisí s distribucí či užitím Zboží.

2. Návrhy, náčrty, modely, statistické profily, nosiče dat a podobně, stejně jako jakékoliv materiály dodané ze strany AVG, nebo u kterých AVG uplatňuje jakékoliv vlastnické právo či právo z duševního vlastnictví, zůstává majetkem AVG („Duševní vlastnictví AVG“). Všechno takové Duševní vlastnictví AVG bude chráněno patentovými zákony, zákony o ochraně autorských práv, osobnostními právy, právy z obchodního tajemství, zákony o ochranných známkách, a dalšími podobnými zákony. Dodavatel nesmí nikdy užít ani zpřístupnit takové Duševní vlastnictví AVG (včetně Zboží), a to včetně doby po ukončení Smlouvy, a to k žádným účelům, bez předchozího písemného souhlasu AVG. Případně porušení takové povinnosti Dodavatele opravňuje AVG k odstoupení od Smlouvy, jako celku, nebo její části, a to bez nároku Dodavatele na jakoukoliv kompenzaci.

3. Ve vztahu k Duševnímu vlastnictví AVG a jiným důvěrným informacím je Dodavatel povinen udržovat tyto v tajnosti za užití stejné míry péče a opatrnosti, kterou užívá při zabezpečení svých důvěrných informací (nikdy však nižší, než je přiměřená míra péče a opatrnosti), a to včetně udržování těchto v zabezpečeném prostoru a přiměřeně oddělené od ostatních informací a materiálů.

**VIII. POJIŠTĚNÍ**

1. Dodavatel bude na své náklady udržovat v účinnosti pojištění, které bude zahrnovat pojištění odpovědnosti za škody na majetku, pojištění profesní odpovědnosti, pojištění zákonné odpovědnosti v souvislosti s nepoctivým chováním (fidelity insurance), pojištění motorových vozidel, pojištění škody vzniklé při dopravě a pojištění na všechno zařízení Dodavatele umístěné v prostorách AVG, s výší pojistného krytí, které je dostatečné k pokrytí všech ztrát a škod z titulu odpovědnosti Dodavatele dle Smlouvy.

2. Dodavatel zašle, na žádost AVG, písemný důkaz o tom, že Dodavatel splňuje své povinnosti dle čl. VIII. odst. 1. Pokud tak Dodavatel neučiní, AVG může, na náklady Dodavatele, sjednat takové pojištění dle podmínek čl. VIII. odst. 1 Podmínek.

**IX. DALŠÍ USTANOVENÍ**

1. Veškeré přípis, žádosti, požadavky, souhlasy a další komunikace dle Smlouvy budou písemné, zasláné na adresu druhé strany uvedenou ve Smlouvě s tím, že budou považovány za řádně doručené (i) pokud jsou doručeny osobně na adresu uvedenou ve Smlouvě; (ii) pokud jsou odeslány prostřednictvím kurýra, pošty či jiné obdobné předplacené služby, či doručeny kurýrem na adresu druhé strany uvedenou ve Smlouvě; (iii) pokud jsou odeslány faxem, na příslušné faxové číslo a označeny jménem osoby určené ke komunikaci ve Smlouvě (s potvrzením o řádném přenosu zprávy); nebo (iv) jsou odeslány prostřednictvím emailu, za předpokladu že (a) pokud jsou odesílány Dodavateli, jsou odeslány na adresu uvedenou ve Smlouvě, nebo (b) pokud jsou odesílány AVG, jsou zaslány na adresu [generalnotices@avg.com](mailto:generalnotices@avg.com) (to vždy za předpokladu, že nedojde k selhání při přenosu, nebo není zpět doručena automatická odpověď „out of office“). Bez ohledu na jakékoli opačné ustanovení ve Smlouvě, zprávy odesílané Dodavatelem AVG emailem na jinou adresu než [generalnotices@avg.com](mailto:generalnotices@avg.com) neznamenají oznámení ve smyslu shora uvedeném. Změny v adresách určených pro přijímání zpráv budou oznámeny písemně v souladu s tímto ustanovením. Oznámení, ve kterých se Dodavatel dovolává porušení povinnosti AVG, či ukončení Smlouvy, musí být zaslány na adresu [generalnotices@avg.com](mailto:generalnotices@avg.com) a v kopii na adresu [legalnotice@avg.com](mailto:legalnotice@avg.com).

**VII. INTELLECTUAL PROPERTY RIGHTS**

1. Supplier warrants that the Deliverables or any part thereof will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG (“*AVG Intellectual Property*”). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

3. With regard to AVG Intellectual Property and other confidential information the Supplier is obliged to hold them in confidence using the same degree of care as it uses for protecting its own confidential information and intellectual property (but in no event less than a reasonable degree of care), including, by keeping in secure storage and reasonably separate from other information and materials.

**VIII. INSURANCE**

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1 of these Conditions.

**IX. MISCELLANEOUS**

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than [generalnotices@avg.com](mailto:generalnotices@avg.com) shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) and also copied to [legalnotice@avg.com](mailto:legalnotice@avg.com).

<p>2. Dodatky ke Smlouvě jsou platné pouze v případě, že jsou učiněny v písemné formě a jsou podepsány oprávněnými zástupci Stran.</p> <p>3. Obsah, platnost a plnění na základě Smlouvy jakož i veškeré nesmluvní závazky vyplývající ze Smlouvy, nebo s ní související se řídí právem České republiky s tím, že Strany vylučují použití kolizních ustanovení.</p> <p>4. Obě Strany se dohodly na tom, že v případě jakéhokoliv sporu vyplývajícího nebo souvisejícího se Smlouvou jsou místně příslušné soudy v Brně, Česká republika. Tímto není dotčeno právo každé Strany domáhat se předběžného opatření ve vztahu k druhé straně (jako je např. soudní zákaz) prostřednictvím jakéhokoliv příslušného soudu, za účelem ochrany svých práv a zájmů či za účelem vynucení plnění povinností Strany.</p> <p>5. Smlouva zachycuje veškeré podmínky dohodnuté mezi Stranami a nahrazuje veškeré předcházející či souběžné dohody mezi Stranami, které mají spojitost s předmětem Smlouvy.</p> <p>6. Vztah Stran je vztahem nezávislých smluvních stran a nezakládá jakýkoliv vztah v souvislosti se zastoupením, společným podnikem či jiným podobným partnerstvím, atp. Žádná ze Stran není oprávněna jednat za druhou stranu a každá ze Stran je povinna jednat jako nezávislá smluvní strana, za sebe, svým jménem a na vlastní nebezpečí.</p> <p>7. Označení nadpisů ve Smlouvě nemá vliv na výklad jednotlivých ustanovení. Použití některého rodu, zahrnuje jakékoliv rody. Jednotné číslo zahrnuje i množné číslo a opačně. V případě, že je slovo či fráze definováno, jeho jiné gramatické formy mají odpovídající význam.</p> <p>8. Pokud kterékoliv ustanovení Smlouvy nebo jeho část se stane neplatným či nevynutitelným, nebude mít tato neplatnost či nevynutitelnost vliv na platnost či vynutitelnost ostatních ustanovení. Ustanovení § 1799 a 1800 Občanského zákoníku se neuplatní.</p> <p>9. Žádná ze Stran není odpovědná druhé straně za prodlení či nesplnění povinností dle Smlouvy v rozsahu, v jakém bylo toto zapříčiněno Událostí vyšší moci, za předpokladu, že strana, která je ovlivněna touto Událostí vyšší moci (i) neprodleně písemně oznámí druhé straně příčinu zpoždění či nesplnění povinností, předpokládaný důsledek na Smlouvu a předpokládanou dobu trvání prodlení či neplnění povinností; a (ii) vyvine veškeré možné úsilí za účelem zmírnění důsledků prodlení či neplnění povinností na druhou stranu. Pokud Událost vyšší moci trvá po dobu delší než 10 dní, může Strana, která není Událostí vyšší moci ovlivněna ukončit Smlouvu s okamžitou účinností, a to písemným oznámením zaslaným druhé straně.</p> <p>10. Pokud Strana netrvá v nějakém případě na přesném splnění podmínek, lhůt či ustanovení Smlouvy, takové jednání není považováno za vzdání se či upuštění od požadavku na plnění Smlouvy v budoucnosti, a podmínky, lhůty a ustanovení Smlouvy zůstávají plně v platnosti a účinnosti. Žádné vzdání se práva, nároku atp. není považováno za platné a účinné, pokud není učiněno v písemné formě a podepsáno příslušnou stranou. Vzdání se nároku některé Strany vyplývajícího z porušení ustanovení Smlouvy druhou stranou se nepovažuje za pokračující vzdání se nároků z takového porušení či vzdání se jiného nároku z porušení téhož ustanovení či jiného ustanovení Smlouvy.</p> <p>11. Dodavatel nesmí převést svá práva a povinnosti dle Smlouvy či zadat plnění částí povinností subdodavatelé bez souhlasu AVG. AVG může postoupit či jinak převést svá práva či delegovat své povinnosti dle Smlouvy (zcela nebo zčásti) bez souhlasu Dodavatele na kteroukoliv propojenou osobu AVG, nabyvatele podílu na AVG nebo na obchodní jednotce AVG. Nic ve Smlouvě, ať již výslovně uvedené, nebo vyplývající z textu ustanovení, nezakládá žádné osobě (odlišné od Stran) žádná práva, nároky či náhrady v žádné podobě, a to z žádného důvodu uvedeného ve Smlouvě.</p> <p>12. Žádná se Stran nesmí bez souhlasu druhé Strany (když dání takového souhlasu nesmí být nedůvodně odmítnuto, či zdržováno) sdělit informace o existenci či podmínkách Smlouvy, či o vztahu Stran, v tisku či jiném propagačním materiálu.</p>	<p>2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.</p> <p>3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the Czech Republic excluding its conflict of laws principles.</p> <p>4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the court sitting in Brno, the Czech Republic over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.</p> <p>5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.</p> <p>6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.</p> <p>7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.</p> <p>8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect. Sections 1799 and 1800 of the Civil Code do not apply.</p> <p>9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.</p> <p>10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.</p> <p>11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.</p> <p>12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.</p>
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13. Na Smlouvu se neaplikuje úmluva OSN o smlouvách o mezinárodní koupi zboží - její použití je tímto výslovně vyloučeno.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded.

# AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

## I. General

### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

## II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("**VAT**") includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

## III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required

Specifications ("**Additional Work**") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

## IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

## V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("**Unpaid Taxes**") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written

request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### **VI. Quality and warranties**

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### **VII. Intellectual property rights**

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### **VIII. Insurance**

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### **IX. Miscellaneous**

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices

sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of England and Wales excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England sitting in London over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

## Conditions générales d'achat d'AVG (ci-après les « Conditions »)

### I. GÉNÉRALITÉS

#### 1. Certaines Définitions

i. **Accord** : Les présentes Conditions, acceptées par le Fournisseur, accompagnées de (a) un bon de commande ou bon de travail émis par AVG et accepté par le Fournisseur (la « **Commande** »), et/ou (b) tout accord d'achat, accord de services ou autre accord signé par les Parties (le « **Contrat** »), dans chacun des cas auxquels les présentes Conditions sont jointes ou auxquels les présentes Conditions s'appliquent conformément à l'Article I.2, ci-après. Sauf accord écrit exprès des Parties, l'Accord n'inclut pas les modalités préimprimées sur tout accusé de réception ou autre formulaire commercial similaire du Fournisseur.

ii. **AVG** : L'entité AVG Technologies ou les entités identifiées par l'Accord.

iii. **Charges** : Le prix, les frais, les coûts et les charges pour les Produits ou services livrables (et tous les services accessoires) tels qu'indiqués dans l'Accord.

iv. **Produit ou service livrable** : Tout bien, produit ou service que le Fournisseur s'engage à fournir à ou au profit d'AVG aux termes de l'Accord.

v. **Cas de Force majeure** : Tout événement qui empêche, entrave ou retarde l'exécution par une partie de ses obligations nées du présent Accord, qui découle directement de l'une des situations suivantes et n'aurait pas été empêché ou atténué par la mise en place par la partie affectée d'une continuité commercialement raisonnable de l'activité et d'un plan de rétablissement après sinistre : (a) une catastrophe naturelle ; (b) un acte d'un gouvernement local ou d'un gouvernement central ; (c) une guerre, une guerre civile, un conflit armé ou des actes de terrorisme ; (d) un blocus ou un embargo ; (e) toute contamination chimique, biologique ou nucléaire ou un rayonnement ionisant ; (f) une épidémie ; (g) un incendie, une inondation, un séisme ou une tempête, une explosion, une émeute ou des troubles civils ; et (h) une grève officielle ou non officielle, un lock-out, une opération escargot ou tout autre litige industriel affectant un tiers (pour lequel un tiers remplaçant n'est pas immédiatement disponible).

vi. **Bonnes pratiques industrielles** : Le niveau de compétence, d'attention, de prudence, de fidélité ou de prévoyance qui serait ordinairement attendu d'un fournisseur de services expert de premier plan, qualifié et expérimenté fournissant des services identiques ou d'une nature similaire aux services impliqués dans les Produits ou services livrables.

vii. **Partie** : AVG ou le Fournisseur, selon le contexte.

viii. **Spécification** : La spécification pertinente de chacun des Produits ou services livrables, ainsi que toute spécification supplémentaire éventuellement convenue par les Parties.

ix. **Fournisseur** : Une partie à l'Accord autre qu'AVG.

2. En cas de conflit entre les différents documents faisant partie intégrante de l'Accord, l'ordre de priorité aux fins de l'interprétation est, par ordre décroissant : la Commande, le Contrat et les présentes Conditions.

3. Sauf accord écrit contraire des Parties, les présentes Conditions s'appliqueront également aux commandes et accords futurs entre AVG et le Fournisseur.

### II. PRIX

1. Les Charges sont fixées pour la durée de l'Accord et n'augmenteront pas avec l'inflation ou autrement.

2. Les Charges couvrent tous les services accessoires et les Travaux Supplémentaires requis aux termes de l'Accord (*par ex.* le fret vers l'adresse « d'expédition », l'emballage, l'assurance, les frais d'inspection, et les frais de transport et de séjour).

3. Sauf disposition contraire de l'Accord, les Charges ne comprennent pas les taxes locales, nationales ou étrangères sur la valeur ajoutée, les taxes sur les ventes, les droits de douane, les droits d'enregistrement ou les évaluations gouvernementales d'une nature similaire pourraient s'appliquer dans le cadre des paiements (collectivement, les « **Taxes** »), et AVG est tenue de

## AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

### I. GENERAL

#### 1. Certain Definitions

i. **Agreement** : These Conditions, accepted by Supplier, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG** : The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges** : The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable** : Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event** : Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice** : That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables

vii. **Party** : AVG or Supplier, as the context requires.

viii. **Specification** : The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier** : A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. PRICES

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may

payer toutes les Taxes dûment exigibles sur ses achats, à l'exclusion des impôts basés sur le revenu net ou les biens du Fournisseur. AVG peut retenir et déduire de tout paiement dû au Fournisseur toutes les retenues fiscales applicables, si et dans la mesure requise par toute loi, réglementation ou traité applicables. Lorsqu'AVG fournit au Fournisseur les documents adéquats pour justifier une exonération fiscale, le Fournisseur ne devra pas facturer de taxe à AVG conformément à la législation applicable. Les « Taxes sur la valeur ajoutée » (« TVA ») comprennent toutes les taxes sur la valeur ajoutée prévues dans la Directive du Conseil du 28 novembre 2006 sur le Système Commun de Taxe sur la Valeur Ajoutée (Directive 2006/112/CE).

### III. DÉLAI ET CLAUSES DE LIVRAISON

1. Les délais de livraison indiqués dans l'Accord sont contraignants et le temps est un élément essentiel. Le Fournisseur n'effectuera pas de livraison partielle ou de livraison anticipée sans le consentement écrit préalable d'AVG. Le besoin que peut avoir le Fournisseur d'exécuter des travaux supplémentaires ou de faire des modifications pour satisfaire les Spécifications requises (« Travaux Supplémentaires ») ne donnera pas droit au Fournisseur à une extension du délai de livraison, à moins qu'AVG n'y consente à l'avance par écrit (y compris par e-mail).

2. Le Fournisseur notifiera rapidement AVG si, à tout moment, il a des raisons de penser qu'il ne sera pas en mesure de respecter ses obligations nées de l'Accord, ou qu'il ne sera pas en mesure de le faire dans les délais prévus.

3. Si, à la date de l'Accord ou avant cette date, le Fournisseur ne fournit pas de Produit ou service livrable, AVG, en plus d'autres recours pouvant être disponibles en droit ou en équité, pourra déduire des Charges un montant égal à 2 % des Charges attribuables au retard de livraison des Produits ou services livrables pour chaque semaine de retard ou une partie de celles-ci, sous réserve que cette déduction n'excède pas 10 % du total des Charges.

4. Sauf accord contraire exprès, les clauses de livraison sont « DDP » conformément aux Incoterms 2010.

5. La propriété des Produits ou services livrables sera transférée à AVG à la réception par AVG à l'adresse « d'expédition » ou à tout autre adresse similaire indiquée par l'Accord ou, si cette date est antérieure, à la date à laquelle AVG effectue le paiement pour les produits. Si AVG convient d'effectuer un paiement intégral ou partiel pour tout Produit ou service livrable avant la livraison, le Fournisseur identifiera clairement les Produits ou services livrables comme propriété d'AVG par un marquage visible et séparera les Produits ou services livrables des autres biens et matériaux que le Fournisseur peut avoir en sa possession.

### IV. EMBALLAGE, MARQUAGE ET RÉCEPTION

Les dispositions du présent Article 0 s'appliquent aux Produits ou services livrables qui sont des biens matériels.

1. Le Fournisseur conditionnera et emballera les Produits ou services livrables de manière à ce qu'ils soient protégés des dommages et pertes de valeur pendant le transport vers le lieu de livraison et pendant une durée de stockage raisonnable de manière adaptée à cette fin.

2. Le Fournisseur marquera les Produits ou services livrables conformément aux instructions d'AVG, sous réserve que ces instructions ne limitent pas l'obligation du Fournisseur de s'assurer que les Produits ou services livrables sont également marqués conformément à leurs propriétés en ce qui concerne la fragilité, la résistance aux intempéries, etc., et conformément à toute autre exigence légale. Chaque expédition doit inclure un bordereau d'expédition portant le numéro d'accord d'AVG (le cas échéant), et être accompagnée de tous les manuels utilisateurs et instructions correspondants.

3. Le Fournisseur avisera AVG par e-mail lorsque les Produits ou services livrables seront expédiés, lequel indiquera la date de livraison prévue et inclura des instructions pour toute manutention ou stockage spécial pouvant être requis.

withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("VAT") includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

### III. DELIVERY TIME AND CLAUSES

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("Additional Work") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

### IV. PACKAGING, MARKING AND RECEIVING

The provisions of this Section 0 apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

**V. FACTURATION ET PAIEMENT**

1. Le Fournisseur facturera à AVG les Produits ou services livrables conformément au calendrier fixé dans l'Accord ou, à défaut, après livraison de l'intégralité des Produits ou services livrables. Chaque facture doit (a) inclure le numéro de Bon de commande d'AVG applicable, (b) indiquer la ou les dates auxquelles le Fournisseur a livré les Produits ou services livrables, (c) indiquer séparément les Taxes applicables aux Produits ou services livrables, (d) établir une facture TVA valide, et (e) indiquer de manière détaillée le calcul des Charges totales. Le Fournisseur doit s'assurer que la facture est conforme aux exigences visées à l'article L. 441-3 du Code de commerce français.

2. AVG paiera chaque facture dûment soumise, exacte et incontestée dans un délai de 45 jours maximum à partir de la fin de mois ou de 60 jours à compter de la réception de la facture, ou dans un délai de paiement plus court fixé par l'Accord.

3. En cas de retard de paiement de la part d'AVG, le Fournisseur pourra exiger des pénalités de retard de paiement. Le taux d'intérêt applicable à ces pénalités sera égal à trois fois le taux d'intérêt légal français. Le Fournisseur aura également droit à une indemnité fixe d'un montant de 40 EUR.

4. Le paiement par AVG ne sera pas réputé être une acceptation des conditions fixées dans la facture du Fournisseur, une acceptation de tout Produit ou service livrable ou une renonciation à toute garantie ou autre droit aux termes du présent Accord.

5. AVG ne sera en aucun cas tenu de payer des montants qui ne sont pas expressément prévus par le présent Accord ou autrement approuvés à l'avance par écrit par AVG. Sans préjudice de tout droit ou recours qu'elle peut avoir, AVG se réserve le droit de déduire tout montant dû à tout moment par le Fournisseur de tout montant dû par AVG au Fournisseur aux termes du présent Accord. AVG peut exiger une garantie bancaire ou une autre garantie acceptable pour AVG à émettre aux frais du Fournisseur, pour tout paiement par avance des Charges.

6. Le Fournisseur est tenu de respecter la législation fiscale en vigueur et de verser à l'administration fiscale compétente, selon la forme et les modalités requises par la législation fiscale applicable, toutes les Taxes que le Fournisseur a perçues d'AVG dans le cadre des paiements effectués par AVG aux termes du présent Accord. Si AVG a versé des Taxes au Fournisseur concernant un paiement et reçoit par la suite une demande d'une administration fiscale de payer ces Taxes, qui n'auraient pas été dûment versées (« *Taxes impayées* ») et qu'AVG verse les Taxes impayées à l'administration fiscale, le Fournisseur devra immédiatement, dès la réception d'une demande écrite d'AVG, rembourser ou payer à AVG le montant justifié des Taxes impayées, augmenté de la pénalité ou des intérêts estimés. Si le Fournisseur ne paie pas les Taxes impayées augmentées de toute pénalité ou intérêts estimés à AVG, AVG est en droit de déduire le montant des Taxes impayées augmentées de toute pénalité ou intérêts estimés de toute créance recouvrable du Fournisseur envers AVG.

**VI. QUALITÉ ET GARANTIES**

1. Le Fournisseur garantit que tous les Produits ou services livrables seront fournis ou exécutés conformément aux Bonnes pratiques industrielles et seront conformes à la Spécification. Le Fournisseur garantit également que chaque Produit ou service livrable sera exempt de défauts matériels et qu'il conviendra à l'utilisation à laquelle il est destiné, qu'il sera conforme à toutes les lois et réglementations applicables y compris, sans s'y limiter, toutes les lois et réglementations applicables relatives à la protection de l'environnement, l'hygiène et la sécurité au travail.

2. Si le Fournisseur viole la garantie décrite à l'Article VI.1, AVG, à son entière discrétion et en plus d'autres recours pouvant être disponibles en droit ou en équité, peut à tout moment exiger que (a) le Fournisseur exécute à nouveau, répare ou remplace les Produits ou services livrables défectueux à sa charge exclusive dans les cinq (5) jours ouvrables suivant la réception de la réclamation d'AVG au titre de la garantie, ou (b) refuser les Produits ou services livrables défectueux et être intégralement remboursé des Charges payées pour ceux-ci.

**V. INVOICING AND PAYMENT**

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated. Supplier must ensure that the invoice complies with the requirements listed in Article L. 441-3 of the French Commercial Code.

2. AVG will pay each properly submitted, accurate and undisputed invoice within a maximum of 45 days from the end of the month or 60 days after receipt of the invoice, or within any shorter payment period specified by the Agreement.

3. In case of late payment by AVG, Supplier may claim late payment penalties. The rate of interest applicable to these penalties will be of three times the French legal rate of interest. Supplier will also be entitled to a fixed indemnity in the amount of EUR 40.

4. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

5. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

6. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("*Unpaid Taxes*") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

**VI. QUALITY AND WARRANTIES**

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

**VII. DROITS DE PROPRIÉTÉ INTELLECTUELLE**

1. Le Fournisseur garantit que les Produits ou services livrables n'enfreindront ni ne feront enfreindre à AVG ou tout produit d'AVG les brevets, droits d'auteur, secrets commerciaux, marques commerciales ou autres droits de propriété intellectuelle de tiers. Le Fournisseur défendra, indemnifiera et exonérera AVG et ses filiales de toute responsabilité pour toute dette, coûts, dommages et dépenses (y compris les coûts de règlement et les honoraires d'avocat raisonnables) découlant de ou lié à toute réclamation (a) affirmant que les Produits ou services livrables enfreignent ou sont supposés enfreindre tout brevet, droit d'auteur, secret commercial, marque commerciale ou des droits similaires d'un tiers ou (b) découlant de ou liée à la distribution ou l'utilisation des Produits ou services livrables.

2. Les maquettes, dessins, modèles, profils statistiques, supports de données et autres, ainsi que toute documentation fournis par AVG ou sur lesquels AVG revendique des droits de propriété ou des droits de propriété intellectuelle demeureront la propriété d'AVG (« *Propriété intellectuelle d'AVG* »). La Propriété intellectuelle d'AVG peut être protégée par la législation sur les brevets, les droits d'auteur, les droits moraux, les secrets commerciaux, les marques commerciales, et tout autre droit de propriété similaire. Le Fournisseur ne peut, à tout moment, utiliser ou divulguer la Propriété intellectuelle d'AVG (y compris les Produits ou services livrables), y compris après l'expiration du présent Accord, à toute fin, sans la permission écrite préalable d'AVG. En outre, le non-respect de ce qui précède confère à AVG le droit de se retirer de l'Accord, en tout ou en partie, sans avoir à verser d'indemnité.

**VIII. ASSURANCE**

1. Le Fournisseur, à ses propres frais, souscrira et maintiendra une police ou des polices d'assurance qui incluront une assurance couvrant les dommages matériels, une assurance de responsabilité civile professionnelle, une couverture de responsabilité civile, une couverture d'assurance-caution, une assurance automobile, une assurance transport et une assurance pour tous les équipements du Fournisseur dans les locaux d'AVG, avec un niveau de protection approprié pour couvrir toutes les pertes et responsabilités pouvant être engagées par le Fournisseur aux termes de l'Accord.

2. Le Fournisseur, sur demande d'AVG, enverra à AVG la preuve écrite du respect de son obligation aux termes de l'Article VIII.1. Si le Fournisseur ne le fait pas, AVG peut, à la charge du Fournisseur, souscrire une police ou des polices d'assurance pour les points décrits dans l'Article VIII.1.

**IX. DISPOSITIONS DIVERSES**

1. Tous les avis, requêtes, demandes, approbations et autres communications aux termes de l'Accord seront faits par écrit à l'adresse indiquée dans l'Accord et seront réputés avoir été dûment signifiés à une Partie (i) lorsque remis en main propre à l'adresse indiquée dans l'Accord ; (ii) si remis par la poste ou par coursier, lorsqu'envoyés par le service postal approprié port payé, ou livrés par coursier, à l'autre Partie à l'adresse indiquée dans l'Accord ; (iii) lorsqu'envoyés par fax, lorsqu'envoyés au numéro de fax et marqués à l'attention de la personne désignée pour les communications dans l'Accord (avec confirmation de transmission) ; ou (iv) lorsqu'envoyés par e-mail (a) si envoyé au Fournisseur, lorsqu'envoyés à l'adresse email indiquée dans l'Accord ou (b) si envoyé à AVG, lorsqu'envoyés à l'adresse [generalnotices@avg.com](mailto:generalnotices@avg.com) (sous réserve que dans tous les cas, aucun e-mail d'erreur ou message d'absence ne soit renvoyé). Nonobstant toute disposition contraire dans l'Accord, les avis envoyés par le Fournisseur à AVG par e-mail à une adresse autre que [generalnotices@avg.com](mailto:generalnotices@avg.com) ne constitueront pas un avis. Les changements d'adresse pour les avis seront indiqués par avis conformes au présent article. Les avis alléguant un manquement aux obligations d'AVG, ou dénonçant l'Accord devront être envoyés à [generalnotices@avg.com](mailto:generalnotices@avg.com) avec [legalnotice@avg.com](mailto:legalnotice@avg.com) en copie.

2. Les modifications apportées à l'Accord ne seront valides que si faites par écrit et signées par le représentant autorisé de

**VII. INTELLECTUAL PROPERTY RIGHTS**

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("*AVG Intellectual Property*"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

**VIII. INSURANCE**

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

**IX. MISCELLANEOUS**

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than [generalnotices@avg.com](mailto:generalnotices@avg.com) shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) and also copied to [legalnotice@avg.com](mailto:legalnotice@avg.com).

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

chacune des Parties.

3. L'interprétation, la validité et l'exécution de l'Accord et de toutes les obligations non contractuelles découlant de, ou liées à l'Accord seront régies par la législation française.

4. Chaque Partie accepte irrévocablement de se soumettre à la juridiction exclusive du tribunal de commerce de Paris pour toute réclamation ou tout différend découlant de, ou lié à l'Accord. Le présent Article ne porte pas atteinte au droit de chaque Partie de demander des mesures provisoires contre l'autre Partie (telle qu'une injonction) auprès de tout tribunal compétent, afin de protéger ses droits et intérêts, ou de faire respecter les obligations de l'autre Partie.

5. L'Accord énonce toutes les modalités convenues entre les Parties et remplace tous les accords antérieurs ou actuels entre les Parties relatifs à son objet.

6. La relation entre les Parties est celle d'entrepreneurs indépendants et ne sera pas réputée être une relation de représentation, co-entreprise, partenariat ou autre. Aucune des Parties n'est autorisée à agir pour le compte de l'autre Partie et chacune des Parties agira en qualité d'entrepreneur indépendant achetant pour lui-même, vendant en son nom propre et à ses propres risques.

7. Les intitulés dans l'Accord n'ont pas d'incidence sur son interprétation. L'utilisation d'un genre inclut tous les genres. Le singulier inclut le pluriel et vice-versa. Lorsqu'un terme ou une phrase est défini, ses autres formes grammaticales ont la même signification.

8. Si une disposition de l'Accord est considérée illégale, invalide ou inapplicable aux termes de toute loi applicable, toutes les autres dispositions de l'Accord demeurent en vigueur et produiront tous leurs effets.

9. Aucune des Parties ne sera responsable envers l'autre Partie de tout retard ou non-exécution de ses obligations aux termes du présent Accord dans la mesure où cela résulte d'un Cas de Force majeure, sous réserve que la partie subissant le Cas de Force majeure (i) notifie immédiatement l'autre partie par écrit de la cause du retard ou de la non-exécution, de l'impact attendu sur le présent Accord et de la durée probable du retard ou de la non-exécution ; et (ii) fasse tout son possible pour limiter l'effet de ce retard ou de cette non-exécution sur l'autre Partie. Si le Cas de Force majeure dure pendant plus de 10 jours, la Partie ne subissant par le Cas de Force majeure peut résilier l'Accord immédiatement par avis écrit à l'autre Partie.

10. Le manquement par l'une des parties à la stricte application des modalités, conditions et dispositions de l'Accord ne sera pas interprété comme une renonciation au respect futur de l'Accord, et les modalités, conditions et dispositions de l'Accord demeureront en vigueur produiront tous leurs effets. Aucune renonciation à une modalité ou condition de l'Accord par l'une des Parties ne produira d'effets à quelque fin que ce soit, à moins que ladite renonciation soit faite par écrit et signée par ladite Partie. La renonciation par l'une des Parties à invoquer une violation d'une disposition de l'Accord par l'autre Partie ne sera pas interprétée comme une renonciation permanente à invoquer la violation ou comme une renonciation à invoquer d'autres violations de celle-ci ou d'autres dispositions de l'Accord.

11. Le Fournisseur ne peut céder ses droits ou obligations aux termes de l'Accord ou sous-traiter une partie de son exécution aux termes de l'Accord sans le consentement d'AVG. AVG peut céder ou transférer autrement ses droits ou déléguer ses obligations aux termes de l'Accord (en tout ou en partie) sans le consentement du Fournisseur à toute filiale d'AVG ou acheteur de toute action ou unité commerciale d'AVG. Aucune disposition du présent Accord, explicite ou implicite, ne vise à accorder ou n'accordera à une personne (autre que les Parties) tout droit, avantage ou recours de quelque nature que ce soit aux termes ou en vertu de l'Accord.

12. Aucune des Parties n'annoncera, sans le consentement de l'autre Partie (consentement qui ne doit pas être refusé ou retardé sans motif valable), l'existence ou les modalités de l'Accord, ou la relation des Parties, dans un communiqué de presse ou autre matériel publicitaire.

13. Le présent Accord ne sera pas régi par la Convention des Nations Unies sur les contrats de vente internationale de marchandises, dont l'application est expressément exclue. En cas d'ambiguïté ou de question d'intention ou d'interprétation, dans

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of France.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the Paris Commercial Court (*Tribunal de commerce de Paris*) over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any



<p>toute procédure judiciaire ou autrement, les modalités de l'Accord seront interprétées comme ayant été rédigées conjointement par les Parties, et aucune présomption ou charge de la preuve ne devra favoriser ou défavoriser une Partie en vertu de la qualité d'auteur d'une disposition de l'Accord.</p>	<p>judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.</p>
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## Allgemeine Einkaufsbedingungen der AVG (nachstehend „Einkaufsbedingungen“)

### I. Allgemeines

#### 1. Bestimmte Begriffsbestimmungen

i. Vertragswerk: die vorliegenden Einkaufsbedingungen zusammen mit (a) einer Produkt- oder Werkbestellung der AVG, die der Lieferant angenommen hat („Bestellung“) und/oder mit (b) einem Kaufvertrag, Vertrag über eine Dienstleistung oder anderen Vertrag, der von den Parteien unterzeichnet ist („Vertrag“), der/dem die vorliegenden Einkaufsbedingungen beigelegt sind und auf den die vorliegenden Einkaufsbedingungen gemäß Ziffer 1.2 Anwendung finden. Sofern die Parteien nichts anderes ausdrücklich schriftlich vereinbaren, umfasst das Vertragswerk nicht die vorverfassten Bedingungen auf einer Lieferantenbestätigung oder einem anderen ähnlichen Geschäftsdokument.

ii. AVG: das oder die Unternehmen AVG Technologies, die im Vertragswerk bezeichnet sind.

iii. Preise: die Preise, Gebühren, Kosten und Belastungen, für die Liefergegenstände (und alle zugehörigen Dienstleistungen), die im Vertragswerk vereinbart sind.

iv. Liefergegenstand: Waren, Produkte oder Dienstleistungen, die an die oder zugunsten der AVG zu erbringen sich der Lieferant gemäß dem Vertragswerk verpflichtet.

v. Ereignis höherer Gewalt: jedes Ereignis, das die Erfüllung der Verpflichtungen einer Partei aus diesem Vertragswerk verhindert, behindert oder verzögert, das unmittelbar aus den folgenden Ereignissen hervorgeht und das durch die Umsetzung eines wirtschaftlich sinnvollen Plans zur Aufrechterhaltung der Geschäftsabläufe (Geschäftskontinuität) und zur Wiederinbetriebnahme nach einem Notfall (Wiederherstellung der Geschäftsabläufe) seitens der betroffenen Partei nicht verhindert oder gemildert worden wäre: (a) Naturkatastrophen, (b) hoheitliche Akte lokaler oder zentraler Behörden, (c) Krieg, Bürgerkrieg, bewaffnete Konflikte oder Terrorismus, (d) Blockaden oder Embargos, (e) chemische, biologische oder nukleare Verseuchung oder ionisierende Strahlung, (f) Epidemien, (g) Feuer, Überschwemmung, Erdbeben oder Stürme, Explosionen, Aufstände oder soziale Unruhen sowie (h) offizielle oder inoffizielle Streiks, Aussperrungen, Bummelstreiks oder andere betriebliche Streitigkeiten, die einen Dritten betreffen (für den nicht sofort Ersatz zur Verfügung steht).

vi. Gute Branchenpraxis: der Grad an Sachkenntnis, Sorgfalt, Vorsicht, Ehrlichkeit und Voraussicht, der im Allgemeinen von einem ausgebildeten und erfahrenen führenden Fachlieferanten von Dienstleistungen derselben oder ähnlichen Art wie die im Zusammenhang mit den Liefergegenständen geschuldeten erwartet wird.

vii. Partei: AVG oder der Lieferant, je nach Zusammenhang.

viii. Spezifikation: die jeweilige Spezifikation des Liefergegenstandes nebst zusätzlichen von den Parteien vereinbarten Spezifikationen.

ix. Lieferant: die Partei des Vertragswerkes, die nicht AVG ist.

2. Im Falle eines Widerspruchs zwischen den verschiedenen Dokumenten, aus denen das Vertragswerk besteht, ist die Rangfolge für eine Auslegung die folgende, in absteigender Reihenfolge: die Bestellung, der Vertrag und die vorliegenden Einkaufsbedingungen.

3. Sofern die Parteien nichts anderes schriftlich vereinbaren, finden die vorliegenden Einkaufsbedingungen auch auf zukünftige Bestellungen und Vereinbarungen zwischen AVG und dem Lieferanten Anwendung.

### II. Preise

1. Die Preise sind für die Laufzeit des Vertragswerkes festgelegt und steigen weder wegen Inflation noch aus anderen Gründen.

2. Die Preise umfassen sämtliche zugehörigen Dienstleistungen und Zusatzarbeiten, die gemäß dem Vertragswerk geschuldet sind, (z.B. Frachtkosten zur Lieferadresse, Verpackung, Versicherung, Prüfkosten sowie Reise- und Aufenthaltskosten).

3. Sofern nichts anderes im Vertragswerk bestimmt ist, umfassen die Preise keine lokalen, einzelstaatlichen, bundesstaatlichen oder ausländischen Mehrwertsteuern, Umsatzsteuer, Zollabgaben oder staatlichen Festsetzungen ähnlicher Art, die im Zusammenhang mit den Zahlungen anfallen (zusammengefasst „Steuern“), und AVG ist für die Zahlung sämtlicher auf ihre Käufe anfallenden Steuern verantwortlich, mit Ausnahme der Steuern auf das Nettoeinkommen

## AVG General Purchasing Terms and Conditions (hereinafter referred to as “Conditions”)

### I. General

#### 1. Certain Definitions

i. Agreement: These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the “Order“), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the “Contract“), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. AVG: The AVG Technologies entity or entities identified by the Agreement.

iii. Charges: The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. Deliverable: Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. Force Majeure Event: Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. Good Industry Practice: That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables

vii. Party: AVG or Supplier, as the context requires.

viii. Specification: The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. Supplier: A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the “ship to” address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, “Taxes“), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all

oder das Eigentum des Lieferanten. AVG kann sämtliche Quellen- und Kapitalertragssteuern, die auf die dem Lieferanten geschuldeten Zahlungen anfallen, zurückbehalten oder abziehen, wenn und soweit dies aufgrund eines einschlägigen Gesetzes, einer einschlägigen Verordnung oder eines einschlägigen Abkommens erforderlich ist. Stellt AVG dem Lieferanten ordnungsgemäße Dokumente für eine Steuerfreistellung zur Verfügung, stellt der Lieferant der AVG nach Maßgabe der einschlägigen Gesetze keine Steuern in Rechnung. Die Mehrwertsteuer („MwSt“) umfasst die Mehrwertsteuer gemäß der Richtlinie des Rates vom 28. November 2006 über das gemeinsame Mehrwertsteuersystem (Richtlinie 2006/112/EG).

### III. Lieferzeiten und -bestimmungen

1. Die im Vertragswerk bestimmten Lieferzeiten sind verbindlich, und Termintreue ist wesentlicher Bestandteil des Vertragswerks. Ohne die vorherige schriftliche Zustimmung der AVG führt der Lieferant keine Teillieferungen oder Vorauslieferungen durch. Hat der Lieferant zusätzliche Arbeiten oder Änderungen durchzuführen, um die Anforderungen der Spezifikationen zu erfüllen, („Zusatzarbeiten“), berechtigt dies den Lieferanten nicht, die Lieferfrist zu verlängern, es sei denn, AVG stimmt der Verlängerung im Voraus schriftlich (auch per E-Mail) zu.

2. Der Lieferant setzt die AVG sofort darüber in Kenntnis, wenn er Grund hat anzunehmen, dass er seine Pflichten aus dem Vertragswerk nicht oder nicht in der angesetzten Frist erfüllen kann.

3. Liefert der Lieferant einen Liefergegenstand nicht am oder vor dem im Vertragswerk genannten Termin, kann AVG – unbeschadet anderer Rechte aus Gesetz oder Treu und Glauben – den Preis je angefangener Woche der verspäteten Lieferung für jeden verspätet gelieferten Liefergegenstand um 2 %, jedoch je Minderung insgesamt nicht mehr als 10 % des Gesamtpreises mindern.

4. Sofern nichts anderes ausdrücklich vereinbart wird, gelten die Lieferbestimmungen „DDP“ gemäß der Incoterms 2010.

5. Das Eigentumsrecht an den Liefergegenständen geht entweder bei Erhalt an der Lieferadresse oder an einer anderen im Vertragswerk angegebenen Adresse oder – sofern früher – am Tag der Bezahlung durch AVG auf AVG über. Stimmt AVG der vollständigen oder teilweisen Zahlung für einen Liefergegenstand vor Lieferung zu, macht der Lieferant den entsprechenden Liefergegenstand als Eigentum der AVG deutlich kenntlich und lagert ihn getrennt von anderen Waren und Materialien, die der Lieferant in Besitz hat.

### IV. Verpackung, Beschriftung und Empfang

Die Bestimmungen dieses Abschnitts IV finden auf Liefergegenstände, die Sachen sind, Anwendung.

1. Der Lieferant verpackt die Liefergegenstände so, dass sie während des Transports zum Lieferort sowie während der Lagerung für einen angemessenen Zeitraum in geeigneter Art und Weise vor Beschädigungen und Wertverlust geschützt sind.

2. Der Lieferant beschriftet die Liefergegenstände nach Maßgabe der Anweisungen von AVG, sofern diese Anweisungen nicht die Pflicht des Lieferanten einschränken, sicherzustellen, dass die Liefergegenstände auch gemäß ihrer Eigenschaften im Hinblick auf Zerbrechlichkeit, Wetterbeständigkeit usw. sowie wie im Übrigen rechtlich vorgeschrieben beschriftet sind. Jede Sendung hat einen Packzettel mit (ggf.) der Vertragsnummer von AVG sowie entsprechende Bedienungsanleitungen und -anweisungen zu enthalten.

3. Sobald die Liefergegenstände versandt sind, sendet der Lieferant AVG eine Mitteilung per E-Mail, in der das erwartete Lieferdatum genannt wird und erforderlichenfalls Anweisungen zu besonderer Handhabung oder Lagerung enthalten sind.

### V. Rechnungsstellung und Zahlung

1. Der Lieferant stellt AVG die Liefergegenstände gemäß dem im Vertragswerk genannten Terminplan oder bei Fehlen eines solchen Terminplans nach der vollständigen Lieferung der Liefergegenstände in Rechnung. Jede Rechnung muss (a) die entsprechende Nummer der AVG-Bestellung enthalten, (b) das Lieferdatum (die Lieferdaten) der Liefergegenstände nennen, (c) auf die Liefergegenstände anfallende Steuern gesondert ausweisen, (d) eine gültige MwSt-Rechnung darstellen sowie (e) die Berechnung des Gesamtpreises angemessen detailliert darstellen.

2. AVG zahlt eine ordnungsgemäß übermittelte, korrekte und unbestrittene Rechnung innerhalb der im Vertragswerk genannten Zahlungsfrist oder, bei Fehlen einer solchen Zahlungsfrist, innerhalb von 45 Tagen nach Erhalt der Rechnung.

applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes (“VAT”) includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

### III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG’s prior written consent. Supplier’s need to perform additional work or alterations to meet required Specifications (“Additional Work”) shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are “DDP” according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the “ship to” or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

### IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG’s instructions, provided that such instructions do not limit Supplier’s obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG’s agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

### V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. Eine Zahlung von AVG gilt weder als Annahme von Bedingungen, die in der Rechnung des Lieferanten enthalten sind, noch als Annahme der Liefergegenstände noch als Verzicht auf eine Zusicherung oder ein anderes Recht aus dem vorliegenden Vertragswerk.

4. AVG ist nicht zur Zahlung von Beträgen verpflichtet, die nicht ausdrücklich im vorliegenden Vertragswerk vorgehen oder anderweitig von AVG im Voraus schriftlich bestätigt sind. Unbeschadet anderer Rechte behält sich AVG das Recht vor, einen an den Lieferanten gemäß dem vorliegenden Vertragswerk zu zahlenden Betrag mit einem Betrag, den der Lieferant der AVG zu irgendeinem Zeitpunkt schuldet, aufzurechnen. AVG kann bei einer Zahlung im Voraus eine Bankbürgschaft oder eine andere für die AVG akzeptable Sicherheitsleistung verlangen, deren Kosten der Lieferant zu tragen hat.

5. Der Lieferant hat die einschlägigen Steuergesetze zu beachten und sämtliche Steuern, die er AVG im Zusammenhang mit den gemäß dem vorliegenden Vertragswerk vorgenommenen Zahlungen in Rechnung gestellt hat, nach Maßgabe der einschlägigen Steuergesetze an die zuständige Steuerbehörde weiterzuleiten. Hat AVG dem Lieferanten im Zusammenhang mit einer Zahlung Steuern gezahlt und erhält später eine Aufforderung der Steuerbehörde, diese Steuern zu zahlen, da sie nicht ordnungsgemäß weitergeleitet wurden, (nicht abgeführte Steuern) und zahlt AVG die nicht abgeführten Steuern an die Steuerbehörde, erstattet der Lieferant unverzüglich nach Erhalt einer schriftlichen Aufforderung von AVG diese Steuern oder zahlt anderweitig die belegte Höhe der nicht abgeführten Steuern nebst eventuell festgesetzter Bußgelder oder Zinsen an AVG. Zahlt der Lieferant die nicht abgeführten Steuern nebst eventuell festgesetzter Bußgelder oder Zinsen nicht an AVG, hat AVG das Recht, den Betrag der nicht abgeführten Steuern nebst eventuell festgesetzter Bußgelder oder Zinsen gegen jede beliebige Forderung des Lieferanten gegen AVG anzurechnen.

#### VI. Qualität und Zusicherungen

1. Der Lieferant sichert zu, dass alle Liefergegenstände nach Maßgabe guter Branchenpraxis geliefert oder ausgeführt werden und die Spezifikation erfüllen. Der Lieferant sichert weiter zu, dass jeder Liefergegenstand frei von wesentlichen Mängeln ist und für die beabsichtigte Verwendung geeignet ist, sämtliche einschlägigen Gesetze und Verordnungen einhält, einschließlich der einschlägigen Gesetze und Verordnungen zum Umweltschutz sowie zum Arbeits- und Unfallschutz.

2. Verletzt der Lieferant die Zusicherung aus Ziffer VI.1, kann AVG nach eigenem Ermessen zu jeder Zeit und zusätzlich zu ihren anderen Rechten aus Gesetz oder Treu und Glauben (a) verlangen, dass der Lieferant auf eigene Kosten innerhalb von fünf (5) Geschäftstagen nach Erhalt der Mängelforderung von AVG den mangelhaften Liefergegenstand erneut durchführt oder repariert oder ersetzt, oder (b) den mangelhaften Liefergegenstand ablehnen und den gezahlten Preis in voller Höhe zurückerhalten.

#### VII. Rechte am geistigen Eigentum

1. Der Lieferant sichert zu, dass die Liefergegenstände weder die Patente, Urheberrechte, Geschäftsgeheimnisse, Marken oder andere Rechte des geistigen Eigentums eines Dritten verletzen noch zu einer Verletzung durch AVG oder ein Produkt von AVG führen. Der Lieferant verteidigt AVG gegen, entschädigt und stellt AVG und ihre verbundenen Unternehmen für sämtliche Verbindlichkeiten, Kosten, Schadenersatzzahlungen und Ausgaben (einschließlich Kosten für einen Vergleich und angemessene Rechtsanwaltsgebühren) frei, die in Verbindung mit einer Forderung entstehen, dass (a) die Liefergegenstände Patente, Urheberrechte, Geschäftsgeheimnisse, Marken oder ähnliche Rechte eines Dritten verletzen oder angeblich verletzen, oder (b) die in Verbindung mit dem Vertrieb oder der Nutzung der Liefergegenstände entstehen.

2. Geschmacksmuster, Zeichnungen, Modelle, statistische Profile, Datenträger u.ä. sowie Materialien, die AVG zur Verfügung stellt oder auf die AVG eigentumsrechtliche oder gewerbliche Schutzrechte erhebt, verbleiben im Eigentum von AVG („geistiges Eigentum der AVG“). Das geistige Eigentum der AVG kann durch Patent-, Urheber-, Urheberpersönlichkeits-, Geschäftsgeheimnis-, Marken- und andere ähnliche Schutzrechte geschützt sein. Der Lieferant darf dieses geistige Eigentum von AVG (einschließlich der Liefergegenstände) zu keinem Zeitpunkt und aus keinem Grund ohne vorherige schriftliche Zustimmung der AVG nutzen oder offenlegen, auch nicht nach Ablauf des vorliegenden Vertragswerkes. Weiterhin berechtigt die Nichtbeachtung der vorstehenden Bestimmungen AVG, ohne Schadensausgleich ganz oder teilweise vom Vertrag zurückzutreten.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto („Unpaid Taxes“) and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### VII. Intellectual property rights

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG („AVG Intellectual Property“). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

### VIII. Versicherung

1. Der Lieferant unterhält auf eigene Kosten eine oder mehrere Policen einer Sachschaden-, Berufshaftpflicht-, Haftpflicht-, Vertrauensschaden-, Fahrzeug- und Transportversicherung sowie einer Versicherung für alle Geräte des Lieferanten auf dem Betriebsgelände der AVG mit einer Schadenssummenhöhe, die sämtliche in Verbindung mit dem vorliegenden Vertragswerk auftretende Schäden, die der Lieferante verursachen könnte, abdeckt.

2. Der Lieferant schickt der AVG auf Aufforderung der AVG einen schriftlichen Nachweis über die Erfüllung seiner Pflicht aus Ziffer VIII.1. Kommt der Lieferant dieser Pflicht nicht nach, kann AVG auf Kosten des Lieferanten im Hinblick auf die in Ziffer VIII.1 genannten Fälle selbst eine oder mehrere Versicherungen abschließen.

### IX. Schlussbestimmungen

1. Sämtliche Benachrichtigungen, Anfragen, Aufforderungen, Genehmigungen und andere Kommunikation im Rahmen des vorliegenden Vertragswerkes bedürfen der Schriftform und des Versandes an die im Vertragswerk angegebene Adresse und gelten als ordnungsgemäß der anderen Partei zugegangen: (i) bei persönlicher Zustellung an die im Vertragswerk genannte Adresse, (ii) im Falle des Post- oder Kurierversandes bei Zustellung mit frankierter Post an die im Vertragswerk angegebene Adresse der anderen Partei, (iii) im Falle des Faxversandes bei Versand des Faxes an die Faxnummer zu Händen der im Vertragswerk genannten, für den Kontakt zuständige Person (mit Bestätigung der erfolgreichen Übertragung) oder (iv) im Falle des E-Mail-Versandes (a) an den Lieferanten bei Versand an die im Vertragswerk genannte E-Mail-Adresse oder (b) an AVG bei Versand an **generalnotices@avg.com** (in beiden Fällen soweit keine Fehlermeldung oder Abwesenheitsnotiz zurückgesandt wird). Abweichend von anderen Bestimmungen im Vertragswerk gelten E-Mail-Mitteilungen des Lieferanten an die AVG, die an eine andere Adresse als **generalnotices@avg.com** gesendet werden, nicht als ordnungsgemäße Mitteilung. Änderungen der Adresse für Mitteilungen bedürfen einer Mitteilung im Sinne dieses Abschnitts. Mitteilungen über die Verletzung von Pflichten durch AVG oder Kündigungen des Vertrags sind an **generalnotices@avg.com** mit Kopie an **legalnotice@avg.com** zu senden.

2. Ergänzungen des Vertragswerkes sind nur wirksam, wenn sie in Schriftform vorliegen und von einem ermächtigten Vertreter jeder Partei unterzeichnet sind.

3. Die Auslegung, Wirksamkeit und Erfüllung des vorliegenden Vertragswerkes und sämtlicher nichtvertraglicher Verpflichtungen, die aus oder im Zusammenhang mit dem Vertragswerk entstehen, unterliegen dem Recht Deutschlands unter Ausschluss der Vorschriften des internationalen Privatrechts.

4. Jede der Parteien unterwirft sich unwiderruflich für einen Anspruch oder eine Streitigkeit im Zusammenhang mit dem Vertragswerk dem ausschließlichen Gerichtsstand des nach deutschem Prozessrecht zuständigen Gerichts in Deutschland. Dieser Abschnitt berührt nicht das Recht jeder der Parteien, bei einem zuständigen Gericht vorläufigen Rechtsschutz gegen die andere Partei (wie einstweilige Verfügungen) zu beantragen, um ihre Rechte und Interessen zu schützen oder um die Erfüllung der Pflichten durch die andere Partei durchzusetzen.

5. Das Vertragswerk enthält alle Bedingungen, die die Parteien vereinbart haben, und geht allen früheren oder gleichzeitigen Vereinbarungen der Parteien zum vorliegenden Vertragsgegenstand vor.

6. Das Rechtsverhältnis der Parteien ist das unabhängiger Vertragspartner und gilt nicht als Vertretungs-, Joint-Venture-, Partnerschafts- oder anderes Verhältnis. Keine der Parteien ist befugt, im Namen der anderen zu handeln, und jede der Parteien handelt als unabhängiger Vertragspartner und kauft für sich selbst, verkauft im eigenen Namen und auf eigene Gefahr.

7. Die Titel in dem Vertragswerk haben keine Auswirkung auf dessen Auslegung. Die Verwendung eines Genus umfasst alle Genera. Der Singular umfasst den Plural und umgekehrt. Ist ein Ausdruck oder eine Phrase definiert, haben dessen oder deren andere grammatischen Formen entsprechende Bedeutung.

8. Gilt eine Bestimmung in dem Vertragswerk gemäß geltendem Recht als rechtswidrig, unwirksam oder nicht durchsetzbar, bleiben die anderen Bestimmungen des Vertragswerkes voll wirksam.

9. Keine der Parteien haftet gegenüber der anderen für eine verspätete Erfüllung oder eine Nichterfüllung ihrer Pflichten aus dem

### VIII. Insurance

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of Germany excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the competent (in accordance with German procedural law) courts of Germany over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party

vorliegenden Vertragswerk, soweit dies durch ein Ereignis höherer Gewalt verursacht wurde und wenn die Partei, die das Ereignis höherer Gewalt trifft, (i) die andere Partei sofort schriftlich über den Grund der Spät- oder Nichterfüllung, die voraussichtlichen Auswirkungen auf das vorliegende Vertragswerk und die wahrscheinliche Dauer der Spät- oder Nichterfüllung in Kenntnis setzt und (ii) die Auswirkungen der Spät- oder Nichterfüllung auf die andere Partei nach besten Kräften mildert. Besteht das Ereignis höherer Gewalt für einen längeren Zeitraum als 10 Tage, kann die Partei, die nicht von dem Ereignis höherer Gewalt betroffen ist, das Vertragswerk sofort durch schriftliche Benachrichtigung an die andere Partei kündigen.

10. Das Nichtbestehen einer Partei auf der strengen Erfüllung der Bestimmungen, Bedingungen und Regelungen des Vertrages stellt weder einen Verzicht auf noch eine Freistellung von der zukünftigen Erfüllung des Vertrags dar, und die Bestimmungen, Bedingungen und Regelungen des Vertragswerkes bleiben voll wirksam. Kein Verzicht auf eine Bestimmung oder Bedingung aus dem Vertragswerk durch eine Partei ist wirksam, wenn nicht dieser Verzicht schriftlich vorliegt und von der verzichtenden Partei unterzeichnet ist. Der Verzicht einer Partei auf die Durchsetzung ihrer Rechte wegen der Verletzung einer Bestimmung des Vertragswerkes durch die andere Partei ist weder als ein dauerhafter Verzicht noch als ein Verzicht auf ihre Rechte bei einer späteren Verletzung derselben Bestimmung oder einer anderen Bestimmung durch die andere Partei auszulegen.

11. Der Lieferant ist nicht berechtigt, ohne die Zustimmung von AVG seine Rechte oder Pflichten aus dem Vertragswerk abzutreten oder einen Teil seiner Leistungspflicht aus dem Vertragswerk als Untervertrag abzugeben. AVG kann ihre Rechte ohne die Zustimmung des Lieferanten an ein verbundenes Unternehmen von AVG oder an einen Erwerber von AVG-Anteilen oder Unternehmensbereichen abtreten oder anderweitig übertragen oder ihre Pflichten aus dem Vertragswerk (ganz oder teilweise) an ein verbundenes Unternehmen der AVG oder an einen Erwerber von AVG-Anteilen oder Unternehmensbereichen untervergeben. Das Vertragswerk räumt einer dritten Person (außer den Parteien) weder ausdrücklich noch konkludent ein Recht oder einen Vorteil irgendeiner Art ein.

12. Keine der Parteien gibt ohne die Zustimmung der anderen das Bestehen oder die Bedingungen des Vertragswerkes oder des Rechtsverhältnisses der Parteien in einer Presseerklärung oder in anderem Werbematerial bekannt (wobei die Zustimmung nicht aus unangemessenen Gründen verweigert oder verzögert werden darf).

13. Auf das vorliegende Vertragswerk findet das Übereinkommen der Vereinten Nationen über Verträge über den internationalen Warenkauf keine Anwendung, dessen Anwendung ausdrücklich ausgeschlossen wird. Tritt in einem Rechtsstreit oder anderweitig eine Unklarheit auf oder wird die Vertragsabsicht oder -auslegung in Frage gestellt, sind die Bestimmungen des Vertragswerkes so auszulegen, als wären sie von den Parteien gemeinsam verfasst worden, und es entstehen keine Vermutungen oder Auswirkungen auf die Beweislast aus der Urheberschaft einer Bestimmung des Vertragswerkes zugunsten oder zuungunsten einer Partei.

suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

<p><b>תנאי רכישה כלליים של AVG (להלן: "התנאים")</b></p> <p><b>1. כללי</b></p> <p><b>1.1. הגדרות</b></p> <p>1.1.1. <b>הסכם</b>: משמע תנאים אלו, יחד עם (א) הזמנת רכש או הזמנת עבודה שהונפקה על ידי AVG ונתקבלה על ידי הספק (להלן: "הזמנה") ו/או (ב) כל הסכם רכש, הסכם שירות או הסכם אחר שנחתם על ידי הצדדים (להלן: "חוזה"), בכל מקרה אשר הסכם זה מצורף לו או שעליו חל הסכם זה באופן אחר על פי סעיף 1.2 להלן. למעט כפי שהצדדים יחליטו במפורש בכתב, ההסכם אינו כולל את התנאים שהודפסו מראש בנוגע לכל אישור ספק או טפסים עסקיים אחרים דומים.</p> <p>1.1.2. <b>AVG</b>: משמע ישות או ישויות של AVG Technologies הנזכרות בהסכם.</p> <p>1.1.3. <b>החייבים</b>: משמע המחיר, התשלומים, ההוצאות והחייבים בגין התוצרים (וכל שירותים לווים) כמפורט בהסכם.</p> <p>1.1.4. <b>תוצרים</b>: כל טובין, מוצרים או שירותים שהספק מתחייב לספק ל-AVG או עבורה על פי ההסכם.</p> <p>1.1.5. <b>אירוע כוח עליון</b>: משמע כל אירוע המונע, מקשה או מעכב את ביצוע התחייבויות כל צד על פי הסכם זה, הנובע במישורן מכל אחד מהבאים, ושהצד המושפע ממנו לא יכול היה למנוע או לצמצם את השפעתו לו יישם תכנית רציפות עסקית והתאוששות מאסון סבירה מבחינה מסחרית: (א) מעשה אלוהים; (ב) פעולה של ממשלה מקומית או ממשלה מרכזית; (ג) מלחמה, מלחמת אזרחים, סכסוך מזוין או פעולות טרור; (ד) מצור או אמברגו; (ה) כל זיהום כימי, ביולוגי או אטומי או קרינה מייננת; (ו) מגיפה; (ז) שריפה, הצפות, רעידת אדמה או סערות, פיצוצים, מהומות או התקוממות אזרחית; ו-(ח) שביתה רשמית או לא רשמית, השבתה, האטת עבודה או מחלוקת אחרת בתחום העבודה המשפיעה על צד ג' (כאשר צד ג' חליף כאמור אינו זמין בהישג יד).</p> <p>1.1.6. <b>פרקטיקה מקובלת בתחום</b>: מידת הכישורים, הזהירות, הדיוק וראיית הנולד המצופים באופן רגיל ממומחה, ספק שירותים מוביל מוכשר ומנוסה, של אותם שירותים רלוונטיים או של שירותים רלוונטיים דומים הכוללים בתוצרים.</p> <p>1.1.7. <b>צד</b>: משמע AVG או הספק, לפי ההקשר.</p> <p>1.1.8. <b>מפרט</b>: משמע המפרט הרלבנטי של כל אחד מהתוצרים, בצירוף כל מפרט נוסף שהוסכם על ידי הצדדים מעת לעת.</p> <p>1.1.9. <b>ספק</b>: משמע צד להסכם למעט AVG.</p> <p>1.2. במקרה של סתירה בין המסמכים השונים</p>	<p><b>AVG General Purchasing Terms and Conditions</b> (hereinafter referred to as "Conditions")</p> <p><b>1. General</b></p> <p>1.1. Certain Definitions</p> <p>1.1.1. <b>Agreement</b>: These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "Order"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "Contract"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.</p> <p>1.1.2. <b>AVG</b>: The AVG Technologies entity or entities identified by the Agreement.</p> <p>1.1.3. <b>Charges</b>: The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.</p> <p>1.1.4. <b>Deliverable</b>: Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.</p> <p>1.1.5. <b>Force Majeure Event</b>: Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).</p> <p>1.1.6. <b>Good Industry Practice</b>: That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables</p> <p>1.1.7. <b>Party</b>: AVG or Supplier, as the context requires.</p> <p>1.1.8. <b>Specification</b>: The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.</p> <p>1.1.9. <b>Supplier</b>: A party to the Agreement other than AVG.</p> <p>1.2. In the event of conflict among the various documents comprising the Agreement, the order of</p>
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<p>המרכיבים את ההסכם, סדר העדיפות לעניין פרשנות הנו הסדר הבא: ההזמנה, החוזה ותנאים אלו.</p> <p>1.3. אלא אם הצדדים יסכימו אחרת בכתב, תנאים אלו יחולו גם על הזמנות והסכמים עתידיים בין AVG והספק.</p> <p><b>2. מחירים</b></p> <p>2.1. החיובים קבועים למשך תקופת ההסכם ולא יעלו בגין אינפלציה או כל סיבה אחרת.</p> <p>2.2. החיובים מכסים כל שירותים נלווים ועבודה נוספת הנחוצה על פי ההסכם (לדוגמה, חיובי תובלה לכתובת המשלוח, הוצאות אריזה, ביטוח, בדיקה והוצאות נסיעה ומחייה).</p> <p>2.3. אלא אם צוין אחרת בהסכם זה, החיובים אינם כוללים כל מסי מס ערך מוסף מקומיים, מדינתיים, פדרליים או זרים (למעט ניכוי מס במקור), מסי מכירות, היטלי מכס או שומות ממשלתיות בעלות אופי דומה אשר עשויים להיות מוטלים בנוגע לתשלומים (יחד, להלן: "המסים"), ו-AVG אחראית לשלם כל מסים החלים כדין על רכישותיה, למעט מסים המבוססים על הכנסתו או נכסיו נטו של הספק. AVG תהא רשאית לנכות מכל תשלום המגיע לספק את כל מסי ההכנסה החלים, אם הדבר נדרש על פי כל חוק, תקנה או אמנה רלוונטיים. כל סכומים שנוכו כאמור ייחשבו לכל דבר ועניין כמשולמים לספק. אם AVG תמסור לספק מסמכים מתאימים המעידים על פטור ממס, הספק לא יגבה מס מ-AVG על פי החוקים החלים. מסי ערך מוסף (להלן: "מס"מ") כוללים כל מס ערך מוסף על פי חוק מס ערך מוסף של ישראל, תש"ל-1975.</p> <p><b>3. מועד המסירה והוראות המסירה</b></p> <p>3.1. מועדי המסירה הנוכרים בהסכם הינם מחייבים, והזמן הנו בעל חשיבות. הספק לא יבצע מסירה חלקית או מסירה מראש ללא הסכמתה של AVG בכתב ומראש. צורך של הספק לבצע עבודה נוספת או שינויים על מנת לעמוד במפרטים הנחוצים (להלן: "עבודה נוספת") לא יקנו לספק כל הארכה של תקופת המסירה, אלא אם AVG תסכים לכך מראש ובכתב (לרבות באמצעות דוא"ל).</p> <p>3.2. הספק ימסור הודעה מיידית ל-AVG אם לספק תהיה סיבה, בכל עת, להאמין כי לא יהיה מסוגל, באופן מלא או חלקי, לקיים כל התחייבות מהתחייבויותיו על פי ההסכם או לעשות זאת תוך פרק הזמן שנקבע.</p> <p>3.3. אם הספק לא יספק את כל התוצרים עד למועד שנדרש על ידי ההסכם, AVG, בנוסף לסעדים אחרים על פי חוק או מן היושר, תהיה רשאית לנכות מהחיובים סכום השווה ל-2% מהחיובים הנוגעים לתוצרים המעוכבים, עבור כל שבוע של עיכוב במסירה או חלקו, בתנאי שכל ניכוי כאמור לא יעלה על 10% מסך החיובים.</p> <p>3.4. אלא אם הוסכם אחרת במפורש, הוראות המסירה הן "DDP" על פי ה-Incoterms 2010.</p> <p>3.5. הבעלות בתוצרים תעבור לידי AVG לאחר</p>	<p>priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.</p> <p>1.3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.</p> <p><b>2. Prices</b></p> <p>2.1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.</p> <p>2.2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).</p> <p>2.3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes (except for withholding), sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "Taxes"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG shall be entitled to withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Any amounts so deducted or withheld shall be treated for all purposes as having been paid to Supplier. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("VAT") includes any value added tax under the Israeli Value Added Tax Law 5735-1975.</p> <p><b>3. Delivery time and clauses</b></p> <p>3.1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("Additional Work") shall not entitle Supplier to any extension of the delivery period unless AVG consents in advance in writing (including by email).</p> <p>3.2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable, in whole or in part, to fulfill any of its obligations under the Agreement or to do so within the time period scheduled.</p> <p>3.3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.</p> <p>3.4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.</p> <p>3.5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address</p>
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<p>קבלתם על ידי AVG בכתובת למשלוח ("ship to") או בכתובת דומה אחרת הנזכרת בהסכם, או קודם לכן, במועד שבו AVG תשלם עבורם. אם AVG תסכים לבצע תשלום מלא או חלקי עבור כל התוצרים לפני המסירה, הספק יסמן באופן ברור את התוצרים כרכוש AVG באמצעות סימון נראה לעין, ויחזיק את התוצרים בנפרד מטובין ומחומרים אחרים אשר עשויים להיות בחזקתו של הספק.</p>	<p>specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.</p>
<p><b>4. אריזה, סימון וקבלה</b></p>	<p><b>4. Packaging, marking and receiving</b></p>
<p>הוראות סעיף iv זה תחולנה על תוצרים שהנם טובין מוחשיים.</p>	<p>The provisions of this Section 4 apply to Deliverables that are tangible goods.</p>
<p>4.1. הספק יארוז את התוצרים באופן המגן עליהם בפני נזק ואובדן ערך במהלך התובלה למקום המסירה ובמהלך תקופת אחסון סבירה, באופן המתאים למטרה זו, הכל על פי פרקטיקות מסחריות נאותות ובאופן המקובל לגבי מובילים ציבוריים.</p>	<p>4.1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose, all in accordance with good commercial practices and in a manner acceptable to common carriers.</p>
<p>4.2. הספק יסמן את התוצרים על פי הוראות AVG, בתנאי שהוראות כאמור לא תגבלנה את חובתו של הספק להבטיח כי התוצרים מסומנים גם בהתאם למאפייניהם מבחינת שבירות, עמידות בתנאי מזג אוויר וכיו"ב, וכפי שנדרש באופן אחר על פי חוק. כל משלוח יכלול רשימת מארז הנושאת את מספר ההסכם של AVG (אם ישנו), וילווה בכל המדריכים למשתמש וההוראות הרלוונטיות.</p>	<p>4.2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.</p>
<p>4.3. הספק ימסור ל-AVG הודעה באמצעות דוא"ל בעת משלוח התוצרים, והודעה כאמור תפרט את מועד המסירה הצפוי ותכלול הוראות בנוגע לכל טיפול או אחסון מיוחד העשוי להידרש.</p>	<p>4.3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.</p>
<p><b>5. חיוב ותשלום</b></p>	<p><b>5. Invoicing and payment</b></p>
<p>5.1. הספק יחייב את AVG בגין התוצרים על פי לוח הזמנים המפורט בהסכם או, בהיעדר לוח זמנים כאמור, לאחר המסירה המלאה של התוצרים. כל חשבונית (א) תכלול את מספר הזמנת הרכש הרלוונטית של AVG, (ב) תציין את התאריך(ים) שבהם הספק מסר את התוצרים, (ג) תציין באופן נפרד את כל המסים החלים על התוצרים, (ד) תהיה חשבונית מע"מ תקפה, ו-(ה) תציין בפירוט סביר את האופן שבו חושבו סך החיובים.</p>	<p>5.1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.</p>
<p>5.2. AVG תשלם כל חשבונית שהוגשה כדן, מדויקת ושאינה נתונה במחלוקת, תוך פרק הזמן לתשלום הנזכר בהסכם או, בהיעדר פרק זמן לתשלום כאמור, תוך 45 ימים קלנדריים ממועד קבלת החשבונית או 45 ימים קלנדריים ממועד קבלת הטובין, לפי המאוחר. חובת התשלום של AVG מותנית בכך שהספק ימסור טובין העומדים בדרישות ו/או ביצוע מלא של השירותים באופן משביע רצון.</p>	<p>5.2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 calendar days of receipt of invoice or 45 calendar days after the acceptance of the goods, whichever is later. AVG's payment obligation is contingent upon Supplier's delivery of conforming goods and/or satisfactory completion of services.</p>
<p>5.3. תשלום מצדה של AVG לא ייחשב קבלה של כל תנאים הנזכרים בחשבונית הספק, קבלה של איזה מן התוצרים או ויתור על כל אחריות או זכויות אחרות על פי הסכם זה.</p>	<p>5.3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.</p>
<p>5.4. AVG לא תהא מחויבת לשלם כל סכומים שאינם נזכרים במפורש בהסכם זה או שאושרו באופן אחר על ידי AVG בכתב ומראש. מבלי לגרוע מכל זכויות או סעדים העומדים לרשותה, AVG שומרת על</p>	<p>5.4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies it may have, AVG reserves the right to set off any amount owing at</p>

<p>הזכות לקזז כל סכומים המגיעים בכל עת מהספק כנגד כל סכום לתשלום על ידי AVG לספק על פי הסכם זה. AVG רשאית לדרוש ערבות בנקאית או כל בטוחה אחרת שתהא מקובלת על AVG, אשר תונפק על חשבון הספק, בגין כל תשלום מראש של החיובים.</p> <p>5.5. הספק מחויב לציית לחוקי המס החלים, ולשלם לרשות המס הרלוונטית, באופן הנדרש על פי חוקי המס החלים, את כל המסים אשר הספק גבה מ-AVG בנוגע לכל התשלומים שבוצעו על ידי AVG על פי הסכם זה. אם AVG שילמה מסים לספק בנוגע לתשלום מסוים, ולאחר מכן קיבלה בקשה מרשות מס לשלם מסים כאמור, משום שאלו לא שולמו לה כדין (להלן: "מסים שלא שולמו") ו-AVG תשלם את המסים שלא שולמו לרשות המס, אזי הספק, ללא שיהוי, לאחר קבלת הודעה בכתב מ-AVG, ישפה או ישלם באופן אחר את סכום המסים שלא שולמו, על סמך מסמכים, בצירוף כל קנסות או ריבית ל-AVG. אם הספק לא ישלם את המסים שלא שולמו בתוספת כל קנסות או ריבית ל-AVG, אזי AVG תהא רשאית לזכות לטובתה את סכום המסים שלא שולמו בתוספת כל קנס או ריבית, כנגד כל החשבונות המגיעים לספק מ-AVG.</p>	<p>any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.</p> <p>5.5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any accounts receivable of Supplier against AVG.</p>
<p><b>6. איכות והתחייבויות</b></p> <p>6.1. הספק מתחייב כי כל התוצרים יסופקו או יבוצעו על פי הפרקטיקה הנוהגת בתחום ויהיו בהתאם למפרט. כמו כן, הספק מתחייב כי כל תוצר יהיה חף מפגמים מהותיים ומתאים למטרה לו יועד, ויהיה בהתאם לכל החוקים והתקנות החלים, לרבות, מבלי לגרוע מכלליות האמור, כל החוקים והתקנות החלים הנוגעים להוראות בדבר הגנת הסביבה, בריאות ובטיחות בעבודה.</p> <p>6.2. אם הספק יפר את ההתחייבות הנזכרת בסעיף VI.1, AVG, על פי שיקול דעתה הבלעדי ובנוסף לכל סעד אחר לו תהיה זכאית על פי חוק או מן היושר, רשאית בכל עת תוך 90 ימים קלנדריים לאחר מסירת התוצרים (או במקרה של פגם סמוי, לאחר ש-AVG תמצא פגם כאמור) (א) לדרוש כי הספק, על חשבון הבלעדי, תוך חמישה (5) ימי עסקים מקבלת תביעת האחריות של AVG, יבצע מחדש או יתקן או יחליף את התוצר הפגום, או (ב) לדחות את התוצרים הפגומים ולקבל החזר מלא של החיובים ששולמו עבורם.</p>	<p><b>6. Quality and warranties</b></p> <p>6.1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.</p> <p>6.2. If Supplier breaches the warranty set forth in Section 6.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time within 90 calendar days after delivery of the Deliverables (or in the case of a latent defect, after AVG's discovery of such defect) (a) require that Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.</p>
<p><b>7. זכויות קניין רוחני</b></p> <p>7.1. הספק מתחייב כי התוצרים לא יפרו או יגרמו ל-AVG או לכל מוצר של AVG להפר את הפטנטים, זכויות היוצרים, הסודות המסחריים, סימני המסחר או זכויות קניין רוחני אחרות של כל צד שלישי. הספק יפטור את AVG ואת החברות הקשורות לה, ואת בעלי המניות, הדירקטורים, נושאי המשרה, העובדים, השלוחים והלקוחות של כל אחת מהן מפני כל אחריות, הוצאות ונזקים (לרבות הוצאות פשרה ושכר טרחת עו"ד סביר) הנובעים או הנוגעים לכל תביעה (א) על פיה התוצרים מפריים או מפריים לכאורה כל פטנט, זכות יוצרים, סוד מסחרי, סימן מסחרי או זכויות דומות של צד שלישי או (ב) הנובעת או הנוגעת לכל הפצה או שימוש בתוצרים.</p>	<p><b>7. Intellectual property rights</b></p> <p>7.1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates, and their respective shareholders, directors, officers, employees, agents, and customers harmless from and against any and all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.</p>

<p>7.2. תכניות, שרטוטים, מודלים, פרופילים סטטיסטיים, מכשירים לאחסון נתונים וכיו"ב, וכן כל חומרים שנמסרו על ידי AVG או שלגביהם AVG טוענת לכל זכויות בעלות או זכויות קניין רוחני, יישארו קניינה של AVG (להלן: "קניינה הרוחני של AVG"). כל קניין רוחני של AVG כאמור עשוי להיות מוגן על פי דיני פטנטים, דיני זכויות יוצרים, דיני זכויות מוסריות, דיני סודות מסחריים, דיני סימני מסחר וכל זכויות קניין דומות אחרות. הספק אינו רשאי להשתמש או לגלות את הקניין הרוחני של AVG (לרבות התוצרים) או כל חלק הימנו, בכל עת, לרבות לאחר פקיעת הסכם זה, מכל סיבה שהיא, אלא באישור בכתב ומראש מאת AVG. כמו כן, אי ציות לאמור לעיל, יקנה ל-AVG את הזכות לסגת מההסכם, באופן מלא או חלקי, ללא תשלום פיצויים.</p>	<p>7.2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) or any part thereof, at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.</p>
<p><b>8. ביטוח</b></p> <p>8.1. הספק, על חשבונו, ירכוש ויחזיק פוליסת או פוליסות ביטוח, אשר תכלול/נה ביטוח נזקי רכוש, ביטוח אחריות מקצועית, ביטוח אחריות ציבורית, ביטוח נאמנות לעובדים, ביטוח רכב, ביטוח תובלה וביטוח לכל ציוד הספק בשטחה של AVG. ברמת כיסוי ביטוחי ההולמת לכיסוי כל הנזקים והאחריות אשר עשויה לחול על הספק על פי ההסכם.</p> <p>8.2. הספק, לבקשת AVG, ישלח ל-AVG ראיות בכתב בדבר קיום התחייבויות הספק על פי סעיף VIII.1. אם הספק לא יעשה כן, AVG רשאית, על חשבון הספק, לרכוש פוליסת או פוליסות ביטוח בנוגע לעניינים המתוארים בסעיף VIII.1.</p>	<p><b>8. Insurance</b></p> <p>8.1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.</p> <p>8.2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section 8.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.</p>
<p><b>9. שונות</b></p> <p>9.1. כל ההודעות, הבקשות, הדרישות, האישורים והתכתובות האחרות על פי ההסכם יהיו בכתב וישלחו לכתובת הנוכרת בהסכם, ויחשבו כנמסרים כהלכה לצד מסוים (1) כאשר נמסרו באופן אישי בכתובת הנוכרת בהסכם; (2) אם נמסרו בדואר או באמצעות שירות שליחים, אזי במועד המשלוח על ידי שירות הדואר המתאים, בתשלום מראש או במועד המסירה על ידי שירות השליחים, לצד השני, בכתובת הנוכרת בהסכם; (3) במשלוח בפקס, במועד המשלוח למספר הפקס, לידי האדם ששמו מופיע לצורך קבלת תכתובת בהסכם (עם אישור מסירת הפקס); או (4) במשלוח דוא"ל (א) לספק, במועד המשלוח לכתובת הדוא"ל הנוכרת בהסכם או (ב) ל-AVG, במועד המשלוח ל- <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> (בכל מקרה, בתנאי שלא תתקבל הודעת כשל משלוח או הודעת "מחוץ למשרד"). חרף כל דבר בהסכם זה הסותר זאת, הודעות שתשלחנה על ידי הספק ל-AVG לכתובת שאינה <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> לא תהווה הודעה. שינויים בפרטי הכתובות לצורך מתן הודעות יימסרו באמצעות הודעה, על פי הוראות סעיף זה. הודעות בדבר הפרה לכאורה של התחייבויות AVG, או מתן הודעה בדבר סיום הסכם זה, תישלחנה ל- <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> עם עותק ל- <a href="mailto:legalnotice@avg.com">legalnotice@avg.com</a>.</p> <p>9.2. תיקונים להסכם יהיו תקפים אך ורק אם נעשו בכתב ונחתמו על ידי הנציג המורשה של כל צד.</p> <p>9.3. פרשנות, תוקף וביצוע ההסכם וכל</p>	<p><b>9. Miscellaneous</b></p> <p>9.1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to <a href="mailto:generalnotices@avg.com">generalnotices@avg.com</a> and also copied to <a href="mailto:legalnotice@avg.com">legalnotice@avg.com</a>.</p> <p>9.2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.</p> <p>9.3. The construction, validity and performance of</p>

<p>התחייבויות לא-חוזיות הנובעות מההסכם או הנוגעות לו, יהיו כפופים לדיני מדינת ישראל, למעט כללי ברירת הדינים של ישראל.</p> <p>9.4 כל צד מסכים באופן בלתי חוזר להיות כפוף לסמכות השיפוט הבלעדית של בתי המשפט המוסמכים של מדינת ישראל, הנמצאים בתל אביב-יפו, על כל תביעה או עניין הנובעים או הנוגעים להסכם. סעיף זה לא יגרע מזכותו של כל צד לפנות לקבלת סעד זמני נגד הצד השני (כגון צו מניעה) באמצעות כל בית משפט מוסמך, על מנת להגן על זכויותיו, או על מנת לאכוף את התחייבויות הצד האחר.</p> <p>9.5 ההסכם מפרט את כל התנאים שהוסכמו בין הצדדים וגובר על כל הסכמים קודמים או עכשוויים בין הצדדים בנוגע לנושא ההסכם.</p> <p>9.6 היחסים בין הצדדים הנם יחסי קבלנים עצמאיים, ולא ייחשבו יחסי שליחות, מיום משותף, שותפות או יחסים אחרים. כל צד אינו רשאי לפעול מטעם הצד השני, וכל צד יפעל כקבלן עצמאי הקונה עבור עצמו, מוכר בשמו ועל אחריותו.</p> <p>9.7 כותרות ההסכם אינן משפיעות על פרשנותו. שימוש בכל מגדר כולל את כל המגדרים האחרים. מלים ביחיד כוללות את צורת הרבים ולהיפך. כאשר מלה או ביטוי מוגדרים, אזי צורותיהם הדקדוקיות האחרות יישאו משמעות דומה.</p> <p>9.8 אם כל הוראה בהסכם תיחשב בלתי חוקית, בלתי תקפה או בלתי ניתנת לאכיפה על פי כל חוק חל, אזי כל ההוראות האחרות בהסכם תמשכנה לחול באופן מלא.</p> <p>9.9 כל צד לא יהיה אחראי כלפי הצד השני בגין כל שיהוי או אי ביצוע של התחייבויותיו על פי הסכם זה, במידה שהם נובעים מאירוע כוח עליון, בכפוף לכך שהצד שנפגע מאירוע הכוח העליון (1) יודיע מיידית לצד השני בכתב אודות סיבת השיהוי או אי הביצוע, ההשפעה הצפויה על הסכם זה ועל ההמשך הצפוי של השיהוי או אי הביצוע; ו-2) יעשה ככל יכולתו על מנת להגביל את השפעת השיהוי או אי הביצוע על הצד השני. אם אירוע הכוח העליון נמשך לפרק זמן של יותר מ-10 ימי עסקים, הצד שלא נפגע מאירוע הכוח העליון רשאי לסיים את ההסכם מיידית באמצעות הודעה בכתב לצד השני.</p> <p>9.10 אי עמידה של כל צד על ביצוע קפדני של כל תנאי והוראות ההסכם, לא יפורש כויתור על ציות עתידי להסכם, ותנאי והוראות ההסכם ימשיכו לחול בתוקף מלא. כל ויתור על כל תנאי או הוראה בהסכם מצדו של כל צד לא יהיה תקף לכל דבר ועניין, אלא אם ייעשה בכתב ויחתם על ידי אותו צד כאמור. ויתור של כל צד על הפרה של כל הוראה בהסכם על ידי הצד השני, לא יפורש כויתור מתמשך על הפרה כאמור או כויתור על הפרה אחרת של אותה הוראה או הוראה אחרת בהסכם.</p> <p>9.11 הספק אינו רשאי להמחות את זכויותיו או חובותיו על פי ההסכם או להעביר בקבלנות כל חלק מביצוע חובותיו על פי ההסכם, אלא בהסכמת AVG. רשאית להמחות או להעביר באופן אחר את זכויותיה או לאצול את חובותיה על פי ההסכם (באופן</p>	<p>the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the State of Israel, excluding its conflict of laws principles.</p> <p>9.4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the competent courts of the State of Israel sitting in Tel-Aviv-Jaffa over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.</p> <p>9.5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.</p> <p>9.6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.</p> <p>9.7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.</p> <p>9.8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.</p> <p>9.9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 business days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.</p> <p>9.10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.</p> <p>9.11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the</p>
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<p>מלא או חלקי) ללא הסכמת הספק, לכל חברה קשורה של AVG, או לקונה של כל מניות AVG או יחידה עסקית שלה. שום דבר מהאמור בהסכם זה, מפורש או משתמע, לא נועד להקנות ולא יקנה לכל אדם (למעט הצדדים) כל זכות או סעד מכל סוג במסגרת הסכם זה או מכוחו.</p> <p>9.12. למעט בהסכמתו של הצד השני (אשר לא יסרב או ישהה את הסכמתו באופן בלתי סביר), אף צד אינו רשאי להצהיר על קיומו או תנאיו של ההסכם או על יחסי הצדדים בהודעה לעיתונות או בכל חומרי שיווק אחרים.</p> <p>9.13. על הסכם זה לא תחול אמנת האומות המאוחדות בדבר חוזים למכר טובין בינלאומי, אשר יישומה מוחרג במפורש. במקרה של אי בהירות או שאלה בנוגע לכוונה או לפרשנות ההסכם, בכל הליך שיפוטי או באופן אחר, תנאי ההסכם יפורשו כמוסחים יחדיו על ידי הצדדים, ולא יהיו כל חזקה או נטל ראיה המעדיפים או המקפחים כל צד מתוקף ניסוח כל הוראה בהסכם על ידו.</p>	<p>Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.</p> <p>9.12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.</p> <p>9.13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.</p>
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## AVG Algemene Inkoopvoorwaarden (hierna te noemen de "Voorwaarden")

### I. ALGEMEEN

#### 1. Bepaalde definities

i. Overeenkomst: Deze Voorwaarden, tezamen met (a) een door Leverancier geaccepteerde inkooporder of werkopdracht van AVG (de "Order") en/of (b) een door Partijen ondertekende koopovereenkomst, dienstovereenkomst of andere overeenkomst (het "Contract"), in elk geval onder aanhechting van deze Voorwaarden of anderszins onder toepassing van deze Voorwaarden op grond van het hierna in artikel 1.2 bepaalde. Behoudens voor zover Partijen uitdrukkelijk schriftelijk anders overeenkomen, omvat de Overeenkomst niet de voorgedrukte voorwaarden op een bevestiging van Leverancier of ander soortgelijk bedrijfsformulier.

ii. AVG: De in de Overeenkomst vermelde AVG Technologies entiteit(en).

iii. Vergoedingen: De prijs, honoraria, kosten en vergoedingen voor de Leveringen (en alle bijbehorende diensten) zoals vermeld in de Overeenkomst.

iv. Levering: Alle goederen, producten of diensten die Leverancier zich verbindt te verstrekken aan of ten behoeve van AVG op grond van de Overeenkomst.

v. Geval van Overmacht: Elke gebeurtenis die de nakoming door een der partijen van haar verplichtingen uit hoofde van deze Overeenkomst onmogelijk maakt, verhindert of vertraagt, die het rechtstreeks gevolg is van een van de volgende gebeurtenissen en niet had kunnen worden voorkomen of beperkt als de betrokken partij een commercieel redelijk plan had ingevoerd voor bedrijfscontinuïteit en calamiteiten: (a) overmacht, (b) handelingen van lokale of centrale overheid, (c) (burger)oorlog, gewapend conflict of terreurdaden, (d) blokkade of embargo, (e) chemische, biologische of nucleaire vervuiling of ioniserende straling, (f) epidemie, (g) brand, overstroming, aardbeving of storm, explosie, oproer of binnenlandse onlusten, en (h) een al dan niet officiële staking, uitsluiting, langzaam-aan-actie of ander arbeidsgeschil waardoor een derde wordt getroffen (waarvoor niet direct een vervangende derde beschikbaar is).

vi. Goed Dienstverlenerschap: Die mate van vaardigheid, zorg, voorzichtigheid, betrouwbaarheid en voorzorg die normaal verwacht mag worden van een deskundige, vakkundige en ervaren, toonaangevende leverancier van diensten van dezelfde of een soortgelijke aard als de desbetreffende diensten die in de Leveringen zijn vervat.

vii. Partij: AVG dan wel Leverancier, al naar gelang de context.

viii. Specificatie: De desbetreffende specificatie van elk van de Leveringen tezamen met alle aanvullende specificaties die Partijen op van tijd tot tijd overeenkomen.

ix. Leverancier: Een partij bij de Overeenkomst niet zijnde AVG.

2. In geval van strijdigheid tussen de diverse documenten die deel uitmaken van de Overeenkomst geldt de volgende, aflopende, rangorde ten behoeve van de uitleg: de Order, het Contract en deze Voorwaarden.

3. Behoudens voor zover Partijen schriftelijk anders overeenkomen, zijn deze Voorwaarden ook op toekomstige orders en overeenkomsten tussen AVG en Leverancier van toepassing.

### II. PRIJZEN

1. De Vergoedingen worden vastgesteld voor de looptijd van de Overeenkomst en zullen niet met de inflatie of anderszins stijgen.

2. In de Vergoedingen zijn alle bijbehorende diensten en al het Meerwerk begrepen dat noodzakelijk is op grond van de Overeenkomst (zoals kosten van vervoer naar het afleveradres, verpakking, verzekering, inspectiekosten, en reis- en verblijfkosten).

3. Tenzij anders is bepaald in de Overeenkomst zijn in de Vergoedingen niet begrepen lokale, staats-, federale of buitenlandse belastingen over de toegevoegde waarde.

## AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

### I. GENERAL

#### 1. Certain Definitions

i. Agreement: These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "Order"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "Contract"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. AVG: The AVG Technologies entity or entities identified by the Agreement.

iii. Charges: The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. Deliverable: Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. Force Majeure Event: Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. Good Industry Practice: That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables

vii. Party: AVG or Supplier, as the context requires.

viii. Specification: The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. Supplier: A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. PRICES

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with

omzetbelastingen, douaneheffingen, rechten of soortgelijke overheidsaanslagen die in verband met betalingen kunnen worden opgelegd (tezamen: "*Belastingen*"), en zijn alle Belastingen die correct verschuldigd zijn over haar inkopen, met uitzondering van belastingen over het netto-inkomen of vermogen van Leverancier, voor rekening van AVG. AVG kan op alle aan Leverancier verschuldigde betalingen alle toepasselijke bronbelastingen inhouden en in mindering brengen, indien en voor zover dit vereist is op grond van toepasselijke wet- of regelgeving of verdragen. Indien AVG Leverancier de juiste documentatie verstrekt ter ondersteuning van een vrijstelling van Belasting mag Leverancier geen Belasting aan AVG in rekening brengen overeenkomstig toepasselijk recht. Belasting over de toegevoegde waarde ("*BTW*") omvat alle belasting over de toegevoegde waarde op grond van Richtlijn van de Raad van 28 november 2006 betreffende het gemeenschappelijke stelsel van belasting over de toegevoegde waarde (Richtlijn 2006/112/EG).

### III. LEVERTERMIJN EN -VOORWAARDEN

1. De levertermijnen zoals vermeld in de Overeenkomst zijn bindend en vormen een fatale termijn. Zonder de voorafgaande schriftelijke toestemming van AVG is het Leverancier niet toegestaan in delen of eerder te leveren. Indien Leverancier meerwerk moet verrichten of wijzigingen moet aanbrengen teneinde aan de verlangde Specificaties ("*Meerwerk*") te voldoen, heeft Leverancier geen recht op verlenging van de levertermijn, tenzij AVG daarvoor vooraf schriftelijk (waaronder per e-mail) toestemming verleent.

2. Leverancier zal AVG onverwijld op de hoogte stellen indien Leverancier op enig moment reden heeft om aan te nemen dat hij niet in staat zal zijn om een of meer van zijn verplichtingen uit hoofde van de Overeenkomst (binnen de geplande termijn) na te komen.

3. Indien Leverancier enige Levering niet uiterlijk op de in de Overeenkomst vereiste datum levert, mag AVG, naast alle andere rechtsmiddelen die haar op grond van de wet of de billijkheid ter beschikking staan, een bedrag gelijk aan 2% in mindering brengen op de Vergoedingen die toe te rekenen zijn aan de vertraagde Leveringen per week of deel van een week dat die Leveringen vertraagd zijn, met dien verstande dat een dergelijke korting nimmer meer zal bedragen dan 10% van de totale Vergoedingen.

4. Tenzij uitdrukkelijk anders is overeengekomen, geldt levering "DDP" volgens de Incoterms 2010.

5. De eigendom van de Leveringen gaat over op AVG op het moment van ontvangst door AVG bij het afleveradres of een ander soortgelijk adres zoals vermeld in de Overeenkomst of, indien dat eerder is, op de datum van betaling daarvan door AVG. Indien AVG ermee instemt een Levering geheel of gedeeltelijk vooruit te betalen, zal Leverancier de Leveringen duidelijk zichtbaar markeren als zijnde eigendom van AVG en de Leveringen apart houden van andere goederen en materialen in het bezit van Leverancier.

### IV. VERPAKKING, MARKERING EN ONTVANGST

Het bepaalde in dit artikel IV geldt voor Leveringen bestaande uit tastbare zaken.

1. Leverancier zal de Leveringen zodanig in- en verpakken dat deze tijdens het vervoer naar de plaats van aflevering en gedurende een redelijke periode van opslag beschermd zijn tegen beschadiging en waardevermindering op een manier die hiertoe geschikt is.

2. Leverancier zal de Leveringen markeren overeenkomstig de aanwijzingen van AVG, met dien verstande dat die aanwijzingen niet de verplichting van Leverancier beperken om ervoor te zorgen dat de Leveringen ook zijn gemarkeerd in overeenstemming met hun eigenschappen voor wat betreft breekbaarheid, weersbestendigheid, etc., en voor zover anderszins op grond van de wet is vereist. Elke zending dient een pakbon te bevatten met daarop het eventuele overeenkomstnummer van AVG, en vergezeld te gaan van alle relevante gebruikershandleidingen en -instructies.

3. Leverancier zal AVG per e-mail op de hoogte stellen zodra de

payments (collectively, "*Taxes*"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from Tax, Supplier shall not charge Tax to AVG in accordance with applicable laws. Value added tax ("*VAT*") includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

### III. DELIVERY TIME AND CLAUSES

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("*Additional Work*") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

### IV. PACKAGING, MARKING AND RECEIVING

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when

Leveringen zijn verzonden, onder vermelding van de verwachte leverdatum en instructies voor eventuele bijzondere behandeling of opslag die nodig mocht zijn.

#### V. FACTURERING EN BETALING

1. Leverancier zal AVG factureren voor Leveringen in overeenstemming met het in de Overeenkomst opgenomen schema of, bij gebreke daarvan, na volledige aflevering van de Leveringen. Elke factuur dient: (a) het toepasselijke Inkoopordernummer van AVG te vermelden, (b) de datum of data van aflevering van de Leveringen door Leverancier te vermelden, (c) afzonderlijk alle Belastingen die van toepassing zijn op de Leveringen te vermelden, (d) een rechtsgeldige BTW-factuur te zijn en (e) redelijk gedetailleerd de wijze van berekening van de Vergoedingen te vermelden.

2. AVG zal elke correct overgelegde, juiste en onbetwiste factuur voldoen binnen de in de Overeenkomst vermelde betalingstermijn of, bij gebreke daarvan, binnen 45 dagen na ontvangst van de factuur.

3. Betaling door AVG houdt geen acceptatie in van op de factuur van Leverancier vermelde voorwaarden, geen acceptatie van enige Levering, of afstand van garanties of andere rechten uit hoofde van deze Overeenkomst.

4. AVG is geenszins verplicht tot betaling van bedragen die niet uitdrukkelijk voorzien zijn in deze Overeenkomst of anderszins vooraf schriftelijk door AVG zijn goedgekeurd. Onverminderd alle rechten en rechtsmiddelen die haar ter beschikking mochten staan, behoudt AVG zich het recht voor bedragen die op enig moment door Leverancier verschuldigd mochten zijn te verrekenen met door AVG aan Leverancier uit hoofde van deze Overeenkomst verschuldigde bedragen. AVG kan ten behoeve van eventuele vooruitbetaling van de Vergoedingen een bankgarantie of andere vorm van voor AVG aanvaardbare zekerheid verlangen, af te geven op kosten van Leverancier.

5. Leverancier dient de toepasselijke belastingwetgeving na te leven en alle Belastingen die Leverancier bij AVG heeft geïnd in verband met door AVG uit hoofde van deze Overeenkomst gedane betalingen af te dragen aan de desbetreffende belastingdienst in de vorm en op de wijze zoals vereist op grond van de desbetreffende belastingwetgeving. Indien AVG Belastingen aan Leverancier heeft betaald in verband met een betaling en vervolgens een verzoek ontvangt van een belastingdienst om die Belastingen te betalen omdat deze niet correct aan die belastingdienst zijn afgedragen ("Onbetaalde Belastingen") en AVG de Onbetaalde Belastingen aan de belastingdienst afdraagt, dient Leverancier onverwijld na ontvangst van een schriftelijk verzoek van AVG, het gedocumenteerde bedrag aan Onbetaalde Belastingen, plus eventueel opgelegde renten of boeten, aan AVG te vergoeden of anderszins te betalen. Indien Leverancier verzuimt de Onbetaalde Belastingen, plus eventueel opgelegde renten of boeten, aan AVG te betalen, mag AVG het bedrag van de Onbetaalde Belastingen, plus eventueel opgelegde renten of boeten, verrekenen met eventueel door Leverancier aan AVG verschuldigde bedragen.

#### VI. KWALITEIT EN GARANTIES

1. Leverancier garandeert dat alle Leveringen zullen plaatsvinden overeenkomstig Goed Dienstverlenerschap en zullen voldoen aan de Specificatie. Voorts garandeert Leverancier dat elke Levering vrij zal zijn van materiële gebreken en geschikt zal zijn voor het beoogde doel, overeenkomstig alle toepasselijke wet- en regelgeving, daaronder begrepen doch niet beperkt tot alle toepasselijke wet- en regelgeving op het gebied van milieubescherming en Arbo-regels.

2. In geval van schending door Leverancier van de in artikel VI.1 bedoelde garantie mag AVG, naar eigen goeddunken en in aanvulling op alle andere rechtsmiddelen die haar op grond van de wet of de billijkheid ter beschikking staan, te allen tijde verlangen dat (a) Leverancier op eigen kosten binnen vijf (5) werkdagen na ontvangst van de garantieclaim van AVG de gebrekkige Leveringen opnieuw levert dan wel repareert of vervangt, of (b) de gebrekkige Leveringen afwijzen tegen volledige restitutie van de daarvoor betaalde Vergoedingen.

Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

#### V. INVOICING AND PAYMENT

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### VI. QUALITY AND WARRANTIES

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.



## VII. INTELLECTUELE EIGENDOMSRECHTEN

1. Leverancier garandeert dat de Leveringen geen inbreuk maken, noch tot gevolg hebben dat AVG of een product van AVG inbreuk maakt, op de octrooien, auteursrechten, handelsgeheimen, handelsmerken of andere intellectuele eigendomsrechten van derden. Leverancier zal AVG en de aan haar gelieerde ondernemingen verdedigen, vrijwaren en schadeloosstellen in verband met alle aansprakelijkheden, (on)kosten en schade (daaronder begrepen kosten van schikkingen en redelijke kosten van rechtsbijstand) als gevolg van of in verband met vorderingen (a) dat de Leveringen (beweerdelijk) inbreuk maken op octrooien, auteursrechten, handelsgeheimen, handelsmerken of soortgelijke rechten van derden of (b) die het gevolg zijn van of verband houden met distributie of gebruik van de Leveringen.

2. Ontwerpen, tekeningen, modellen, statistische profielen, gegevensdragers en dergelijke, alsmede alle materialen die door AVG zijn aangeleverd of in verband waarmee AVG aanspraak maakt op (intellectuele) eigendomsrechten, blijven eigendom van AVG ("*Intellectuele Eigendom van AVG*"). Al die Intellectuele Eigendom van AVG kan beschermd zijn op grond van wetgeving op het gebied van octrooirechten, auteursrechten, morele rechten, handelsgeheimen, handelsmerken en alle overige soortgelijke eigendomsrechten. Zonder de voorafgaande schriftelijke toestemming van AVG is het Leverancier op geen enkel moment, daaronder begrepen na afloop van deze Overeenkomst, toegestaan die Intellectuele Eigendom van AVG (met inbegrip van de Leveringen) te gebruiken of bekend te maken, voor welk doel dan ook. Voorts geeft verzuim om het voorgaande na te leven AVG het recht zich geheel of gedeeltelijk terug te trekken uit de Overeenkomst zonder betaling van enige vergoeding.

## VIII. VERZEKERING

1. Leverancier dient op eigen kosten een of meer verzekeringspolissen aan te houden ter dekking van onder meer schade aan eigendommen, beroepsaansprakelijkheid, wettelijke aansprakelijkheid, fraudeverzekering, motorrijtuigenverzekering, transportverzekering en verzekering van alle apparatuur van Leverancier op locatie van AVG, waarbij de dekking van de verzekering voldoende is om alle verliezen en aansprakelijkheden die mochten ontstaan aan de zijde van Leverancier uit hoofde van de Overeenkomst te dekken.

2. Leverancier zal AVG op haar verzoek schriftelijk bewijs toezenden van de naleving door Leverancier van diens verplichtingen uit hoofde van artikel VIII.1. Indien Leverancier verzuimt dat te doen, mag AVG op kosten van Leverancier een of meer verzekeringspolissen afsluiten in verband met de in artikel VIII.1 beschreven zaken.

## IX. OVERIGE

1. Alle kennisgevingen, verzoeken, eisen, goedkeuringen en overige mededelingen uit hoofde van de Overeenkomst dienen schriftelijk te worden gericht aan het in de Overeenkomst vermelde adres, en worden geacht rechtsgeldig te zijn afgeleverd aan een Partij (i) bij persoonlijke overhandiging op het in de Overeenkomst vermelde adres; (ii) in geval van verzending per post of koerier op het moment van gefrankeerde terpostbezorging of aflevering per koerier aan de andere Partij op het in de Overeenkomst vermelde adres; (iii) bij verzending per fax op het moment van verzending aan het in de Overeenkomst vermelde faxnummer ter attentie van de in de Overeenkomst vermelde contactpersoon (met bevestiging van succesvolle verzending); of (iv) bij verzending per e-mail (a) indien aan Leverancier op het moment van verzending aan het in de Overeenkomst vermelde e-mailadres of (b) indien aan AVG op het moment van verzending aan [generalnotices@avg.com](mailto:generalnotices@avg.com) (telkens met dien verstande dat er geen sprake is van storing of retourzending van een bericht dat de ontvanger niet aanwezig is). Niettegenstaande enige andersluidende bepaling in de Overeenkomst geldt dat kennisgevingen van Leverancier aan AVG per e-mail aan een ander adres dan [generalnotices@avg.com](mailto:generalnotices@avg.com) niet geacht worden

## VII. INTELLECTUAL PROPERTY RIGHTS

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("*AVG Intellectual Property*"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

## VIII. INSURANCE

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

## IX. MISCELLANEOUS

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than [generalnotices@avg.com](mailto:generalnotices@avg.com) shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's

een kennisgeving te zijn. Wijzigingen in adresgegevens voor kennisgevingen dienen te worden doorgegeven door middel van een kennisgeving overeenkomstig dit artikel. Kennisgevingen houdende een ingebrekestelling van AVG of opzegging van de Overeenkomst dienen te worden gericht aan **generalnotices@avg.com** met kopie aan **legalnotice@avg.com**.

2. Wijzigingen in de Overeenkomst zijn eerst rechtsgeldig indien deze schriftelijk zijn vastgelegd en ondertekend door de bevoegde vertegenwoordiger van elk der Partijen.

3. Op de uitleg, rechtsgeldigheid en nakoming van de Overeenkomst en alle buitencontractuele verplichtingen als gevolg van of in verband met de Overeenkomst is Nederlands recht van toepassing, met uitsluiting van de daar geldende beginselen van conflictenrecht.

4. Elk der Partijen stemt er hierbij onherroepelijk mee in eventuele geschillen die voortvloeien uit of verband houden met de Overeenkomst bij uitsluiting voor te leggen aan de bevoegde rechter te Amsterdam. Dit artikel geldt onverminderd het recht van elk der Partijen bij elke bevoegde rechter een voorlopige voorziening te vragen jegens de andere Partij (zoals een verbod) ter bescherming van haar rechten en belangen of om de verplichtingen van de andere Partij te handhaven.

5. De Overeenkomst bevat alle tussen Partijen overeengekomen bepalingen en treedt in de plaats van alle voorgaande of gelijktijdige overeenkomsten tussen Partijen met betrekking tot het onderwerp daarvan.

6. De relatie tussen Partijen is een relatie tussen onafhankelijke contractpartijen en wordt niet geacht een agentuur-, joint-venture-, samenwerkings- of andersoortige relatie in te houden. Geen der Partijen is bevoegd op te treden namens de andere Partij en elk der Partijen treedt op als onafhankelijke contractpartij die op eigen naam inkoop en op eigen naam en voor eigen risico verkoopt.

7. De in de Overeenkomst gebruikte kopjes hebben geen invloed op de uitleg ervan. Het gebruik van het ene geslacht omvat mede de andere geslachten. Het enkelvoud omvat mede het meervoud en omgekeerd. Indien een woord of zinsnede is gedefinieerd, hebben de andere grammaticale vormen daarvan een overeenkomstige betekenis.

8. Indien enige bepaling van de Overeenkomst onrechtmatig, ongeldig of niet-afdwingbaar wordt geacht op grond van toepasselijke wetgeving, blijven alle overige bepalingen van de Overeenkomst volledig van kracht.

9. Geen der Partijen is aansprakelijk jegens de andere Partij voor vertraging of niet-nakoming van haar verplichtingen uit hoofde van deze Overeenkomst voor zover die voortvloeit uit een Geval van Overmacht, met dien verstande dat de door het Geval van Overmacht getroffen partij (i) de andere partij onverwijld schriftelijk op de hoogte dient te stellen van de oorzaak van de vertraging of niet-nakoming, de verwachte gevolgen voor deze Overeenkomst en de vermoedelijke duur van de vertraging of niet-nakoming; en (ii) zich dient in te spannen om de gevolgen van de vertraging of niet-nakoming voor de andere Partij te beperken. Indien het Geval van Overmacht langer duurt dan 10 dagen heeft de niet door het Geval van Overmacht getroffen Partij het recht de Overeenkomst onmiddellijk te beëindigen door middel van schriftelijke kennisgeving aan de andere Partij.

10. Verzuim van een der Partijen om aan te dringen op strikte nakoming van een van de bepalingen of voorwaarden van de Overeenkomst zal niet uitgelegd worden als een afstandsverklaring met betrekking tot toekomstige nakoming van de Overeenkomst en laat de bepalingen en voorwaarden van de Overeenkomst volledig onverlet. Een afstandsverklaring met betrekking tot enige bepaling of voorwaarde van de Overeenkomst aan de zijde van een der Partijen is nimmer rechtsgeldig voor enig doeleinde tenzij die afstandsverklaring schriftelijk is vastgelegd en door die Partij is ondertekend. De afstandsverklaring van een der Partijen met betrekking tot een schending van enige bepaling van de Overeenkomst door de andere Partij zal niet uitgelegd worden als een voortdurende afstandsverklaring met betrekking tot die schending of met betrekking tot andere schendingen van dezelfde of andere bepalingen van de Overeenkomst.

obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the Netherlands excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the district court sitting in Amsterdam, the Netherlands over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance

11. Zonder toestemming van AVG is het Leverancier niet toegestaan zijn rechten of verplichtingen uit hoofde van de Overeenkomst te cederen of enig deel van zijn nakoming van de Overeenkomst uit te besteden. Het is AVG toegestaan haar rechten of verplichtingen uit hoofde van de Overeenkomst zonder toestemming van Leverancier geheel of gedeeltelijk te cederen of anderszins over te dragen respectievelijk te delegeren aan een aan AVG gelieerde onderneming of een koper van aandelen of een bedrijfs onderdeel van AVG. Niets in de Overeenkomst beoogt uitdrukkelijk dan wel impliciet enig recht, voordeel of rechtsmiddel van welke aard dan ook uit hoofde of als gevolg van de Overeenkomst toe te kennen aan enige persoon (anders dan Partijen).

12. Geen der Partijen mag zonder toestemming van de andere Partij (welke toestemming niet op onredelijke gronden zal worden onthouden of vertraagd) het bestaan of de bepalingen van de Overeenkomst, of de relatie tussen Partijen, aankondigen in een persbericht of ander promotiemateriaal.

13. Het Verdrag der Verenigde Naties inzake internationale koopovereenkomsten betreffende roerende zaken is uitdrukkelijk niet van toepassing op deze Overeenkomst. Indien zich enige onduidelijkheid of vraag met betrekking tot de bedoeling of interpretatie voordoet, al dan niet in een gerechtelijke procedure, worden de voorwaarden van de Overeenkomst uitgelegd als zijnde opgesteld door Partijen gezamenlijk, en ontstaat er geen aannname of bewijslast ten voordele of ten nadele van een der Partijen als gevolg van het auteurschap van bepalingen van de Overeenkomst.

under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

## Alminnelige innkjøpsvilkår for AVG (heretter betegnet som "Vilkårene")

### I. Alminnelige bestemmelser

#### 1. Enkelte definisjoner

i. **Avtalen:** Disse Vilkårene, sammen med (a) en innkjøpsordre eller arbeidsordre som er utstedt av AVG og akseptert av Leverandøren ("**Ordren**") og/eller (b) enhver innkjøpsavtale, tjenesteavtale eller annen avtale undertegnet av Partene ("**Kontrakten**") som disse Vilkårene enten er vedlagt eller som disse Vilkårene for øvrig kommer til anvendelse på i henhold til punkt 1.2 nedenfor. Med mindre Partene uttrykkelig og skriftlig avtaler noe annet skal Avtalen ikke omfatte forhåndstrykte vilkår på Leverandørens ordrebekreftelse eller andre liknende forretningsformularer.

ii. **AVG:** Den eller de enheter innen AVG Technologies som er angitt i Avtalen.

iii. **Vederlaget:** Prisen, gebyret, kostnaden og vederlaget for Leveransen (og samtlige tilleggstjenester) som angitt i Avtalen.

iv. **Leveransen:** Enhver vare, ethvert produkt eller enhver tjeneste Leverandøren påtar seg å levere til eller yte overfor, eller til fordel for, AVG i henhold til Avtalen.

v. **Force Majeure-hendelse:** Enhver hendelse som forhindrer, blokkerer eller forsinker en parts oppfyllelse av sine forpliktelser i henhold til denne Avtalen, som er direkte forårsaket av et av de nedennevnte forhold, og som ikke ville vært forhindret eller avhjulpet dersom den berørte part hadde gjennomført en kommersielt rimelig plan for driftskontinuitet og katastrofeberedskap: (a) naturkatastrofer, (b) handlinger fra lokale eller sentrale myndigheter, (c) krig, borgerkrig, væpnet konflikt eller terrorhandling, (d) blokade, et eksportforbud eller et importforbud, (e) kjemisk, biologisk eller radioaktiv forurensning eller ioniserende stråling, (f) epidemier, (g) brann, oversvømmelse, jordskjelv, storm, eksplosjon, opprør eller sivile opprøyer, og (h) offisiell eller uoffisiell streik, lockout, gå-sakteaksjon eller annen arbeidstvist som påvirker en tredjepart (og som det ikke finnes en lett tilgjengelig erstatningstredjepart for).

vi. **God Forretningsskikk:** Den grad av ferdighet, aktsomhet, fornuft, lojalitet og fremsyn som ordinært ville forventes fra en dyktig, fagkyndig og erfaren ledende leverandør av tjenester av samme eller liknende type som de relevante tjenester som inngår i Leveransen.

vii. **Part:** AVG eller Leverandøren, avhengig av sammenhengen.

viii. **Spesifikasjoner:** Den relevante spesifikasjon for hver del av Leveransen, samt eventuell ytterligere spesifikasjon avtalt mellom Partene til enhver tid.

ix. **Leverandøren:** En annen part i Avtalen enn AVG.

2. I tilfelle motstrid mellom de ulike dokumenter som utgjør Avtalen er den nedadgående prioriteringsrekkefølgen for tolkningsformål som følger: Ordren, Kontrakten og disse Vilkårene.

3. Med mindre Partene skriftlig avtaler noe annet vil disse Vilkårene også komme til anvendelse på fremtidige ordre og avtaler mellom AVG og Leverandøren.

### II. Priser

1. Vederlaget ligger fast i Avtalens løpetid og vil ikke øke som følge av inflasjon eller annet.

2. Vederlaget dekker alle tilleggstjenester og Tilleggsarbeider som er påkrevet i henhold til Avtalen (f. eks. kostnader forbundet med frakt til leveringsadressen, emballasje, forsikring, besiktigelse, reise og opphold).

3. Med mindre noe annet er angitt i Avtalen omfatter ikke Vederlaget lokale, statlige, føderale eller utenlandske merverdiavgifter, omsetningsavgifter, tollavgifter, særavgifter eller liknende offentlige påslag som vil kunne belastes i forbindelse med betalinger (i fellesskap betegnet som "**Avgifter**"), og AVG står ansvarlig for betaling av alle Avgifter som rettmessig skal betales på dets innkjøp, med unntak av avgifter basert på Leverandørens netto inntekt eller formue. AVG kan holde tilbake og trekke fra alle påløpende skatter fra enhver betaling som skal foretas til Leverandøren, dersom og i den grad dette er påkrevet i henhold til noen gjeldende lov, forskrift eller traktat. Dersom AVG gir Leverandøren behørig dokumentasjon for avgiftsfritak skal Leverandøren ikke belaste AVG for avgift i henhold til gjeldende lovgivning. Merverdiavgifter ("**Merverdiavgift**") innbefatter enhver merverdiavgift i henhold til Rådskonferansen av 28. november 2006 om felles merverdiavgiftssystem (direktiv 2006/112/EF).

### III. Leveringsfrist og -vilkår

1. Leveringsfristene angitt i Avtalen er bindende, og rettidighet er

## AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

### I. General

#### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("**VAT**") includes any value added tax under Council Directive of 28 November 2006 on the Common System of Value Added Tax (Directive 2006/112/EC).

### III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and

av avgjørende betydning. Leverandøren vil ikke foreta dellevering eller forhåndslevering uten skriftlig forhåndsgodkjenning fra AVG. Leverandørens behov for å utføre tilleggsarbeider eller foreta endringer for å oppfylle påkrevde Spesifikasjoner ("Tilleggsarbeider") skal ikke gi Leverandøren rett til noen forlengelse av leveringsfristen, med mindre AVG gir skriftlig forhåndssamtykke (herunder per e-post).

2. Leverandøren vil umiddelbart varsle AVG dersom Leverandøren på noe tidspunkt har grunn til å tro at denne ikke vil være i stand til å oppfylle noen av sine forpliktelser i henhold til Avtalen, eller ikke vil være i stand til å gjøre dette innen angitt tidsfrist.

3. Dersom Leverandøren unnlater å levere noen Leveranse på eller før den dato som er påkrevet i henhold til Avtalen, kan AVG, i tillegg til de øvrige beføyelser som måtte komme til anvendelse i henhold til gjeldende lovgivning eller praksis, trekke fra Vederlaget et beløp tilsvarende 2 % av Vederlaget som kan henføres til den forsinkede Leveranse for hver uke, eller del av en uke, med leveringsforsinkelse, dog slik at dette fratrukk ikke skal overstige 10 % av samlet Vederlag.

4. Med mindre noe annet er uttrykkelig avtalt er leveringsvilkårene "DDP" i henhold til Incoterms 2010.

5. Eiendomsretten til Leveransen tilfaller AVG når AVG mottar denne på leveringsadressen eller annen adresse angitt i Avtalen eller, dersom dette skjer tidligere, den dato AVG betaler for denne. Dersom AVG påtar seg å foreta hel eller delvis betaling for noen Leveranse før levering skal Leverandøren tydelig identifisere Leveransen som AVGs eiendom ved synlig merking og holde Leveransen adskilt fra andre varer og annet materiell som måtte være i Leverandørens besittelse.

#### **IV. Emballasje, merking og mottak**

Bestemmelsene i dette punkt IV gjelder Leveranse bestående av fysiske varer (realaktiva).

1. Leverandøren vil emballere og pakke Leveransen på en måte som beskytter denne mot skade eller verditap under transport til leveringsstedet og i løpet av en rimelig lagringsperiode på en måte som er egnet for dette formål.

2. Leverandøren vil merke Leveransen i overensstemmelse med AVGs instruksjer, men slike instruksjer begrenser ikke Leverandørens plikt til å se til at Leveransen også er merket i overensstemmelse med dens egenskaper hva angår skjørhet, værbestandighet osv., og for øvrig som påkrevet i henhold til lovgivningen. Hver forsendelse skal inkludere en pakkseidel påført AVGs avtalenummer (om noe), og være ledsaget av eventuelle relevante brukermanualer og -instruksjer.

3. Leverandøren vil varsle AVG per e-post når Leveransen sendes, og dette varsel vil angi forventet leveringsdato og inneholde instruksjer for eventuell særlig håndtering eller lagring som måtte være påkrevet.

#### **V. Fakturering og betaling**

1. Leverandøren vil fakturere AVG for Leveransen i henhold til den betalingsplan som er angitt i Avtalen eller, i fravær av slik betalingsplan, etter endelig levering av Leveransen. Hver faktura skal (a) inkludere AVGs angjeldende innkjøpsordrenummer, (b) angi hvilke(n) dato(er) Leverandøren leverte Leveransen, (c) separat angi eventuelle Avgifter som påløper på Leveransen, (d) være en gyldig merverdiavgiftfaktura og (e) vise i rimelig detalj hvordan det samlede Vederlag ble beregnet.

2. AVG vil betale enhver behørig inngitt, korrekt og uomtvistet faktura innen den betalingsfrist som er angitt i Avtalen eller, i fravær av noen slik betalingsfrist, innen 45 dager etter mottak av fakturaen.

3. AVGs betaling skal ikke anses som aksept av eventuelle vilkår angitt i Leverandørens faktura, som aksept av noen Leveranse eller som frafall av noen garanti eller annen rettighet i henhold til denne Avtalen.

4. AVG vil ikke ha noen plikt til å betale noe beløp som ikke er uttrykkelig angitt i denne Avtalen eller for øvrig skriftlig forhåndsgodkjent av AVG. Uten å gi avkall på noen andre rettigheter eller beføyelser etter avtalen eller gjeldende rett, forbeholder AVG seg også retten til å motregne ethvert beløp det måtte ha til gode fra Leverandøren til enhver tid i ethvert beløp som AVG skal betale til Leverandøren i henhold til denne Avtalen. AVG kan kreve at en bankgaranti eller annen sikkerhet som er akseptabel for AVG stilles for Leverandørens regning som sikkerhet for eventuell forhåndsbetaling av Vederlaget.

5. Leverandøren er forpliktet til å overholde gjeldende skatte- og avgiftslovgivning, og innbetale til relevante skatte- og avgiftsmyndigheter, i den form og på den måte som er påkrevet i henhold til gjeldende skatte- og avgiftslovgivning, alle Avgifter som Leverandøren har innfordret fra AVG i forbindelse med enhver betaling foretatt av AVG i henhold til denne Avtalen. Dersom AVG

time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("Additional Work") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

#### **IV. Packaging, marking and receiving**

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

#### **V. Invoicing and payment**

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from

har betalt Avgifter til Leverandøren i forbindelse med en betaling og deretter mottar et krav fra noen skatte- eller avgiftsmyndighet om innbetaling av vedkommende Avgifter fordi disse ikke er behørig innbetalt til vedkommende myndighet ("Ubetalte Avgifter") og AVG betaler de Ubetalte Avgiftene til skatte- eller avgiftsmyndighetene, vil Leverandøren uten opphold, etter mottak av skriftlig krav fra AVG, tilbakebetale det dokumenterte beløpet i form av Ubetalte Avgifter, med tillegg av eventuell straffeavgift eller rente, til AVG. Dersom Leverandøren unnlater å betale de Ubetalte Avgiftene, med tillegg av eventuell straffeavgift eller rente, til AVG, har AVG rett til å motregne de Ubetalte Avgiftene, med tillegg av eventuell straffeavgift eller rente, i ethvert beløp som Leverandøren måtte ha til gode fra AVG.

#### VI. Kvalitet og garantier

1. Leverandøren garanterer at hele Leveransen vil bli levert eller utført i samsvar med God Forretningsskikk og i henhold til Spesifikasjonen. Leverandøren garanterer videre at hver Leveranse vil være uten vesentlige mangler og egnet for dens tiltenkte formål, samt at denne vil overholde alle gjeldende lover og forskrifter, herunder, men ikke begrenset til, alle gjeldende lov- og forskriftsbestemmelser vedrørende miljøvern, yrkesskade og sikkerhet.

2. Dersom Leverandøren ikke overholder garantien angitt i punkt VI.1 kan AVG, etter eget skjønn og i tillegg til de øvrige beføyelser som måtte være tilgjengelig i henhold til lovgivning eller praksis, når som helst (a) kreve at Leverandøren for egen regning, innen fem (5) virkedager etter mottak av AVGs garantikrav, leverer på nytt eller reparerer eller skifter ut den mangelfulle Leveransen, eller (b) avvise den mangelfulle Leveransen og motta full tilbakebetaling av Vederlaget som er betalt for denne.

#### VII. Immaterielle rettigheter

1. Leverandøren garanterer at Leveransen verken krenker, eller medfører at AVG eller noe AVG-produkt krenker, noen tredjeparts patenter, opphavsretter, forretningshemmeligheter, varemerker eller andre immaterielle rettigheter. Leverandøren skal forsvare og holde AVG og dets nærstående skadesløs i forhold til ethvert ansvar, enhver kostnad, skade og utgift (inkludert forlikskostnader og rimelig advokatsalær) som har sitt utspring i, eller relaterer seg til, krav (a) basert på at Leveransen krenker eller påstås å krenke tredjeparts patent, opphavsrett, forretningshemmelighet, varemerke eller liknende rettighet eller (b) basert på eller i tilknytning til distribusjon eller bruk av Leveransen.

2. Mønstre, tegninger, modeller, statistiske profiler, databærere og liknende, samt ethvert materiell fremskaffet av AVG eller som AVG påberoper seg noen eiendomsrett eller immateriell rettighet til, vil forbli AVGs eiendom ("AVGs Immaterielle Eiendeler"). Samtlige av AVGs Immaterielle Eiendeler kan være beskyttet av patentlovgivning, opphavsrettslovgivning, lovgivning om ideelle rettigheter, forretningshemmelighetslovgivning, varemerkelovgivning og hvilken som helst liknende lovgivning om immaterielle rettigheter. Leverandøren kan verken bruke eller fremlegge noen av AVGs Immaterielle Eiendeler (inkludert Leveransen) på noe tidspunkt, herunder etter denne Avtalens utløp, for noe som helst formål uten skriftlig forhåndssamtak fra AVG. Videre gir manglende overholdelse av ovennevnte bestemmelser AVG rett til å trekke seg fra Avtalen, enten helt eller delvis, uten betaling av kompensasjon.

#### VIII. Forsikring

1. Leverandøren skal, for Leverandørens egen regning, ta ut og opprettholde en eller flere forsikringer som innbefatter tingskade-dekning, yrkesansvarsdekning, ansvarsdekning, motorvogndekning, transportdekning og dekning av alt Leverandørens utstyr i AVGs lokaler, med et dekningsbeløp som er tilstrekkelig til å dekke ethvert tap og ansvar Leverandøren vil kunne pådra seg i henhold til Avtalen.

2. Leverandøren skal, på forespørsel fra AVG, sende AVG skriftlig dokumentasjon på Leverandørens overholdelse av sine forpliktelser i henhold til punkt VIII.1. Dersom Leverandøren unnlater å gjøre dette kan AVG, for Leverandørens regning, ta ut en eller flere forsikringer med dekning som omhandlet i punkt VIII.1.

#### IX. Diverse

1. Ethvert varsel eller krav, og enhver forespørsel, godkjenning og annen meddelelse i henhold til Avtalen skal fremsettes skriftlig til adressen angitt i Avtalen, og skal anses for å være fremsatt for en Part (i) når det eller den overleveres personlig på adressen angitt i Avtalen, (ii) dersom oversendt per post eller med bud, når det postlegges som forhåndsfrankert sending hos den relevante posttjeneste eller leveres per bud til den annen Part på adressen angitt i Avtalen, (iii) dersom sendt per telefaks, når det sendes til faksnummeret og stiles til personen som er angitt som adressat for meddelelser i Avtalen (med bekreftelse på vellykket fremsendelse), eller (iv) dersom sendt per

a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

#### VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### VII. Intellectual property rights

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### VIII. Insurance

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to

e-post (a) dersom til Leverandøren, når det sendes til e-postadressen angitt i Avtalen eller (b) dersom til AVG, når det sendes til **generalnotices@avg.com** (i hvert tilfelle under den forutsetning at det ikke kommer en e-post med feilmelding eller fraværsmelding i retur). Til tross for eventuelle bestemmelser om det motsatte i Avtalen skal varsler sendt av Leverandøren til AVG per e-post til en annen adresse enn **generalnotices@avg.com** ikke anses å utgjøre et varsel. Endringer av adresseopplysninger for varsler skal meddeles i form av varsel i henhold til dette punkt. Varsler som påberoper seg mislighold av AVGs forpliktelser, eller gir varsel om oppsigelse eller heving av Avtalen, skal sendes til **generalnotices@avg.com**, med kopi til **legalnotice@avg.com**.

2. Endringer av Avtalen skal kun være gyldig dersom disse er foretatt skriftlig og undertegnet av hver Parts autoriserte representant.

3. Tolkning, gyldighet og oppfyllelse av Avtalen og alle ikke-kontraktfestede forpliktelser som oppstår på grunnlag av, eller i forbindelse med, Avtalen skal være underlagt norsk rett.

4. Hver Part vedtar ugjenkallelig de ordinære domstoler i Oslo som eksklusivt verneing for ethvert krav og enhver tvist som måtte oppstå på grunnlag av, eller i forbindelse med, Avtalen. Dette punkt hindrer ikke hver Parts rett til å benytte midlertidige rettsmidler overfor den annen Part (så som midlertidig forføyning) gjennom enhver kompetent domstol, for å beskytte sine rettigheter og interesser eller for å håndheve den annen Parts forpliktelser.

5. Avtalen angir alle vilkår avtalt mellom Partene og trer i stedet for enhver forutgående eller samtidig avtale mellom Partene vedrørende dens tema.

6. Forholdet mellom Partene er et forhold mellom uavhengige kontraktsparter og skal ikke anses for å være noen form for agentforhold, fellesforetagende, interessentskap eller annet. Ingen Part har fullmakt til å opptre på vegne av den annen Part og hver Part skal opptre som en uavhengig kontrahent som kjøper for seg selv og selger i eget navn for egen risiko.

7. Overskriftene i Avtalen påvirker ikke tolkningen av denne. Bruk av ett kjønn innebærer alle kjønn. Entall innebærer flertall og omvendt. Når et ord eller uttrykk er definert tillegges dets øvrige grammatikalske former en tilsvarende betydning.

8. Dersom noen bestemmelse i Avtalen anses ulovlig, ugyldig eller ikke håndhevbar i henhold til gjeldende lovgivning skal alle øvrige bestemmelser i Avtalen forbli fullt ut gyldige og virksomme.

9. Ingen Part skal ha noe ansvar overfor den annen Part for forsinkelse eller manglende oppfyllelse av sine forpliktelser i henhold til denne Avtalen i den grad dette har sitt utspring i en Force Majeure-hendelse, forutsatt at parten som utsettes for Force Majeure-hendelsen (i) umiddelbart varsler den annen part skriftlig om årsaken til forsinkelsen eller den manglende oppfyllelse, samt den forventende innvirkning på denne Avtalen og den sannsynlige varighet av forsinkelsen eller den manglende oppfyllelse, og (ii) gjør sitt beste for å begrense virkningene av vedkommende forsinkelse eller manglende oppfyllelse for den annen Part. Dersom Force Majeure-hendelsen vedvarer i en periode på mer enn 10 dager kan Parten som ikke er utsatt for Force Majeure-hendelsen si opp Avtalen med umiddelbar virkning ved skriftlig varsel til den annen Part.

10. En Parts unnlatelse av å insistere på streng overholdelse av enkeltvilkår eller -bestemmelser i Avtalen skal ikke tolkes som aksept av avvik eller avståelse fra krav om fremtidig overholdelse av Avtalen, og Avtalens vilkår og bestemmelser forblir fullt ut gyldige og virksomme. Intet avkall på vilkår i Avtalen fra en Part skal anses akseptert med mindre vedkommende avkall er skriftlig og undertegnet av vedkommende Part. En Parts unnlatelse av å påberope seg mislighold av en bestemmelse i Avtalen fra den annen Part skal ikke tolkes som en vedvarende aksept av vedkommende mislighold eller som et avkall på retten til å påberope seg andre mislighold av samme eller andre bestemmelser i Avtalen.

11. Leverandøren kan ikke overdra sine rettigheter eller forpliktelser i henhold til Avtalen, eller sette ut noen del av sine ytelser i henhold til Avtalen til underleverandører, uten samtykke fra AVG. AVG kan uten Leverandørens samtykke overdra eller overføre sine rettigheter eller delegere sine forpliktelser i henhold til Avtalen (helt eller delvis) til en hvilken som helst av AVGs nærstående, eller til en kjøper av AVG-aksjer eller virksomhet. Intet i Avtalen, verken uttrykkelig eller underforstått, er ment å gi, eller vil gi, noen person (bortsett fra Partene) noen rett, ytelser eller beføyelse av noe som helst slag i henhold til, eller som følge av, Avtalen.

12. Ingen Part skal, uten samtykke fra den annen Part (og slikt samtykke skal ikke nektes eller utsettes uten rimelig grunn), offentliggjøre Avtalens eksistens eller vilkår, eller forholdet mellom Partene, i noen pressemelding eller annet markedsføringsmaterieil.

the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of Norway.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts of Norway sitting in Oslo over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. Denne Avtalen skal ikke være underlagt FN-konvensjonen om kontrakter for internasjonale løsørekjøp, og det er uttrykkelig avtalt at nevnte konvensjon ikke kommer til anvendelse. Dersom det oppstår uklarhet eller spørsmål om hensikt eller tolkning, i forbindelse med rettergang eller for øvrig, skal Avtalens vilkår anses for å være utarbeidet i felleskap av Partene, og det skal ikke legges til grunn bevisbyrde i favør eller disfavør av noen Part i kraft av hvem som har forfattet de enkelte bestemmelsene i Avtalen.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.



## AVG Opšti uslovi kupovine (u daljem tekstu "Uslovi")

### I. OPŠTE ODREDBE

#### 1. Određene Definicije

i. **Ugovor:** Ovi Uslovi, koje je prihvatio Dobavljač, zajedno sa (a) narudžbenicom ili radnim nalogom koje je izdao AVG, a koje je prihvatio Dobavljač ("**Nalog**"), i/ili (b) kupoprodajnim ugovorom, ugovorom o pružanju usluga, ili drugim ugovorom koji su potpisale Strane ("**Ugovor**"), uz koji su priloženi ovi Uslovi ili na koje se ovi Uslovi odnose u skladu sa Odeljkom 1.2 dole. Osim ukoliko su se Strane drugačije izričito dogovorile u pisanom obliku, Ugovor ne uključuje uslove poslovanja bilo kog Dobavljača ili drugi sličan poslovni obrazac.

ii. **AVG:** *AVG Technologies ili privredna društva određena Ugovorom*

iii. **Naknade:** Cena, naknade, troškovi i izdaci za Predmet isporuke (i sve pomoćne usluge) kako je definisano Ugovorom.

iv. **Predmet isporuke:** Roba, proizvod ili usluga za koju se Dobavljač obaveza da će obezbediti AVG-u ili u korist AVG-a na osnovu Ugovora.

v. **Događaj više sile:** Svaki događaj koji spreči, onemogućiti ili odloži izvršenje obaveze nek e Strane na osnovu ovog Ugovora, a koji neposredno nastane iz bilo kog od navedenih razloga, a koji strana koja je pogođena tim događajem ne bi mogla da spreči ili ublaži primenom komercijalno razumnog plana kontinuiteta poslovanja i oporavka od katastrofe: (a) viša sila; (b) akt lokalne ili centralne vlasti; (c) rat, građanski rat, oružani sukob ili teroristički napad; (d) blokada ili embargo; (e) hemijska, biološka ili nuklearna kontaminacija ili jonizujuće zračenje; (f) epidemija; (g) požar, poplava, zemljotres ili oluja, eksplozija, pobuna ili građanski nemiri; i (h) zvanični ili nezvanični štrajk, obustava rada (lokaut), rad sa smanjenim kapacitetom ili drugi radni spor koji utiče na treće lice (za koji zamena nije odmah dostupna).

vi. **Dobra proizvođačka praksa:** Onaj stepen veštine, opreza, kvaliteta i predviđanja koji bi se normalno mogao očekivati od profesionalnog, veštog i iskusnog vodećeg pružaoca usluga iste ili slične prirode kao relevantne usluge koje su sadržane u Predmetu isporuke.

vii. **Strana:** AVG ili Dobavljač, u zavisnosti od konteksta

viii. **Specifikacija:** Relevantna specifikacija svakog Predmeta isporuke zajedno sa dodatnom specifikacijom dogovorenim između Strana s vremena na vreme.

ix. **Dobavljač:** Strana Ugovora koja nije AVG.

2. U slučaju nesaglasnosti između različitih dokumenata koji čine ovaj Ugovor prvenstvo prilikom tumačenja (u opadajućem nizu) ima: Nalog, Ugovor i ovi Uslovi.

3. Ovi Uslovi se primenjuju i na buduće narudžbine i ugovore između AVG i Dobavljača, osim ukoliko Strane ne dogovore drugačije u pisanoj formi.

### II. CENE

1. Za vreme trajanja ovog Ugovora, naknade su fiksne i neće se povećavati usled inflacije ili po drugom osnovu.

2. Naknade pokrivaju sve pomoćne usluge i Dodatni rad predviđen Ugovorom (npr. naknade za prevoz robe na „adresu odredišta“, pakovanje, osiguranje, troškove inspekcije i putne troškove i dnevnice).

3. Osim ukoliko je drukčije predviđeno Ugovorom, Naknade ne uključuju lokalne, državne, federalne ili strane poreze na dodatu vrednost, poreze na promet, carinske dažbine, namete ili državne namete slične prirode koje mogu da budu naplative u vezi sa plaćanjem (zajedno, "**Porezi**"), i AVG je odgovoran za plaćanje svih Poreza plativi na njegove nabavke u skladu sa

## AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

### I. GENERAL

#### 1. Certain Definitions

i. **Agreement:** These Conditions, accepted by Supplier, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "**Order**"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "**Contract**"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2 below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. PRICES

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "**Taxes**"), and AVG is

zakonom, isključujući poreze koji su zasnovani na neto prihodu ili imovini Dobavljača. AVG može da od iznosa koji duguje Dobavljaču odbije tj. da taj iznos umanja za iznos poreza po odbitku, ukoliko i u meri u kojoj se plaćanje tog poreza zahteva po osnovu važećih zakona, propisa ili sporazuma. Ukoliko je AVG dostavio Dobavljaču propisnu dokumentaciju za potrebe izuzeća od poreza, Dobavljač neće naplatiti porez AVG-u u skladu sa važećim propisima. Porezi na dodatu vrednost ("PDV") uključuju bilo koji porez na dodatu vrednost na osnovu Zakona o porezu na dodatu vrednost ("Službeni glasnik RS" br 84/2004, 86/2004 - ispr., 61/2005, 61/2007, 93/2012, 108/2013, 6/2014 - usklađeni din. izn., 68/2014 - dr. zakon, 142/2014 i 5/2015 - usklađeni din. izn.).

### III. ROKOVI ISPORUKE I USLOVI

1. Rokovi isporuke definisani Ugovorom su obavezujući, i predstavljaju bitan element Ugovora. Dobavljač neće vršiti delimične ili prevremene isporuke bez prethodne pisane saglasnosti AVG-a. Ukoliko bude bilo potrebe da Dobavljač vrši dodatne radove ili izmene da bi obezbedio usklađenost sa potrebnim Specifikacijama ("*Dodatni radovi*") to ne daje pravo Dobavljaču na produženje roka za isporuku, osim ukoliko to AVG odobri unapred u pisanom obliku (uključujući odobrenje dato elektronskom poštom).

2. Dobavljač će odmah obavestiti AVG ukoliko u bilo kom trenutku ima razlog da veruje da neće biti u stanju da ispuni bilo koju svoju obavezu po osnovu Ugovora, ili neće biti u stanju da to učini u okviru definisanog vremenskog perioda.

3. Ukoliko Dobavljač ne dostavi Predmet isporuke na ili pre datuma koji je definisan Ugovorom, AVG, pored pravnih lekova na koje ima pravo na osnovu zakona, može da umanja od Naknada iznos koji je jednak 2% od Naknada koje se pripisuju zakasnelom Predmetu isporuke za svaku nedelju zakasnele isporuke ili njenog dela, s tim da svako takvo umanjeno ne može da bude veće od 10% od ukupnog iznosa Naknada.

4. Osim ukoliko nije izričito drugačije ugovoreno, uslovi isporuke su na paritetu "DDP" u skladu sa "Incoterms 2010".

5. Vlasništvo na Predmetima isporuke prelazi na AVG po preuzimanju od strane AVG-a na „adresi odredišta“ ili drugoj sličnoj adresi navedenoj u Ugovoru ili, ukoliko je ranije, na dan kada AVG izvrši uplatu za Predmete isporuke. Ukoliko AVG pre isporuke prihvati da izvrši celokupnu ili delimičnu uplatu za bilo koji Predmet isporuke, Dobavljač će jasno identifikovati te Predmete isporuke kao vlasništvo AVG-a vidljivim obeležjem i čuvace Predmete isporuke odvojeno od druge robe i materijala koje Dobavljač ima u državljanini.

### IV. PAKOVANJE, OBELEŽAVANJE I PRIJEM

Određbe ovog Odeljka IV primenjuju se na Predmete isporuke koji su materijalna roba.

1. Dobavljač će izvršiti pakovanje i zapakovati Predmete isporuke na način koji ih štiti od oštećenja i gubitka vrednosti u toku transporta do mesta isporuke i u toku razumnog perioda skladištenja, na način koji odgovara svrsi.

2. Dobavljač će obeležiti Predmete isporuke u skladu sa uputstvima AVG-a, pri čemu ta uputstva neće ograničavati obavezu Dobavljača da osigura da Predmeti isporuke budu obeleženi prema njihovim svojstvima koji se odnose na lomljivost, otpornost na vremenske uslove, itd. i na drugi način u skladu sa zakonom. Svaka isporuka mora da uključuje "paking listu" na kojoj je naveden AVG-ov broj ugovora (ukoliko postoji), i mora da bude prapraćena relevantnim korisničkim uputstvima i priručnicima.

3. Dobavljač će dostaviti obaveštenje AVG-u elektronskom poštom kada Predmeti isporuke budu otpremljeni, i u tom obaveštenju će navesti očekivani datum isporuke i uputstva za posebno rukovanje ili skladištenje koji mogu biti neophodni.

responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes ("*VAT*") includes any value added tax under Value Added Tax Act ("Official Gazette of Republic of Serbia" nos. 84/2004, 86/2004 - corr., 61/2005, 61/2007, 93/2012, 108/2013, 6/2014 - adjusted dinar amounts, 68/2014 - as amended, 142/2014 and 5/2015 - adjusted dinar amounts).

### III. DELIVERY TIME AND CLAUSES

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("*Additional Work*") shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfil any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

### IV. PACKAGING, MARKING AND RECEIVING

The provisions of this Section **Error! Reference source not found.** apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

## V. FAKTURISANJE I PLAĆANJE

1. Dobavljač će dostavljati fakture AVG-u za Predmete isporuke u skladu sa rasporedom predviđenim Ugovorom ili ukoliko raspored nije predviđen, nakon potpune isporuke Predmeta isporuke. Svaka faktura mora da (a) sadrži broj relevantne Narudžbenice AVG-a, (b) sadrži datum/datume kada je Dobavljač dostavio Predmete isporuke, (c) sadrži odvojeno sve Poreze koji se primenjuju na Predmete isporuke, (d) predstavlja važeću PDV fakturu, i (e) da prikaže sa razumnim nivoom detalja način na koji su ukupne Naknade bile izračunate.

2. AVG će izvršiti plaćanje na osnovu svake pravilno dostavljene, tačne i neosporene fakture u roku određenom Ugovorom ili, ukoliko nije definisan period dospeća, u roku od 45 dana nakon prijema fakture.

3. Plaćanje izvršeno od strane AVG-a neće se smatrati prihvatanjem uslova navedenih na fakturi Dobavljača, prihvatanjem Predmeta isporuke, ili odustajanjem od garancija ili drugih prava po osnovu ovog Ugovora.

4. AVG neće imati obavezu da izvrši plaćanje koje nije izričito predviđeno ovim Ugovorom ili koje AVG nije na drugi način odobrio unapred i u pisanom obliku. Bez uticaja na prava ili pravna sredstva koja može imati, AVG zadržava pravo da izvrši prebijanje dospelih potraživanja koje mu u bilo kom trenutku duguje Dobavljač sa iznosom koje je AVG dužan da plati Dobavljaču po osnovu ovog Ugovora slanjem Dobavljaču obaveštenja o prebijanju. AVG može da za avansno plaćanje Naknada zahteva bankarsku garanciju ili drugo sredstvo obezbeđenja prihvatljivo za AVG, koje će se izdati o trošku Dobavljača.

5. Dobavljač je dužan da se pridržava važećih poreskih propisa, i da nadležnim poreskim organima plati sve Poreze koje je Dobavljač naplatio od AVG u vezi sa plaćanjima koje je izvršio AVG po osnovu ovog Ugovora u obliku i na način koji se zahtevaju u skladu sa važećim poreskim propisima. Ukoliko je AVG platio Poreze Dobavljaču u vezi sa bilo kojim plaćanjem i nakon toga primio zahtev od poreskog organa da plati te Poreze koji nisu bili propisno preneti na taj poreski organ ("Neplaćeni porezi") i AVG plati Neplaćene poreze poreskom organu, Dobavljač je dužan da bez odlaganja nakon prijema pisanog zahteva od AVG-a, nadoknadi ili na drugi način plati dokumentovani iznos Neplaćenih poreza uz procenjene penale ili kamatu AVG-u. Ukoliko Dobavljač ne plati Neplaćene poreze uz procenjene penale ili kamate AVG-u, AVG ima pravo da odobri iznos Neplaćenih poreza uz bilo koje procenjene kazne ili kamate u odnosu na bilo koja potraživanja koja Dobavljač ima od AVG-a.

## VI. KVALITET I GARANCIJE

1. Dobavljač garantuje da će svi Predmeti isporuke biti dostavljeni ili izvršeni u skladu sa Dobrom proizvođačkom praksom i da će biti u skladu sa Specifikacijom. Dobavljač takođe garantuje da ni jedan Predmet isporuke neće imati materijalne nedostatke i da će svi biti podobni za nameravanu svrhu, u skladu sa svim važećim zakonima i propisima, uključujući, ali ne ograničavajući se na sve važeće zakone i propise koji se odnose na mere zaštite životne sredine, i zaštitu zdravlja i bezbednosti na radu.

2. Ukoliko Dobavljač prekrši garanciju predviđenu Odeljkom VI.1, AVG može po sopstvenoj diskreciji i pored svih drugih pravnih sredstava koja ima na raspolaganju po zakonu, da u svakom trenutku (a) zahteva od Dobavljača da o svom trošku, u roku od pet (5) radnih dana nakon prijema reklamacije AVG-a po osnovu garancije, ponovo dostavi ili opravi ili zameni neispravne Predmete isporuke, ili (b) odbije neispravne Predmete isporuke i primi povraćaj punog iznosa Naknade koje je platio za njih.

## VII. PRAVA INTELEKTUALNE SVOJINE

1. Dobavljač garantuje da Predmeti isporuke neće povrediti niti izazvati da AVG ili bilo koji proizvod AVG-a povredi patente,

## V. INVOICING AND PAYMENT

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any due amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement by sending a set-off notice to the Supplier. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

## VI. QUALITY AND WARRANTIES

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

## VII. INTELLECTUAL PROPERTY RIGHTS

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents,

autorska dela, poslovne tajne, žigove ili druga prava intelektualne svojine bilo kog trećeg lica. Dobavljač će obešteti i nadoknaditi AVG i njegovim povezanim licima sve obaveze, troškove, odštete i izdatke (uključujući troškove namirenja i razumne troškove advokata) koji proisteknu iz ili se odnose na tužbeni zahtev (a) da su Predmeti isporuke povredili ili su navodno povredili patent, autorsko delo, poslovnu tajnu, žig ili slična prava trećeg lica, ili (b) koji proisteknu iz ili se odnose na bilo koju distribuciju ili upotrebu Predmeta isporuke.

2. Projekti, crteži, modeli, statistički profili, nosači podataka i slično, kao i svi materijali koje je dostavio AVG na koje AVG polaže vlasnička prava ili prava intelektualne svojine ostaju vlasništvo AVG-a ("*Intelektualna svojina AVG-a*"). Intelektualna svojina AVG-a može da bude zaštićena zakonom o patentima, zakonom o autorskim pravima, zakonom o moralnim pravima, zakonom o poslovnim tajnama, i drugim zakonima koji regulišu sva druga slična vlasnička prava. Dobavljač nema pravo da iz bilo kog razloga koristi i obelodanjuje Intelektualnu svojinu AVG-a (uključujući Predmete isporuke) u bilo kom trenutku, uključujući i vreme nakon isteka ovog Ugovora, bez prethodne pisane dozvole AVG-a. Pored toga, nepridržavanje gore navedenog daje pravo AVG-u da odustane od Ugovora, bilo u celini ili delimično, bez plaćanja naknade.

#### VIII. OSIGURANJE

1. Dobavljač će, o sopstvenom trošku, pribaviti i održavati polisu ili polise osiguranja, koje će uključivati osiguranje od štete na imovini, osiguranje od profesionalne odgovornosti, pokrivaće za odgovornost prema trećim licima, pokrivaće za prevaru i nesavesno poslovanje zaposlenih lica, auto osiguranje, osiguranje u prevozu i osiguranje za celokupnu opremu Dobavljača koja se nalazi u prostorijama AVG-a, sa nivoom pokrivaća osiguranja koji je adekvatan da pokrije sve gubitke i sve obaveze koje može da ima Dobavljač po osnovu Ugovora.

2. Dobavljač će, na zahtev AVG-a, dostaviti AVG-u pisane dokaze o usklađenosti Dobavljača sa obavezama po osnovu Odeljka VIII.1. Ukoliko Dobavljač to ne učini, AVG može da, o trošku Dobavljača, pribavi polisu ili polise osiguranja za osigurane slučajeve navedene u Odeljku VIII.1.

#### IX. RAZNO

1. Sva obaveštenja, zahtevi, odobrenja i druga komunikacija po osnovu Ugovora mora biti u pisanom obliku i dostavljena na adresu koja je navedena u Ugovoru, i smatraće se propisno dostavljenom određenoj Strani (i) kada je dostavljena lično na adresu koja je navedena u Ugovoru; (ii) ukoliko je dostavljena poštom ili kurirskom službom, kada je dostavljena poštom preko odgovarajuće službe pošte sa unapred plaćenom poštarinom, ili dostavljena kurirskom službom, drugoj Strani na adresu koja je navedena u Ugovoru; (iii) kada je poslata faksom, kada je poslata na broj faksa uz navedenog primaoca koji je naveden za komunikacije u Ugovoru (uz potvrdu o uspešnom prenosu); ili (iv) kada je dostavljena elektronskom poštom (a) ukoliko je za Dobavljača, kada je dostavljena na e-mail adresu navedenu u Ugovoru ili (b) ukoliko je za AVG, kada je dostavljena na adresu [generalnotices@avg.com](mailto:generalnotices@avg.com) (pod uslovom, da ne bude primljen e-mail o tome da poruka nije poslata ili da je primalac trenutno na odsustvu). Bez uticaja na bilo šta suprotno navedeno u Ugovoru, obaveštenja koja dostavlja Dobavljač AVG-u e-mailom na adresu koja nije [generalnotices@avg.com](mailto:generalnotices@avg.com) neće predstavljati obaveštenje. Promene podataka o adresi za obaveštenja će se dostavljati obaveštenjem u skladu sa ovim odeljkom. Obaveštenja u kojima se navodi kršenje obaveza AVG-a, ili u kojima se najavljuje raskid Ugovora, dostavljaju se na adresu [generalnotices@avg.com](mailto:generalnotices@avg.com) uz kopiju na adresu [legalnotice@avg.com](mailto:legalnotice@avg.com).

2. Izmene i dopune Ugovora će biti važeće samo ukoliko su u pisanom obliku i potpisane od strane ovlašćenih predstavnika svake Strane.

copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("*AVG Intellectual Property*"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### VIII. INSURANCE

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. MISCELLANEOUS

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than [generalnotices@avg.com](mailto:generalnotices@avg.com) shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to [generalnotices@avg.com](mailto:generalnotices@avg.com) and also copied to [legalnotice@avg.com](mailto:legalnotice@avg.com).

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of

<p>3. Za tumačenje, važenje i izvršenje Ugovora i svih vanugovornih obaveza koje proisteknu iz ili u vezi sa Ugovorom merodavno je pravo Republike Srbije.</p> <p>4. Svaka Strana je bezuslovno saglasna da prihvata isključivu nadležnost Privrednog suda u Beogradu za svaku tužbu ili pitanje koji proisteknu iz ili u vezi sa Ugovorom. Ovaj Odeljak ne utiče na pravo svake Strane da traži određivanje privremene mere protiv druge Strane (kao što je privremena mera zabrane određene radnje) pred bilo kojim nadležnim sudom, da bi zaštitila svoja prava i interese ili da bi sprovelo izvršenje obaveze druge Strane.</p> <p>5. Ovaj Ugovor definiše sve uslove koji su dogovoreni između Strana i on zamenjuje sve prethodne ili istovremene ugovore između Strana koji se odnose na predmet Ugovora.</p> <p>6. Odnos između Strana jeste odnos nezavisnih izvođača radova i neće se smatrati odnosom agencije, zajedničkog ulaganja, partnerstva ili slično. Ni jedna Strana nema pravo da nastupa u ime druge Strane i svaka Strana će delovati kao nezavistan izvođač radova koji kupuje u svoje ime, prodaje u svoje ime i na sopstveni rizik.</p> <p>7. Naslovi u Ugovoru ne utiču na njegovo tumačenje. Reči u jednom rodu podrazumevaju oba roda. Upotreba jednine podrazumeva množinu i obratno. Ukoliko su određena reč ili fraza definisani, njihovi drugi gramatički oblici imaju ista značenja.</p> <p>8. Ukoliko se utvrdi da je neka odredba ovog Ugovora nezakonita, nevažeća ili neizvršiva po važećim propisima, druge odredbe Ugovora ostaju u potpunosti na snazi.</p> <p>9. Ni jedna Strana neće biti odgovorna prema drugoj Strani za kašnjenje ili neizvršenje svojih obaveza po osnovu ovog Ugovora u meri u kojoj je to proisteklo iz Događaja više sile, s tim da je Strana koja je pogođena Događajem više sile dužna da (i) odmah obavesti drugu Stranu u pisanom obliku o uzroku kašnjenja ili neizvršenja, o očekivanom uticaju na ovaj Ugovor i mogućem trajanju kašnjenja ili neizvršenja; i (ii) da uloži maksimalne napore da ograniči dejstvo tog kašnjenja ili neizvršenja na drugu Stranu. Ukoliko Događaj više sile bude trajao duže od 10 dana, Strana koja nije pogođena Događajem Više sile ima pravo da raskine Ugovor bez odlaganja dostavljanjem pisanog obaveštenja drugoj Strani.</p> <p>10. Propust bilo koje Strane da insistira na strogom izvršenju bilo kog uslova i odredbi Ugovora neće se tumačiti kao odustajanje ili odricanje od budućeg postupanja u skladu sa Ugovorom, i svi uslovi i odredbe Ugovora ostaju u potpunosti na snazi. Nikakvo odustajanje od bilo kojeg od njih ili od uslova Ugovora od strane bilo koje Strane neće biti važeće za bilo koju svrhu osim ako je to odustajanje sačinjeno u pisanom obliku i potpisano od strane te Strane. Odustajanje bilo koje Strane od kršenja bilo koje odredbe Ugovora od strane druge Strane neće se tumačiti kao kontinuirano odustajanje od tog kršenja ili kao odustajanje od drugih kršenja iste ili druge odredbe Ugovora.</p> <p>11. Dobavljač nema pravo da prenese svoja prava ili obaveze po osnovu Ugovora ili da zaključi podugovor za ispunjenje bilo kog dela svojih obaveza po osnovu Ugovora bez saglasnosti AVG-a. AVG ima pravo da prenese ili na drugi način ustupi svoja prava ili da delegira svoje obaveze na osnovu Ugovora (u celini ili delimično) bez saglasnosti Dobavljača bilo kom povezanom licu AVG-a, ili kupcu bilo kojih dela AVG-a ili poslovne jedinice AVG-a. Ništa u ovom Ugovoru, direktno ili indirektno, nije usmereno na, niti daje pravo, korist ili pravno sredstvo bilo koje prirode drugom licu (osim Stranama), na osnovu ili kao rezultat ovog Ugovora.</p> <p>12. Ni jedna Strana nema pravo da, bez saglasnosti druge Strane (a ta saglasnost se ne može neopravdano uskratiti ili odložiti), objavi postojanje ili uslove Ugovora, ili odnose između Strana, u objavi za štampu ili drugom promotivnom materijalu.</p> <p>13. Na ovaj Ugovor se ne primenjuje Konvencija Ujedinjenih Nacija o međunarodnoj prodaji robe, čija je primena izričito isključena. U slučaju da se javi nesporazum ili pitanje o nameri ili tumačenju, u bilo kom sudskom postupku ili na drugi način,</p>	<p>Republic of Serbia.</p> <p>4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the Commercial court of Belgrade over any claim or matter arising under or in connection with the Agreement. This section is without prejudice to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.</p> <p>5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.</p> <p>6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.</p> <p>7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.</p> <p>8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.</p> <p>9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.</p> <p>10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.</p> <p>11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.</p> <p>12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.</p> <p>13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the</p>
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<p>uslovi Ugovora će se tumačiti kao da su izrađeni zajednički od strane Ugovornih strana, i nikakva pretpostavka ili teret dokazivanja neće nastati u korist ili na štetu bilo koje Strane po osnovu autorstva bilo koje odredbe Ugovora.</p>	<p>Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.</p>
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## Allgemeine Einkaufsbedingungen der AVG (nachstehend „Einkaufsbedingungen“)

### I. Allgemeines

#### 1. Bestimmte Begriffsbestimmungen

i. Vertragswerk: die vorliegenden Einkaufsbedingungen zusammen mit (a) einer Produkt- oder Werkbestellung der AVG, die der Lieferant angenommen hat („Bestellung“) und/oder mit (b) einem Kaufvertrag, Vertrag über eine Dienstleistung oder anderen Vertrag, der von den Parteien unterzeichnet ist („Vertrag“), der/dem die vorliegenden Einkaufsbedingungen beigelegt sind und auf den die vorliegenden Einkaufsbedingungen gemäss Ziffer 1.2 Anwendung finden. Sofern die Parteien nichts anderes ausdrücklich schriftlich vereinbaren, umfasst das Vertragswerk nicht die vorverfassten Bedingungen auf einer Lieferantenbestätigung oder einem anderen ähnlichen Geschäftsdokument.

ii. AVG: das oder die Unternehmen AVG Technologies, die im Vertragswerk bezeichnet sind.

iii. Preise: die Preise, Gebühren, Kosten und Belastungen, für die Liefergegenstände (und alle zugehörigen Dienstleistungen), die im Vertragswerk vereinbart sind.

iv. Liefergegenstand: Waren, Produkte oder Dienstleistungen, die an die oder zugunsten der AVG zu erbringen sich der Lieferant gemäss dem Vertragswerk verpflichtet.

v. Ereignis höherer Gewalt: jedes Ereignis, das die Erfüllung der Verpflichtungen einer Partei aus diesem Vertragswerk verhindert, behindert oder verzögert, das unmittelbar aus den folgenden Ereignissen hervorgeht und das durch die Umsetzung eines wirtschaftlich sinnvollen Plans zur Aufrechterhaltung der Geschäftsabläufe (Geschäftskontinuität) und zur Wiederinbetriebnahme nach einem Notfall (Wiederherstellung der Geschäftsabläufe) seitens der betroffenen Partei nicht verhindert oder gemildert worden wäre: (a) Naturkatastrophen, (b) hoheitliche Akte lokaler oder zentraler Behörden, (c) Krieg, Bürgerkrieg, bewaffnete Konflikte oder Terrorismus, (d) Blockaden oder Embargos, (e) chemische, biologische oder nukleare Verseuchung oder ionisierende Strahlung, (f) Epidemien, (g) Feuer, Überschwemmung, Erdbeben oder Stürme, Explosionen, Aufstände oder soziale Unruhen sowie (h) offizielle oder inoffizielle Streiks, Aussperrungen, Bummelstreiks oder andere betriebliche Streitigkeiten, die einen Dritten betreffen (für den nicht sofort Ersatz zur Verfügung steht).

vi. Gute Branchenpraxis: der Grad an Sachkenntnis, Sorgfalt, Vorsicht, Ehrlichkeit und Voraussicht, der im Allgemeinen von einem ausgebildeten und erfahrenen führenden Fachlieferanten von Dienstleistungen derselben oder ähnlichen Art wie die im Zusammenhang mit den Liefergegenständen geschuldeten erwartet wird.

vii. Partei: AVG oder der Lieferant, je nach Zusammenhang.

viii. Spezifikation: die jeweilige Spezifikation des Liefergegenstandes nebst zusätzlichen von den Parteien vereinbarten Spezifikationen.

ix. Lieferant: die Partei des Vertragswerkes, die nicht AVG ist.

2. Im Falle eines Widerspruchs zwischen den verschiedenen Dokumenten, aus denen das Vertragswerk besteht, ist die Rangfolge für eine Auslegung die folgende, in absteigender Reihenfolge: die Bestellung, der Vertrag und die vorliegenden Einkaufsbedingungen.

3. Sofern die Parteien nichts anderes schriftlich vereinbaren, finden die vorliegenden Einkaufsbedingungen auch auf zukünftige Bestellungen und Vereinbarungen zwischen AVG und dem Lieferanten Anwendung.

### II. Preise

1. Die Preise sind für die Laufzeit des Vertragswerkes festgelegt und steigen weder wegen Inflation noch aus anderen Gründen.

2. Die Preise umfassen sämtliche zugehörigen Dienstleistungen und Zusatzarbeiten, die gemäss dem Vertragswerk geschuldet sind, (z.B. Frachtkosten zur Lieferadresse, Verpackung, Versicherung, Prüfkosten sowie Reise- und Aufenthaltskosten).

3. Sofern nichts anderes im Vertragswerk bestimmt ist, umfassen die Preise keine lokalen, einzelstaatlichen, bundesstaatlichen oder ausländischen Mehrwertsteuern, Umsatzsteuer, Zollabgaben oder staatlichen Festsetzungen ähnlicher Art, die im Zusammenhang mit den Zahlungen anfallen (zusammengefasst „Steuern“), und AVG ist für die Zahlung sämtlicher auf ihre Käufe anfallenden Steuern verantwortlich, mit Ausnahme der Steuern auf das Nettoeinkommen oder das Eigentum des Lieferanten. AVG kann sämtliche Quellen-

## AVG General Purchasing Terms and Conditions (hereinafter referred to as “Conditions”)

### I. General

#### 1. Certain Definitions

i. Agreement: These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the “Order“), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the “Contract“), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section 1.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. AVG: The AVG Technologies entity or entities identified by the Agreement.

iii. Charges: The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. Deliverable: Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. Force Majeure Event: Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. Good Industry Practice: That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables

vii. Party: AVG or Supplier, as the context requires.

viii. Specification: The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. Supplier: A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

### II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the “ship to” address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, federal or foreign value added taxes, sales taxes, customs levies, duties or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, “Taxes“), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all

und Kapitalertragssteuern, die auf die dem Lieferanten geschuldeten Zahlungen anfallen, zurückbehalten oder abziehen, wenn und soweit dies aufgrund eines einschlägigen Gesetzes, einer einschlägigen Verordnung oder eines einschlägigen Abkommens erforderlich ist. Stellt AVG dem Lieferanten ordnungsgemässe Dokumente für eine Steuerfreistellung zur Verfügung, stellt der Lieferant der AVG nach Massgabe der einschlägigen Gesetze keine Steuern in Rechnung. Die Mehrwertsteuer („MwSt“) umfasst die Mehrwertsteuer gemäss dem Bundesgesetz über die Mehrwertsteuer (SR 641.20) oder anderem anwendbarem Recht.

### III. Lieferzeiten und -bestimmungen

1. Die im Vertragswerk bestimmten Lieferzeiten sind verbindlich, und Termintreue ist wesentlicher Bestandteil des Vertragswerks. Ohne die vorherige schriftliche Zustimmung der AVG führt der Lieferant keine Teillieferungen oder Vorauslieferungen durch. Hat der Lieferant zusätzliche Arbeiten oder Änderungen durchzuführen, um die Anforderungen der Spezifikationen zu erfüllen, („Zusatzarbeiten“), berechtigt dies den Lieferanten nicht, die Lieferfrist zu verlängern, es sei denn, AVG stimmt der Verlängerung im Voraus schriftlich (auch per E-Mail) zu. Bei Nichteinhaltung von Lieferzeiten gerät der Lieferant automatisch und ohne vorgängige Mahnung in Verzug.

2. Der Lieferant setzt die AVG sofort darüber in Kenntnis, wenn er Grund hat anzunehmen, dass er seine Pflichten aus dem Vertragswerk nicht oder nicht in der angesetzten Frist erfüllen kann.

3. Liefert der Lieferant einen Liefergegenstand nicht am oder vor dem im Vertragswerk genannten Termin, kann AVG – unbeschadet anderer Rechte aus Gesetz oder Treu und Glauben – (a) auf die nachträgliche Leistung verzichten und entweder Ersatz des aus der Nichterfüllung entstandenen Schadens verlangen oder vom Vertrag zurücktreten und Schadenersatz verlangen, ohne dem Lieferanten eine Nachfrist ansetzen zu müssen und (b) den Preis je angefangener Woche der verspäteten Lieferung für jeden verspätet gelieferten Liefergegenstand um 2 %, jedoch je Minderung insgesamt nicht mehr als 10 % des Gesamtpreises mindern, selbst wenn AVG trotz Verzug auf der Lieferung besteht bzw. nicht darauf verzichtet.

4. Die Verzugsfolgen gemäss Art. 190 OR (SR 220) werden ausdrücklich ausgeschlossen.

5. Sofern nichts anderes ausdrücklich vereinbart wird, gelten die Lieferbestimmungen „DDP“ gemäss der Incoterms 2010.

6. Das Eigentumsrecht an den Liefergegenständen geht entweder bei Erhalt an der Lieferadresse oder an einer anderen im Vertragswerk angegebenen Adresse oder – sofern früher – am Tag der Bezahlung durch AVG auf AVG über. Stimmt AVG der vollständigen oder teilweisen Zahlung für einen Liefergegenstand vor Lieferung zu, macht der Lieferant den entsprechenden Liefergegenstand als Eigentum der AVG deutlich kenntlich und lagert ihn getrennt von anderen Waren und Materialien, die der Lieferant in Besitz hat.

7. Ein Eigentumsvorbehalt des Lieferanten ist ausgeschlossen, ausser AVG stimmt ausdrücklich zu.

### IV. Verpackung, Beschriftung und Empfang

Die Bestimmungen dieses Abschnitts IV finden auf Liefergegenstände, die Sachen sind, Anwendung.

1. Der Lieferant verpackt die Liefergegenstände so, dass sie während des Transports zum Lieferort sowie während der Lagerung für einen angemessenen Zeitraum in geeigneter Art und Weise vor Beschädigungen und Wertverlust geschützt sind.

2. Der Lieferant beschriftet die Liefergegenstände nach Massgabe der Anweisungen von AVG, sofern diese Anweisungen nicht die Pflicht des Lieferanten einschränken, sicherzustellen, dass die Liefergegenstände auch gemäss ihrer Eigenschaften im Hinblick auf Zerbrechlichkeit, Wetterbeständigkeit usw. sowie wie im Übrigen rechtlich vorgeschrieben beschriftet sind. Jede Sendung hat einen Packzettel mit (ggf.) der Vertragsnummer von AVG sowie entsprechende Bedienungsanleitungen und -anweisungen zu enthalten.

3. Sobald die Liefergegenstände versandt sind, sendet der Lieferant AVG eine Mitteilung per E-Mail, in der das erwartete Lieferdatum genannt wird und erforderlichenfalls Anweisungen zu besonderer Handhabung oder Lagerung enthalten sind.

### V. Rechnungsstellung und Zahlung

1. Der Lieferant stellt AVG die Liefergegenstände gemäss dem im Vertragswerk genannten Terminplan oder bei Fehlen eines solchen

applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from tax, Supplier shall not charge tax to AVG in accordance with applicable laws. Value added taxes (“VAT”) includes any value added tax under the Swiss Federal Act on Value Added Tax (SR 641.20) or other applicable law.

### III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications (“Additional Work”) shall not entitle Supplier to any extension of the delivery period, unless AVG consents in advance in writing (including by email). In case of non-compliance with the delivery times, Supplier automatically and without prior notice is delayed.

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may (a) forgo subsequent performance and either claim damages for non-performance or withdraw from the contract and claim damages, without being obliged to set Supplier an additional time limit, and (b) may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges, even if it allows delivery or does not refuse delivery despite the delay.

4. The legal consequences of delayed delivery according to Art. 190 of the Swiss Code of Obligations (SR 220) shall be explicitly excluded.

5. Unless otherwise expressly agreed, delivery clauses are “DDP” according to the Incoterms 2010.

6. Title to the Deliverables will pass to AVG upon receipt by AVG at the “ship to” or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

7. Any reservation of ownership of Supplier shall be excluded, unless AVG gives its express consent.

### IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

### V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule,



Terminplans nach der vollständigen Lieferung der Liefergegenstände in Rechnung. Jede Rechnung muss (a) die entsprechende Nummer der AVG-Bestellung enthalten, (b) das Lieferdatum (die Lieferdaten) der Liefergegenstände nennen, (c) auf die Liefergegenstände anfallende Steuern gesondert ausweisen, (d) eine gültige MwSt-Rechnung darstellen sowie (e) die Berechnung des Gesamtpreises angemessen detailliert darstellen.

2. AVG zahlt eine ordnungsgemäss übermittelte, korrekte und unbestrittene Rechnung innerhalb der im Vertragswerk genannten Zahlungsfrist oder, bei Fehlen einer solchen Zahlungsfrist, innerhalb von 45 Tagen nach Erhalt der Rechnung.

3. Eine Zahlung von AVG gilt weder als Annahme von Bedingungen, die in der Rechnung des Lieferanten enthalten sind, noch als Annahme der Liefergegenstände noch als Verzicht auf eine Zusicherung oder ein anderes Recht aus dem vorliegenden Vertragswerk.

4. AVG ist nicht zur Zahlung von Beträgen verpflichtet, die nicht ausdrücklich im vorliegenden Vertragswerk vorgehen oder anderweitig von AVG im Voraus schriftlich bestätigt sind. Unbeschadet anderer Rechte behält sich AVG das Recht vor, einen an den Lieferanten gemäss dem vorliegenden Vertragswerk zu zahlenden Betrag mit einem Betrag, den der Lieferant der AVG zu irgendeinem Zeitpunkt schuldet, aufzurechnen. AVG kann bei einer Zahlung im Voraus eine Bankbürgschaft oder eine andere für die AVG akzeptable Sicherheitsleistung verlangen, deren Kosten der Lieferant zu tragen hat.

5. Der Lieferant hat die einschlägigen Steuergesetze zu beachten und sämtliche Steuern, die er AVG im Zusammenhang mit den gemäss dem vorliegenden Vertragswerk vorgenommenen Zahlungen in Rechnung gestellt hat, nach Massgabe der einschlägigen Steuergesetze an die zuständige Steuerbehörde weiterzuleiten. Hat AVG dem Lieferanten im Zusammenhang mit einer Zahlung Steuern gezahlt und erhält später eine Aufforderung der Steuerbehörde, diese Steuern zu zahlen, da sie nicht ordnungsgemäss weitergeleitet wurden, („nicht abgeführte Steuern“) und zahlt AVG die nicht abgeführten Steuern an die Steuerbehörde, erstattet der Lieferant unverzüglich nach Erhalt einer schriftlichen Aufforderung von AVG diese Steuern oder zahlt anderweitig die belegte Höhe der nicht abgeführten Steuern nebst eventuell festgesetzter Bussgelder oder Zinsen an AVG. Zahlt der Lieferant die nicht abgeführten Steuern nebst eventuell festgesetzter Bussgelder oder Zinsen nicht an AVG, hat AVG das Recht, den Betrag der nicht abgeführten Steuern nebst eventuell festgesetzter Bussgelder oder Zinsen gegen jede beliebige Forderung des Lieferanten gegen AVG anzurechnen.

## VI. Qualität und Zusicherungen

1. Der Lieferant sichert zu, dass alle Liefergegenstände nach Massgabe guter Branchenpraxis geliefert oder ausgeführt werden und die Spezifikation erfüllen. Der Lieferant sichert weiter zu, dass jeder Liefergegenstand frei von wesentlichen Mängeln ist und für die beabsichtigte Verwendung geeignet ist, sämtliche einschlägigen Gesetze und Verordnungen einhält, einschliesslich der einschlägigen Gesetze und Verordnungen zum Umweltschutz sowie zum Arbeits- und Unfallschutz.

2. Verletzt der Lieferant die Zusicherung aus Ziffer VI.1, kann AVG nach eigenem Ermessen zu jeder Zeit und zusätzlich zu ihren anderen Rechten aus Gesetz oder Treu und Glauben (a) verlangen, dass der Lieferant auf eigene Kosten innerhalb von fünf (5) Geschäftstagen nach Erhalt der Mängelforderung von AVG den mangelhaften Liefergegenstand erneut durchführt oder repariert oder ersetzt, oder (b) den mangelhaften Liefergegenstand ablehnen und den gezahlten Preis in voller Höhe zurückerhalten.

3. Die Untersuchungs- und Rügeobliegenheiten gemäss Art. 201 bzw. Art. 367 OR (SR 220) sind wegbedungen.

## VII. Rechte am geistigen Eigentum

1. Der Lieferant sichert zu, dass die Liefergegenstände weder die Patente, Urheberrechte, Geschäftsgeheimnisse, Marken oder andere Rechte des geistigen Eigentums eines Dritten verletzen noch zu einer Verletzung durch AVG oder ein Produkt von AVG führen. Der Lieferant verteidigt AVG gegen, entschädigt und stellt AVG und ihre verbundenen Unternehmen für sämtliche Verbindlichkeiten, Kosten, Schadenersatzzahlungen und Ausgaben (einschliesslich Kosten für einen Vergleich und angemessene Rechtsanwaltsgebühren) frei, die in Verbindung mit einer Forderung entstehen, dass (a) die Liefergegenstände Patente, Urheberrechte, Geschäftsgeheimnisse, Marken oder ähnliche Rechte eines Dritten verletzen oder angeblich verletzen, oder (b) die in Verbindung mit

following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, (d) constitute a valid VAT invoice, and (e) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

5. Supplier is obliged to comply with applicable tax legislation, and remit to the relevant tax authority in the form and manner required under the applicable tax legislation all Taxes that Supplier has collected from AVG in connection with any payments made by AVG under this Agreement. If AVG has paid Taxes to the Supplier in respect of a payment and subsequently receives a request from a tax authority to pay such Taxes as they have not been properly remitted thereto ("Unpaid Taxes") and AVG pays the Unpaid Taxes to the tax authority, Supplier will without delay, after the receipt of a written request from AVG, reimburse or otherwise pay the documented amount of Unpaid Taxes plus any assessed penalty or interest to AVG. If Supplier fails to pay the Unpaid Taxes plus any assessed penalty or interest to AVG, AVG is entitled to credit the amount of the Unpaid Taxes plus any assessed penalty or interest against any receivable of Supplier against AVG.

## VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

3. Art. 201 and Art. 367 of the Swiss Code of Obligations shall not apply with respect to AVG's obligation to inspect the Deliverables and complain about any defects.

## VII. Intellectual property rights

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

dem Vertrieb oder der Nutzung der Liefergegenstände entstehen.

2. Geschmacksmuster, Zeichnungen, Modelle, statistische Profile, Datenträger u.ä. sowie Materialien, die AVG zur Verfügung stellt oder auf die AVG eigentumsrechtliche oder gewerbliche Schutzrechte erhebt, verbleiben im Eigentum von AVG („geistiges Eigentum der AVG“). Das geistige Eigentum der AVG kann durch Patent-, Urheber-, Urheberpersönlichkeits-, Geschäftsgeheimnis-, Marken- und andere ähnliche Schutzrechte geschützt sein. Der Lieferant darf dieses geistige Eigentum von AVG (einschliesslich der Liefergegenstände) zu keinem Zeitpunkt und aus keinem Grund ohne vorherige schriftliche Zustimmung der AVG nutzen oder offenlegen, auch nicht nach Ablauf des vorliegenden Vertragswerkes. Weiterhin berechtigt die Nichtbeachtung der vorstehenden Bestimmungen AVG, ohne Schadensausgleich ganz oder teilweise vom Vertrag zurückzutreten.

#### VIII. Versicherung

1. Der Lieferant unterhält auf eigene Kosten eine oder mehrere Policen einer Sachschaden-, Berufshaftpflicht-, Haftpflicht-, Vertrauensschaden-, Fahrzeug- und Transportversicherung sowie einer Versicherung für alle Geräte des Lieferanten auf dem Betriebsgelände der AVG mit einer Schadenssummenhöhe, die sämtliche in Verbindung mit dem vorliegenden Vertragswerk auftretende Schäden, die der Lieferante verursachen könnte, abdeckt.

2. Der Lieferant schickt der AVG auf Aufforderung der AVG einen schriftlichen Nachweis über die Erfüllung seiner Pflicht aus Ziffer VIII.1. Kommt der Lieferant dieser Pflicht nicht nach, kann AVG auf Kosten des Lieferanten im Hinblick auf die in Ziffer VIII.1 genannten Fälle selbst eine oder mehrere Versicherungen abschliessen.

#### IX. Schlussbestimmungen

1. Sämtliche Benachrichtigungen, Anfragen, Aufforderungen, Genehmigungen und andere Kommunikation im Rahmen des vorliegenden Vertragswerkes bedürfen der Schriftform und des Versandes an die im Vertragswerk angegebene Adresse und gelten als ordnungsgemäss der anderen Partei zugegangen: (i) bei persönlicher Zustellung an die im Vertragswerk genannte Adresse, (ii) im Falle des Post- oder Kurierversandes bei Zustellung mit frankierter Post an die im Vertragswerk angegebene Adresse der anderen Partei, (iii) im Falle des Faxversandes bei Versand des Faxes an die Faxnummer zu Händen der im Vertragswerk genannten, für den Kontakt zuständige Person (mit Bestätigung der erfolgreichen Übertragung) oder (iv) im Falle des E-Mail-Versandes (a) an den Lieferanten bei Versand an die im Vertragswerk genannte E-Mail-Adresse oder (b) an AVG bei Versand an **generalnotices@avg.com** (in beiden Fällen soweit keine Fehlermeldung oder Abwesenheitsnotiz zurückgesandt wird). Abweichend von anderen Bestimmungen im Vertragswerk gelten E-Mail-Mitteilungen des Lieferanten an die AVG, die an eine andere Adresse als **generalnotices@avg.com** gesendet werden, nicht als ordnungsgemässe Mitteilung. Änderungen der Adresse für Mitteilungen bedürfen einer Mitteilung im Sinne dieses Abschnitts. Mitteilungen über die Verletzung von Pflichten durch AVG oder Kündigungen des Vertrags sind an **generalnotices@avg.com** mit Kopie an **legalnotice@avg.com** zu senden.

2. Ergänzungen des Vertragswerkes sind nur wirksam, wenn sie in Schriftform vorliegen und von einem ermächtigten Vertreter jeder Partei unterzeichnet sind.

3. Die Auslegung, Wirksamkeit und Erfüllung des vorliegenden Vertragswerkes und sämtlicher nichtvertraglicher Verpflichtungen, die aus oder im Zusammenhang mit dem Vertragswerk entstehen, unterliegen schweizerischem Recht unter Ausschluss der Vorschriften des internationalen Privatrechts.

4. Jede der Parteien unterwirft sich unwiderruflich für einen Anspruch oder eine Streitigkeit im Zusammenhang mit dem Vertragswerk dem ausschliesslichen Gerichtsstand am Sitz von AVG. AVG behält sich zudem das Recht vor, gegen den Lieferanten an dessen Sitz oder vor einem anderen zuständigen Gericht zu klagen.

5. Das Vertragswerk enthält alle Bedingungen, die die Parteien vereinbart haben, und geht allen früheren oder gleichzeitigen Vereinbarungen der Parteien zum vorliegenden Vertragsgegenstand vor.

6. Das Rechtsverhältnis der Parteien ist das unabhängiger Vertragspartner und gilt nicht als Vertretungs-, Joint-Venture-, Partnerschafts- oder anderes Verhältnis. Keine der Parteien ist

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### VIII. Insurance

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### IX. Miscellaneous

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of Switzerland excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the competent (in accordance with German procedural law) courts at AVG's domicile over any claim or matter arising under or in connection with the Agreement. AVG also reserves the right to sue Supplier at Supplier's place of business or at any other competent court.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall

befugt, im Namen der anderen zu handeln, und jede der Parteien handelt als unabhängiger Vertragspartner und kauft für sich selbst, verkauft im eigenen Namen und auf eigene Gefahr.

7. Die Titel in dem Vertragswerk haben keine Auswirkung auf dessen Auslegung. Die Verwendung eines Genus umfasst alle Genera. Der Singular umfasst den Plural und umgekehrt. Ist ein Ausdruck oder eine Phrase definiert, haben dessen oder deren andere grammatischen Formen entsprechende Bedeutung.

8. Gilt eine Bestimmung in dem Vertragswerk gemäss geltendem Recht als rechtswidrig, unwirksam oder nicht durchsetzbar, bleiben die anderen Bestimmungen des Vertragswerkes voll wirksam.

9. Keine der Parteien haftet gegenüber der anderen für eine verspätete Erfüllung oder eine Nichterfüllung ihrer Pflichten aus dem vorliegenden Vertragswerk, soweit dies durch ein Ereignis höherer Gewalt verursacht wurde und wenn die Partei, die das Ereignis höherer Gewalt trifft, (i) die andere Partei sofort schriftlich über den Grund der Spät- oder Nichterfüllung, die voraussichtlichen Auswirkungen auf das vorliegende Vertragswerk und die wahrscheinliche Dauer der Spät- oder Nichterfüllung in Kenntnis setzt und (ii) die Auswirkungen der Spät- oder Nichterfüllung auf die andere Partei nach besten Kräften mildert. Besteht das Ereignis höherer Gewalt für einen längeren Zeitraum als 10 Tage, kann die Partei, die nicht von dem Ereignis höherer Gewalt betroffen ist, das Vertragswerk sofort durch schriftliche Benachrichtigung an die andere Partei kündigen.

10. Das Nichtbestehen einer Partei auf der strengen Erfüllung der Bestimmungen, Bedingungen und Regelungen des Vertrages stellt weder einen Verzicht auf noch eine Freistellung von der zukünftigen Erfüllung des Vertrags dar, und die Bestimmungen, Bedingungen und Regelungen des Vertragswerkes bleiben voll wirksam. Kein Verzicht auf eine Bestimmung oder Bedingung aus dem Vertragswerk durch eine Partei ist wirksam, wenn nicht dieser Verzicht schriftlich vorliegt und von der verzichtenden Partei unterzeichnet ist. Der Verzicht einer Partei auf die Durchsetzung ihrer Rechte wegen der Verletzung einer Bestimmung des Vertragswerkes durch die andere Partei ist weder als ein dauerhafter Verzicht noch als ein Verzicht auf ihre Rechte bei einer späteren Verletzung derselben Bestimmung oder einer anderen Bestimmung durch die andere Partei auszulegen.

11. Der Lieferant ist nicht berechtigt, ohne die Zustimmung von AVG seine Rechte oder Pflichten aus dem Vertragswerk abzutreten oder einen Teil seiner Leistungspflicht aus dem Vertragswerk als Untervertrag abzugeben. AVG kann ihre Rechte ohne die Zustimmung des Lieferanten an ein verbundenes Unternehmen von AVG oder an einen Erwerber von AVG-Anteilen oder Unternehmensbereichen abtreten oder anderweitig übertragen oder ihre Pflichten aus dem Vertragswerk (ganz oder teilweise) an ein verbundenes Unternehmen der AVG oder an einen Erwerber von AVG-Anteilen oder Unternehmensbereichen untervergeben. Das Vertragswerk räumt einer dritten Person (ausser den Parteien) weder ausdrücklich noch konkludent ein Recht oder einen Vorteil irgendeiner Art ein.

12. Keine der Parteien gibt ohne die Zustimmung der anderen das Bestehen oder die Bedingungen des Vertragswerkes oder des Rechtsverhältnisses der Parteien in einer Presseerklärung oder in anderem Werbematerial bekannt (wobei die Zustimmung nicht aus unangemessenen Gründen verweigert oder verzögert werden darf).

13. Auf das vorliegende Vertragswerk findet das Übereinkommen der Vereinten Nationen über Verträge über den internationalen Warenkauf keine Anwendung, dessen Anwendung ausdrücklich ausgeschlossen wird. Tritt in einem Rechtsstreit oder anderweitig eine Unklarheit auf oder wird die Vertragsabsicht oder -auslegung in Frage gestellt, sind die Bestimmungen des Vertragswerkes so auszulegen, als wären sie von den Parteien gemeinsam verfasst worden, und es entstehen keine Vermutungen oder Auswirkungen auf die Beweislast aus der Urheberschaft einer Bestimmung des Vertragswerkes zugunsten oder zuungunsten einer Partei.

act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.

# AVG General Purchasing Terms and Conditions (hereinafter referred to as "Conditions")

## I. General

### 1. Certain Definitions

i. **Agreement:** These Conditions, together with (a) a purchase order or work order issued by AVG and accepted by Supplier (the "Order"), and/or (b) any purchasing agreement, service agreement, or other agreement signed by the Parties (the "Contract"), in each case to which these Conditions are attached or to which these Conditions otherwise apply pursuant to Section I.2, below. Except as the Parties expressly agree in writing, the Agreement does not include the pre-printed terms on any Supplier acknowledgment or other similar business form.

ii. **AVG:** The AVG Technologies entity or entities identified by the Agreement.

iii. **Charges:** The price, fees, costs and charges for the Deliverables (and all ancillary services) as set forth in the Agreement.

iv. **Deliverable:** Any goods, product or service Supplier commits to provide to or for the benefit of AVG under the Agreement.

v. **Force Majeure Event:** Any event which prevents, hinders or delays the performance by a party of its obligations under this Agreement, arises directly from any of the following, and would not have been prevented or mitigated by the affected party's having implemented a commercially reasonable business continuity and disaster recovery plan: (a) an act of God; (b) an act of local government or central government; (c) a war, civil war, armed conflict or acts of terrorism; (d) a blockade or embargo; (e) any chemical, biological or nuclear contamination or ionising radiation; (f) an epidemic; (g) a fire, flood, earthquake or storm, explosion, riot or civil commotion; and (h) an official or unofficial strike, lock-out, go-slow or other industrial dispute affecting a third party (for which a substitute third party is not readily available).

vi. **Good Industry Practice:** That degree of skill care, prudence, fidelity and foresight which would ordinarily be expected of an expert, skilled and experienced leading supplier of services of the same or a similar nature to those relevant services comprised in the Deliverables.

vii. **Party:** AVG or Supplier, as the context requires.

viii. **Specification:** The relevant specification of each of the Deliverables together with any additional specification agreed by the Parties from time to time.

ix. **Supplier:** A party to the Agreement other than AVG.

2. In the event of conflict among the various documents comprising the Agreement, the order of priority for the purposes of construction is, in descending order: the Order, the Contract, and these Conditions.

3. Except as the Parties otherwise agree in writing, these Conditions will also apply to future orders and agreements between AVG and Supplier.

## II. Prices

1. The Charges are fixed for the term of the Agreement and will not increase with inflation or otherwise.

2. The Charges cover all ancillary services and Additional Work required under the Agreement (e.g. freight charges to the "ship to" address, packaging, insurance, inspection costs, and travel and subsistence costs).

3. Unless otherwise provided in the Agreement, the Charges do not include any local, state, provincial, federal or foreign value added taxes, sales taxes, customs duties, levies or governmental assessments of a similar nature which might be chargeable in connection with payments (collectively, "Taxes"), and AVG is responsible for paying all Taxes properly payable on its purchases, excluding taxes based on Supplier's net income or property. AVG may withhold and deduct from any payment due to Supplier all applicable withholding taxes, if and to the extent required by any applicable law, regulation or treaty. Where AVG provides Supplier with proper documentation to support an exemption from Tax, Supplier shall not charge Tax to AVG in accordance with applicable laws.

## III. Delivery time and clauses

1. The delivery times set forth in the Agreement are binding, and time is of the essence. Supplier will not make partial delivery or delivery in advance without AVG's prior written consent. Supplier's need to perform additional work or alterations to meet required Specifications ("Additional Work") shall not entitle Supplier to any

extension of the delivery period, unless AVG consents in advance in writing (including by email).

2. Supplier will promptly notify AVG if Supplier at any time has reason to believe it will be unable to fulfill any of its obligations under the Agreement, or will be unable to do so within the time period scheduled.

3. If Supplier fails to supply any Deliverable on or before the date required by the Agreement, AVG, in addition to such other remedies as may be available at law or equity, may deduct from the Charges an amount equal to 2% of the Charges attributable to the late Deliverables for each week of delayed delivery or part thereof, provided that any such deduction shall not exceed 10% of the aggregate Charges.

4. Unless otherwise expressly agreed, delivery clauses are "DDP" according to the Incoterms 2010.

5. Title to the Deliverables will pass to AVG upon receipt by AVG at the "ship to" or other similar address specified by the Agreement or, if sooner, on the date AVG makes payment for them. If AVG agrees to make whole or partial payment for any Deliverable before delivery, Supplier will clearly identify the Deliverables as property of AVG by visible marking and will keep the Deliverables separated from other goods and materials Supplier may have in its possession.

## IV. Packaging, marking and receiving

The provisions of this Section IV apply to Deliverables that are tangible goods.

1. Supplier will package and pack the Deliverables in a way that protects them from damage and loss of value during transport to the place of delivery and during a reasonable period of storage in a manner suitable for the purpose.

2. Supplier will mark the Deliverables in accordance with AVG's instructions, provided that such instructions do not limit Supplier's obligation to ensure that the Deliverables are also marked in accordance with their properties as regards fragility, weather resistance, etc., and as otherwise required by law. Each shipment must include a packing slip bearing AVG's agreement number (if any), and be accompanied by any relevant user manuals and instructions.

3. Supplier will provide AVG with notice by email when Deliverables are shipped, which notice will specify the expected delivery date and include instructions for any special handling or storage that may be required.

## V. Invoicing and payment

1. Supplier will invoice AVG for Deliverables on the schedule set forth in the Agreement or, in the absence of such a schedule, following complete delivery of the Deliverables. Each invoice must (a) include the applicable AVG Purchase Order number, (b) state the date(s) on which Supplier delivered the Deliverables, (c) separately state any Taxes applicable to the Deliverables, and (d) show in reasonable detail the manner in which the total Charges were calculated.

2. AVG will pay each properly submitted, accurate and undisputed invoice within the payment period specified by the Agreement or, in the absence of such a payment period, within 45 days of receipt of invoice.

3. AVG's payment will not be deemed acceptance of any terms or conditions set forth in Supplier's invoice, acceptance of any Deliverable, or waiver of any warranty or other rights under this Agreement.

4. AVG will have no obligation to pay any amounts not expressly provided by this Agreement or otherwise approved by AVG in advance in writing. Without prejudice to any rights or remedies they may have, AVG reserves the right to set off any amount owing at any time by Supplier against any amount payable by AVG to Supplier under this Agreement. AVG may demand a bank guarantee or another security acceptable to AVG, to be issued at Supplier's cost, for any advance payment of the Charges.

## VI. Quality and warranties

1. Supplier warrants that all Deliverables will be provided or performed in accordance with Good Industry Practice and will comply with the Specification. Supplier further warrants that each Deliverable will be free from material defects and suitable for their intended purposes, conform to all applicable laws and regulations, including without limitation all applicable laws and regulations pertaining to provisions on environmental protection, occupational health and safety.

2. If Supplier breaches the warranty set forth in Section VI.1, AVG, in its sole discretion and in addition to such other remedies as may be available at law or equity, may at any time require that (a) Supplier at its sole cost and expense within five (5) business days of receiving AVG's warranty claim re-perform or repair or replace the defective Deliverables, or (b) reject the defective Deliverables and receive a full refund of the Charges paid for them.

#### **VII. Intellectual property rights**

1. Supplier warrants that the Deliverables will neither infringe nor cause AVG or any AVG product to infringe the patents, copyrights, trade secrets, trademarks or other intellectual property rights of any third party. Supplier will defend, indemnify and hold harmless AVG and its affiliates from and against all liabilities, costs, damages and expenses (including settlement costs and reasonable attorneys' fees) arising from or relating to any claim (a) that the Deliverables infringe or are alleged to infringe any patent, copyright, trade secret, trademark or similar rights of a third party or (b) that arises from or relates to any distribution or use of the Deliverables.

2. Designs, drawings, models, statistical profiles, data carriers and the like as well as any materials furnished by AVG or in which AVG claims any ownership rights or intellectual property rights will remain property of AVG ("AVG Intellectual Property"). All such AVG Intellectual Property may be protected by patent law, copyright law, moral rights law, trade secret law, trademark law, and any and all other similar proprietary rights. Supplier may neither use nor disclose such AVG Intellectual Property (including the Deliverables) at any time, including after the expiration of this Agreement, for any purpose whatsoever without AVG's prior written permission. Furthermore, failure to adhere to the foregoing entitles AVG to withdraw from the Agreement, either in whole or in part, without payment of compensation.

#### **VIII. Insurance**

1. Supplier, at Supplier's own cost, will hold and maintain a policy or policies of insurance which shall include property damage insurance, professional indemnity insurance, public liability cover, fidelity insurance cover, motor insurance, transport insurance and insurance for all Supplier equipment on AVG premises, with a level of insurance coverage which is adequate to cover all losses and liability which may be incurred by the Supplier under the Agreement.

2. Supplier, at AVG's request, will send to AVG written evidence of the Supplier's compliance with its obligations under Section VIII.1. If Supplier omits to do so, AVG may, at Suppliers expense, take out an insurance policy or policies in respect of the matters described in Section VIII.1.

#### **IX. Miscellaneous**

1. All notices, requests, demands, approvals and other communications under the Agreement shall be in writing to the address specified by the Agreement, and shall be deemed to have been duly given to a Party (i) when delivered in person to the address stated in the Agreement; (ii) if given by post or courier, when mailed by the appropriate postal service postage prepaid, or delivered by courier, to the other Party at the address stated in the Agreement; (iii) when sent by fax, when sent to the fax number and marked for the attention of the person stated for communications in the Agreement (with confirmation of successful transmission); or (iv) when emailed (a) if to Supplier, when sent to the email address stated in the Agreement or (b) if to AVG, when sent to **generalnotices@avg.com** (provided in each case that no failure or out of office email is returned). Notwithstanding anything to the contrary in the Agreement, notices sent by Supplier to AVG by email at an address other than **generalnotices@avg.com** shall not constitute notice. Changes to address details for notices shall be given by notice in accordance with this section. Notices claiming breach of AVG's obligations, or giving notice of termination of the Agreement, shall be sent to **generalnotices@avg.com** and also copied to **legalnotice@avg.com**.

2. Amendments to the Agreement shall only be valid if in writing and signed by the authorized representative of each Party.

3. The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the State of New York, U.S. excluding its conflict of laws principles.

4. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the state and federal courts sitting in the State of New York, County of New York, U.S. over any claim or matter arising under or in connection with the Agreement. This section is without prejudice

to each Party's right to seek interim relief against the other Party (such as injunction) through any court of competent jurisdiction, to protect its rights and interests, or to enforce the obligations of the other Party.

5. The Agreement sets out all terms agreed between the Parties and supersedes all previous or contemporaneous agreements between the Parties relating to its subject matter.

6. The relationship between the Parties is that of independent contractors and shall not be deemed to be a relationship of agency, joint venture, partnership or otherwise. Neither Party is authorized to act on behalf of the other Party and each Party shall act as an independent contractor buying for itself, selling in its own name and at its own risk.

7. The headings in the Agreement do not affect its interpretation. The use of any gender includes all genders. The singular includes the plural and vice-versa. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

8. Should any provisions of the Agreement be deemed illegal, invalid or unenforceable under any applicable laws, all other provisions of the Agreement shall remain in full force and effect.

9. Neither Party shall be liable to the other Party for any delay or non-performance of its obligations under this Agreement to the extent it arises from a Force Majeure Event, subject to the party suffering the Force Majeure Event (i) promptly notifying the other party in writing of the cause of the delay or non-performance, the anticipated impact on this Agreement and the likely duration of the delay or non-performance; and (ii) using its best efforts to limit the effect of that delay or non-performance on the other Party. If the Force Majeure Event persists for a period of more than 10 days the Party not suffering the Force Majeure Event may terminate the Agreement immediately by written notice to the other Party.

10. The failure of either Party to insist upon the strict performance of any of the terms, conditions and provisions of the Agreement shall not be construed as a waiver or relinquishment of future compliance with the Agreement, and the terms, conditions and provisions of the Agreement shall remain in full force and effect. No waiver of any term or condition of the Agreement on the part of either Party shall be effective for any purpose whatsoever unless such waiver is in writing and signed by such Party. The waiver by either Party of a breach of any provision of the Agreement by the other Party shall not be construed as a continuing waiver of such breach or as a waiver of other breaches of the same or of other provisions of the Agreement.

11. Supplier may not assign its rights or obligations under the Agreement or subcontract any portion of its performance under the Agreement without AVG's consent. AVG may assign or otherwise transfer its rights or delegate its obligations under the Agreement (in whole or in part) without Supplier's consent to any AVG affiliate, or purchaser of any AVG shares or business unit. Nothing in the Agreement, express or implied, is intended to or will confer upon any person (other than the Parties) any right, benefit or remedy of any nature whatsoever under or by reason of the Agreement.

12. Neither Party shall, without the consent of the other Party (such consent not to be unreasonably withheld or delayed), announce the existence or terms of the Agreement, or the Parties' relationship, in a press release or other promotional material.

13. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event that an ambiguity or question of intent or interpretation arises, in any judicial proceeding or otherwise, the terms of the Agreement shall be construed as having been drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of the Agreement.