

## GENERAL TERMS AND CONDITIONS FOR THE PROCUREMENT OF PRODUCTS AND SERVICES

### 1. Definitions

**1.1.** For the purposes of these General Terms and Conditions, the following words have the meanings assigned to them below:

**Contract:** any agreement concluded with the Supplier and any alteration, addition or any more detailed arrangements such as the Specifications for the procurement of Products or Services thereto;

**Defect:** any deviation from the Specifications or any kind of improper functioning of the Products;

**General Terms and Conditions:** these General Terms and Conditions for the Procurement of Products and Services;

**Items:** all items, documentation, images or materials otherwise, such as models, stamps, drawings, tools or other aids, which TomTom makes available to the Supplier in connection with the Contract;

**Products:** all items, goods, materials, merchandise and any other products (including computer software), data, as stipulated in the Purchase Order or the Contract, which are supplied, delivered or otherwise made available or to be supplied, delivered or made available, to TomTom and/or Supplier in the performance of a Contract;

**Purchase Order:** a written confirmation by TomTom of a quotation, proposal or offer from Supplier sent to Supplier by post mail, fax or email;

**Services:** all services as stipulated in the Purchase Order or the Contract, which are offered, provided or to be provided to TomTom;

**Specifications:** the detailed specifications or description of the Products or Services as agreed to by the parties, including any specifications or descriptions detailed in requests for quotations, requests for proposals, offers and other communications between the parties. Should no such specification or description be provided, the specification will be that which is usual between parties or, should no such specification/description exist, that which generally applies within the sector;

**Supplier:** any (potential) supplier of TomTom;

**TomTom:** TomTom International B.V. and/or TomTom Sales B.V., private companies with limited liability having their official seat in Amsterdam and office at De Ruijterkade 154, (1011 AC) Amsterdam, the Netherlands, TomTom Global Content B.V., a private company with limited liability having its official seat at Luchthavenweg 48, 5657 EB Eindhoven, the Netherlands, or any other legal entity part of the TomTom Group, the user of these General Terms and Conditions;

**TomTom Group:** TomTom N.V. and any of its affiliates. Affiliates in this respect means, any other entity controlling, controlled by or under common control with TomTom N.V. The terms “control”, “controlling” and “controlled”, shall mean the legal, beneficial or equitable

ownership, directly or indirectly, of more than 50% of the issued share capital or more than 50% of the voting rights, or the power, directly or indirectly, to appoint a member of the board of directors or similar governing body.

### 2. Scope

**2.1.** These General Terms and Conditions apply to all requests for quotations, proposals and offers, all orders, agreements and other legal relationships (including Purchase Orders, Contracts and non-contractual or pre-contractual relationships) between the parties in respect of the ordering, procuring, receiving, providing, purchasing, supplying or otherwise making available of Products or Services, except to the extent that TomTom has deviated from these General Terms and Conditions in writing.

**2.2.** A TomTom entity, other than the TomTom entity defined in Section 1, may conclude a Contract based on these General Terms and Conditions with the Supplier in its own name. These General Terms and Conditions will apply unless the relevant TomTom entity timely informs Supplier in writing that these General Terms and Conditions will not apply.

**2.3.** TomTom rejects the applicability of the Supplier’s general terms and conditions.

**2.4.** When the parties enter into any order, agreement or other legal relationship to which these General Terms and Conditions apply, Supplier shall be considered to have agreed to the applicability of these General Terms and Conditions for future orders, agreements and legal relationships regarding the procurement of Products or Services.

### 3. Conclusion and Contract term

**3.1.** Any requests by TomTom to Supplier for the submission of a quotation, proposal or offer are not binding upon TomTom. TomTom may request changes or amendments to the Supplier’s quotation, proposal or offer as well as to the Specifications without being bound by such request for change or amendment.

**3.2.** Contracts are concluded only after TomTom has accepted the Supplier’s (final) quotation, proposal, or offer by issuing a Purchase Order. If the Supplier starts to perform the provisions of the quotation, proposal or offer without first having received a relevant Purchase Order, Supplier does so at its own expense and risk. TomTom is not obliged to award a Purchase Order or Contract to any quotation, proposal or offer nor to reimburse the costs of any such quotation, proposal or offer.

**3.3.** If the parties have an active framework agreement, a Contract is concluded each time after TomTom issues a Purchase Order for the provision of (part of) a Product and/or Service.

**3.4.** The Supplier shall inform TomTom without undue delay of any suspected errors and/or ambiguities in requests and/or documents.

**3.5.** Contracts shall be effective for the term as detailed in the Specifications and/or the Purchase Order, unless sooner terminated in accordance with these General Terms and Conditions.

#### **4. Prices and payment**

**4.1.** All prices quoted by Supplier shall be fixed, on a time and material basis or as otherwise detailed or agreed to in the Specifications and/or the Purchase Order, expressed in euros (unless stated otherwise), without prejudice and subject to these General Terms and Conditions, exclusive of VAT but inclusive of any other taxes, incidental costs and/or expenses.

**4.2.** All prices will be increased by VAT at the appropriate rate, if applicable in compliance with the binding law provisions. Prices will include the provision of all materials and all preparatory and other work necessary to comply with the requirements and descriptions set out in the Contract and/or the Specifications. All prices include the costs for standard packaging, transportation of equipment and personnel, insurance, import duties and customs, unless explicitly agreed otherwise in writing.

**4.3.** With the exception of the terms in Section 6, prices are not subject to change, unless explicitly agreed by TomTom in writing.

**4.4.** The payment of an invoice shall be made within sixty (60) days of the date of invoice, unless agreed otherwise, by transferring the amount due to the bank account stipulated by Supplier. Invoices for Products will not be sent until Supplier has fully and correctly performed the Contract in accordance with the Specifications. Invoices for Services will be submitted on a monthly basis to TomTom covering Services rendered during the preceding month, unless explicitly agreed otherwise. Payment of an invoice by TomTom does not imply TomTom's acceptance of the performance of the Contract by Supplier in accordance with the Specifications.

**4.5.** At a minimum, the Supplier's invoice shall contain (i) a summarized description of the Services performed during the preceding month and the period during which they were provided and/or (ii) a description of the Products, the quantities supplied and the respective Purchase Order number. The invoice must be addressed to the correct TomTom legal entity. TomTom may return incorrect or incomplete invoices.

**4.6.** TomTom may require the Supplier to provide sufficient security if doubts arise with regard to the Supplier's creditworthiness.

**4.7.** TomTom may, without judicial intervention, and without prejudice to any other rights that TomTom may have under the Contract or applicable law, to offset and/or

suspend payment, if a company in TomTom Group has or will have a claim, which may or may not be enforceable, against the Supplier or a company affiliated to the Supplier.

#### **5. Delivery and time for performance**

**5.1.** Delivery of Products will be deemed to have occurred once the Products are stored on the premises designated by TomTom (Delivery Duty Paid, Incoterms 2010), unless otherwise agreed. Delivery of Products must occur during normal working hours.

**5.2.** The Supplier acknowledges that the agreed timelines and time for performance of the Contract, and/or any further deadlines or timelines specified, are of essential importance to TomTom.

**5.3.** The Supplier will be deemed to be in default by exceeding the agreed deadlines or timelines for performance. Penalties agreed on for such default event will be without prejudice to TomTom's other rights including its right to demand compliance and its right to the payment of damages by the Supplier. Supplier cannot deduct said penalties from any such payment of damages to TomTom.

**5.4.** By providing a written statement to the Supplier, TomTom may defer performance of the Contract for a period to be specified. In such event, Supplier shall store the Products in a suitable location on TomTom's behalf, separate from any other goods, insuring the Products and taking measures to prevent damage or loss. TomTom will make a reasonable payment to the Supplier in regards to such storage, measures, and insurance. TomTom may issue further instructions upon commencement of the Contract concerning work hours and time schedules, as well as to the precise location on the site where the Services should be performed.

**5.5.** If in the performance of the Contract, there is a risk of a delay occurring in relation to the agreed delivery date or timelines for provision of the Services, the Supplier will take adequate measures on its own initiative and without undue delay, such as for example, employ extra staff in order to make up for any (potential) delays, and/or to prevent delays from occurring. The Supplier shall promptly report to TomTom in writing any (potential) delays and their corresponding actions. Without prejudice to the above, the Supplier will be in default without any further notice of default being required, if any of the agreed delivery date(s), timeline(s) or implementation period(s) relating to the performance of (part of) the Contract are exceeded and TomTom is entitled to terminate the Contract with immediate effect, notwithstanding any of TomTom's other rights hereunder.

**5.6.** Performance of (part of) the Contract prior to the delivery date or agreed time for performance may only occur after TomTom's written permission and will not affect the agreed payment period.

**5.7.** Considering the nature of the Products and the means of transport, Supplier shall suitably package Products for shipment. Supplier is liable for damage resulting from or related to improper packaging of the Products.

**5.8.** Products delivered not in accordance with the Contract and/or the Specifications may be returned at the Supplier's expense and risk. At its own expense, Supplier is responsible for the removal of any waste, if any.

**5.9.** Performance of a Contract includes delivery of all accompanied tools and documents such as, but not limited to, (guarantee-) certificates, drawings, quality reports, and maintenance/instruction guidelines.

**5.10.** Unless otherwise agreed in writing, Supplier is not entitled to perform a Contract in part(s), in which case these General Terms and Conditions apply to such a partial delivery or partial performance.

## **6. Contract performance**

**6.1.** The Supplier shall perform the Contract strictly in accordance with the Specifications and other relevant contractual arrangements in good workmanlike manner.

**6.2.** The Contract will be performed on a non-exclusive basis. Parties agree that Supplier and Supplier's personnel render the Services as independent parties and are not authorized to act as TomTom's agent or representative or to represent that it or they are entitled so to act. The parties agree that no employment relationship exists between them and/or Supplier's subcontractors by virtue of Supplier's or Supplier's subcontractor's personnel providing Products and/or Services under the Contract.

**6.3.** The Supplier warrants that it, its staff, and any third parties which it engages shall conduct themselves on TomTom's sites and premises in accordance with the regulations and rules of conduct applying there, for example in respect of security, safety, and health, and that they will follow any instructions and/or guidelines with which they are issued in that regard and sign the necessary statements (or cause such to be signed). TomTom may suspend the provision of the Services if the aforementioned regulations/rules are not observed.

**6.4.** Supplier shall use its best efforts to minimize any adverse impact on the scheduled time and projected cost of the project that may be caused by the removal or replacement of any of its personnel or materials from a project or site.

**6.5.** TomTom may request the Supplier to submit regular reports showing the progress of the Services.

## **7. Testing and inspection**

**7.1.** TomTom may assess, test and/or inspect how the Contract is being performed (or to have others to do so). TomTom may take reasonable measures, including inspecting (or having others inspect) the locations where

the Contract is being performed (either in full or in part) and conducting (or having others conduct) an audit of the Supplier's records.

**7.2.** TomTom will inspect Products within a reasonable period after delivery. If TomTom rejects the Products or should it later appear, in TomTom's reasonable assessment, that the Products do not conform with the requirements set for them pursuant to the Contract, TomTom, without prejudice to any of its other rights, may give the Supplier the opportunity to rectify and/or repair the Defects, at the Supplier's expense and risk and at TomTom's first request. Any additional costs for dismantling, transport, reproducing or reassembly will be at the Supplier's expense.

**7.3.** Acceptance of the provision of (part of) the Services will have no further significance than that, in TomTom's provisional assessment, the provision of (that part of) the Services is in accordance with the Contract. Such acceptance will not preclude TomTom from invoking the Supplier's non-compliance with its warranty obligations referred to in Section 9 or any other obligation vis-à-vis TomTom.

**7.4.** If TomTom reasonably determines that the Services are not provided in conformity with the Contract requirements or should it later appear, in TomTom's reasonable assessment, that the Services have not so been provided, TomTom, without prejudice to any of its other rights, may give the Supplier the opportunity to provide the Services again in accordance with the Contract, at the Supplier's expense and risk. Supplier shall be responsible for any additional costs related to additional provisions of Services.

**7.5.** If in TomTom's assessment timely replacement and/or repair of the Products and/or re-rendering of the Services is impossible, impractical and/or if the Supplier fails to comply, within the period set by TomTom, with the request referred to in Sections 7.2 or 7.4 respectively, the Supplier shall refund TomTom the amounts it received from TomTom in relation to the concerned Products and/or Services.

**7.6.** TomTom will inform Supplier promptly if (a part of) performance of the Contract is rejected, and such notification will be deemed to be a notification of default. If the Contract contains a fixed time for performance, Supplier will be in default with immediate effect.

## **8. Ownership and risk**

**8.1.** Subject to section 8.3, all Products, goods and deliverables developed and/or manufactured by the Supplier in the course of performing the Contract, including but not limited to drawings, sketches, molds, templates, prototypes, the corresponding documentation and other resources, will become TomTom's property upon their manufacture.

**8.2.** TomTom acquires ownership of the Products the moment they are delivered in accordance with the Contract or otherwise become available to TomTom.

**8.3.** TomTom acknowledges that in performing the Services, Supplier may utilize proprietary works, including software, tools, specifications and other materials, that were developed by Supplier or a third party prior to the start of or outside of the Contract and that were not created specifically for TomTom. Unless otherwise specified in the Contract, to the extent Supplier incorporates these preexisting materials into the deliverables, Supplier grants TomTom a perpetual, royalty-free, irrevocable worldwide right and license to copy, modify, distribute and use preexisting materials to the extent incorporated in, contained in or reasonably required for the use or operation of the deliverables.

**8.4.** The Supplier is liable for all losses and/or damages arising out of or resulting from the Products, goods or deliverables and/or for any losses of and damages to such Products, goods and deliverables until the moment they are delivered in accordance with the Contract.

**8.5.** Should it be agreed, in deviation from the provisions of Section 4.4, that full or partial payment will be made for partial performance of the Contract at an earlier point than there referred to, TomTom will, by making an advance payment and without any more specific act of delivery being required, acquire ownership of all Products, materials, raw materials, or semi-manufactures used by the Supplier to perform the Contract or intended for that purpose. The Supplier must provide said Products, materials, raw materials, or semi-manufactures, free of charges and third-party rights, and to store them separately on TomTom's behalf. Supplier remains liable in accordance with Section 8.4 after the transfer of ownership pursuant to this Section 8.5.

**8.6.** The Supplier has no right of retention or right to postpone obligations in respect of ordered Products and/or Services.

## **9. Warranty**

**9.1.** The Supplier warrants at least the following:

**9.1.1.** the Products and Services are suitable for the purpose for which the Contract was concluded, insofar as the Supplier was aware of that purpose or could have been aware of it;

**9.1.2.** Supplier will exercise due professional care, skill, diligence and competence in accordance with applicable professional standards and will perform the Contract entirely in accordance with the Specification(s);

**9.1.3.** Supplier's employees and third parties, which Supplier may make use of for the performance of the Services, are of sufficient qualification and will comply with any agreed qualification requirements

relating to training, expertise and experience and will continue to do so for the duration of the Contract;

**9.1.4.** the Products and materials used in the provision of the Services are of reasonable quality within the industry and the Specifications, fit for purpose and provide the adequate level of safety, health, welfare and environmental standards;

**9.1.5.** the Products and materials used in the provision of the Services are in accordance with any samples, models or drawings as regard their quantity, description, quality and performance, are produced according to the latest technology and are new, of the highest possible quality, free of faults in regards their design, processing, manufacture, construction, and dimensions, free of Defects and third party rights;

**9.1.6.** all applicable national and international laws and regulations regarding the Products (or their manufacture, packaging, and/or exportation) and Services have been and will be complied with strictly; and

**9.1.7.** the Products and Services otherwise comply with the requirements reasonably set for them or as informed by TomTom from time to time.

**9.2.** The conditions laid down in this Section 9 do not affect TomTom's other rights.

## **10. Specific warranties for Products**

**10.1.** Ordered Products will be deemed inadequate within the meaning of Section 9.1 if Defects occur within the agreed Warranty Period, as defined in Section 10.3, unless such Defects are the result of normal wear and tear or such Defects are caused by TomTom.

**10.2.** Without prejudice to TomTom's right to the payment of costs, damages or interests, if Defects occur within a period of two years following delivery of the Products ("Warranty Period"), Supplier shall remedy such Defects at its own risk and expense within ten calendar days after receipt of Defect notification by TomTom. The Warranty Period will be extended by a period equal to the period(s) during which the Products were not used or could not be fully used as a result of a warranty failure. The Warranty Period will recommence for Products provided as replacements of the defect Products and replaced or repaired parts of these Products, including those parts of the Products on which replaced or repaired parts may be of influence.

**10.3.** If during the Warranty Period a Defect arises, TomTom reserves the right either to return the Products and demand repayment of the amount paid for the Products, or to demand that the Products in question be replaced or repaired, all at the Supplier's expense.

## 11. Confidentiality

**11.1.** Supplier undertakes to keep strictly confidential and not to divulge, disclose or otherwise furnish, directly or indirectly, to any third party any information disclosed by or in relation to TomTom that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential, unless explicitly permitted herein or required by law. The provisions of this Section 11 will not apply to any information, which Supplier can demonstrate:

**11.1.1.** is or becomes public knowledge other than by breach of this Section; or

**11.1.2.** is in the possession of Supplier without restriction in relation to disclosure before the date of disclosure by TomTom; or

**11.1.3.** is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.

**11.2.** Supplier shall impose the obligations under this Section to its personnel and any third party assigned by Supplier for the fulfilment of Supplier's obligations under a Contract.

**11.3.** Supplier shall not make any public announcement with respect to a Contract or any ancillary matter without TomTom's prior written consent.

## 12. Intellectual property rights

**12.1.** The Supplier guarantees that the performance of the Contract, the use of the Products and/or the rendering and the receipt of the Services or the receipt, possession or use by TomTom of the results of the Services or of any goods or deliverables as part of the Services do not infringe any patent, trademark, design, drawing rights, copyright, database, trade name or any other absolute or proprietary (intellectual) right of TomTom or any third party. Supplier indemnifies and holds TomTom harmless against and in relation with any such infringement, including claims in respect of know-how and unauthorized competition. The Supplier shall impose the same obligations upon third parties assigned by the Supplier for the performance of the Contract.

**12.2.** If during performance of the Contract, the use of the Products and/or Services and/or TomTom's receipt, possession or use of the results of the Services or of any goods or deliverables as part of the Services results in a claim alleging infringement of a third party's intellectual property rights, Supplier shall undertake to, at its own expense and without prejudice to TomTom's rights of termination or otherwise:

**12.2.1.** replace or alter such Products, Services, results, goods or deliverables (or the relevant component thereof) with non-infringing Products, Services, results, goods or deliverables, whereby the

alteration and/or replacement will not result in any restriction in TomTom's possibilities for use;

**12.2.2.** obtain a license to use the Products, Services, results, goods or deliverables (or the relevant component thereof) from the relevant third party; and/or

**12.2.3.** cease rendering the Service and/or take back the Products, results, goods or deliverables (or the relevant component thereof) against payment of TomTom's costs, damages and interest.

**12.3.** To the extent that the Products, results of the Services or any goods or deliverables provided to TomTom as part of the Services include third party's intellectual property rights, Supplier grants to TomTom and warrants that it is entitled to grant to TomTom an irrevocable, perpetual, worldwide, fully paid-up license to use those Products, Services, results, goods or deliverables for any purpose (unless the parties agree otherwise) without any additional expense. In the event additional licenses or additional expenses are required, TomTom may agree on terms directly with the third party and charge the additional expenses back to the Supplier.

**12.4.** All intellectual property rights resulting from a Contract or in the Services, results of the Services or any goods or deliverables provided to TomTom as part of the Services, will vest in TomTom, except for the third party rights as referred to in Section 12.3 provided that such rights were not created as part of the Contract or Services or specifically for TomTom. These rights are transferred to TomTom by virtue of the Contract, which transfer is accepted by TomTom, now for then immediately following the creation of these rights. In so far as instrument(s) are required for the transfer of such rights, the Supplier irrevocably authorizes TomTom to have such instrument(s) drafted, and to sign on behalf of the Supplier, without prejudice to the Supplier's obligation to co-operate in the transfer of such rights at TomTom's first request, without being able to impose conditions on this. The Supplier irrevocably authorizes TomTom to have transfer of these intellectual (property) rights entered in the appropriate registers. The Supplier surrenders to TomTom all so-called 'moral rights' that may accrue to the Supplier, to the extent to which the applicable regulations allow such surrender.

## 13. Data protection

The Supplier shall at all times comply with its respective obligations under the provisions of all applicable laws and regulations relating to privacy, data protection and data security, including with respect to the collection, storage, transmission, transfer, disclosure and use of personal data.

**14. Items**

**14.1.** TomTom remains the owner of all Items. The Supplier shall use the Items only for the proper performance of the Contract and shall not authorize or permit third parties to make use of them. Unless it has received TomTom's written consent, the Supplier shall refrain from any act or omission relating to the Items, such that TomTom loses the ownership thereof by means of specification, accession, confusion, or in any other manner. The Supplier undertakes that the Items shall not be encumbered or burdened with any third party rights.

**14.2.** The Supplier will not have any right of retention or right to postpone obligations in respect of the Items.

**14.3.** The Supplier shall adequately insure the Items in TomTom's favor, at Supplier's expense, against any damage resulting from the Items being partly or wholly lost or damaged, regardless of the cause.

**14.4.** The Supplier will be granted a strictly personal, non-transferable and non-exclusive license to use the Items for the term of the Contract in the manner referred to in this Section. TomTom retains all its rights of intellectual property and know-how in respect of the Items.

**14.5.** Supplier shall use the Items entirely on its own risk and shall return the Items to TomTom in good condition without undue delay upon TomTom's request, completion of the Contract, or at an earlier time if this can be reasonably expected of the Supplier.

**15. Maintenance and spare parts for Products**

**15.1.** Supplier shall keep in stock parts for the delivered Products for a period that is reasonable within the industry, even if the Products are discontinued and no longer in production. The sale of spare parts shall be at prices considered reasonable within the industry. Supplier shall notify TomTom of parts for the delivered Products reaching its end of life a minimum of ninety (90) days before its end of life date.

**15.2.** Supplier warrants that it can maintain supply of the Products for a minimum of three years after TomTom's acceptance.

**16. Assignment and subcontracting**

**16.1.** Unless TomTom has provided prior written permission, the Supplier is not permitted to assign the Contract, or any part thereof, or rights or claims ensuing from the Contract, to third parties, nor to transfer or pledge these.

**16.2.** TomTom may assign any of its rights relating to its operation of the Contract or delegate any of its duties, if such assignment or delegation is to an affiliate in the TomTom Group.

**16.3** In all cases of subcontracting, the subcontracting party shall be responsible for the acts and omissions of each subcontractor (including its employees) to the same extent

as if such acts or omissions were by the subcontracting party or its employees and shall be responsible for all fees and expenses payable to any subcontractor.

**16.4** In all cases of subcontracting, prior to the commencement of any work by any subcontractor, the subcontracting party shall enter into a written agreement with such subcontractor binding the subcontractor to terms that are at least as protective of the rights of the other party to these General Terms and Conditions.

**17. Liability**

**17.1.** The Supplier is liable for and indemnifies and holds TomTom harmless against any and all direct losses or damages whether in contract, tort, breach of statutory duty or otherwise resulting from or in connection with the performance or non-performance of the Contract, regardless of whether said loss or damage is caused by the Supplier itself, its staff, by other persons whom the Supplier engaged in performance of the Contract or any other third parties and regardless of whether TomTom could have foreseen the possibility of such loss or damage.

**17.2.** Neither Party excludes liability in respect of (i) loss or damage caused by willful intent or gross negligence, or (ii) injuries to or death of any person, caused by any of its officers, employees, agents or contractors.

**18. Force majeure**

**18.1.** Force majeure is understood to mean circumstances that prevent fulfilment of the Contract and which are not attributable to Supplier. Supplier shall report a (potential) force majeure situation to TomTom in writing within three calendar day of its occurrence. Excluded from force majeure are, at least, the following events:

**18.1.1.** strike at the Supplier's facilities;

**18.1.3.** transportation problems;

**18.1.4.** failure to obtain equipment, materials, and/or (third party) services required for the proper fulfilment of the Contract, unless caused by circumstances that cannot in fairness be attributed to Supplier;

**18.1.5.** late and/or scarcity of deliveries by Supplier's suppliers; and/or

**18.1.6.** incomplete or incorrect deliveries by Supplier's suppliers.

**18.2.** During a force majeure situation, the Supplier's obligations are suspended. Should the period in which Supplier cannot fulfill its obligations as a result of the force majeure situation continue for longer than thirty (30) calendar days, TomTom may terminate the Contract without an obligation to pay any compensation arising out of or in connection herewith.

## 19. Termination and suspension

**19.1.** Unless otherwise agreed in writing, in the event that Supplier fails to perform any of its obligations under the Contract, TomTom may send Supplier a notice of default, allowing the Supplier a reasonable period to cure the default.

**19.2.** In the event (i) Supplier fails to cure within the reasonable period as set out in the notice of default, (ii) Supplier misses a deadline or performance is temporarily or permanently impossible, (iii) Supplier can be reasonably assumed not to perform the Contract properly or at the agreed delivery date or time for performance, (iv) Supplier is declared bankrupt, granted a suspension of payment, or goes into liquidation, (v) Supplier is repossessed, closed down or wound up or presented with a petition thereof, (vi) of the application for an order or application for the appointment of a receiver (including an administrative receiver), administrator, trustee or similar officer in respect of the Supplier, (vii) a receiver, administrative receiver, administrator or similar office is appointed over all or any part of the assets or undertaking of the Supplier, (viii) the Supplier makes a composition with its creditors generally or an assignment for the benefit of its creditors or other similar arrangement, (ix) Supplier ceases, or threatens to cease, to carry on business, TomTom is, without prejudice to any of its other rights, entitled to:

**19.2.1.** wholly or partly terminate the Contract and/or the Purchase Order by notifying Supplier to that effect and without any further notice of default being required and without any liability for TomTom arising out of or related to such termination;

**19.2.2.** to suspend its obligations, including payment;

**19.2.3.** to require the Supplier to repeat performance of the Contract at the Supplier's expense;

**19.2.4.** to reverse the performance of the Contract at the Supplier's expense and risk; and/or

**19.2.5.** to allow TomTom or a third party nominated by TomTom to repeat or reverse the performance of the Contract at the Supplier's expense and risk.

**19.3.** TomTom may, without prejudice to any of its other rights arising hereunder or under the terms of any Contract terminate the Contract with immediate effect if a businesses that competes with TomTom has (directly or indirectly) become holder of more than fifty percent (50%) of the shares in Supplier's share capital or is capable (directly or indirectly, whether or not pursuant to an agreement with other persons or entities with voting rights) of exercising more than the aforementioned percentage of the voting rights in the general meeting of Supplier.

**19.4.** If TomTom terminates the Contract early, TomTom can reclaim all payments it has made to the Supplier as having been unduly paid. Insofar as the Supplier's performance at the moment of dissolution is not open to repayment and if it otherwise complies with the

Contract, the Supplier may be entitled to a payment, based on the value of the performance and determined in all reasonableness, less the amount which TomTom can claim from the Supplier in respect to the shortcoming and/or the termination. Insofar as repayment is possible, TomTom is entitled to retain the portion of Contract which has been performed in return for a payment as referred to above or to return it to the Supplier at the Supplier's expense and risk, such being without prejudice to any exercise of the rights referred to in Section 7.

**19.5.** If TomTom owns Products it desires to return in accordance with Section 19.4, TomTom retains ownership even after termination of the Contract whereby it acquired ownership, such being within the limits set out in the applicable law, as security for the payment of everything that it may be able to claim from the Supplier. Should TomTom not be the owner of the Product, TomTom will acquire a right of pledge in respect thereof to serve as security.

**19.6.** Upon termination of a Contract, the Supplier shall offer due assistance to enable TomTom or a third party to continue the provision of the Services. At its own expense, the Supplier shall return to TomTom all Items, materials, specifications and/or other information relating to these Services in Supplier's possession. All TomTom's claims on Supplier become immediately due and payable upon the termination of a Contract.

**19.7.** The parties agree TomTom is not be liable to pay any severance payment or compensation to the Supplier for loss of profit or loss of goodwill or for any other loss or damage howsoever arising as a result of the termination of a Contract.

## 20. Taxes and social security

**20.1.** The Supplier is and shall remain responsible and liable for fulfilling all of its tax and social security obligations and all of the tax and social security obligations of its subcontractors. Supplier shall indemnify TomTom against all claims in relation to these matters.

**20.2.** If the Supplier fails to pay, deduct or transfer VAT, other sales taxes, wage tax, social security contributions or employee's insurance contributions or fails to do so in due time, TomTom may immediately terminate the Contract.

**20.3.** As TomTom's request, the Supplier shall provide declarations proving payment of the taxes and contributions as referred to in Section 20.2 (Statements of Payment History - *Verklaringen Betalingsgedrag*). At TomTom's request, the Statements of Payment History may be extended to third parties used by the Supplier in the performance of the Contract. The Statements of Payment History must be issued by tax authorities (*Belastingdienst*) and be certified as original. If the Supplier does not comply with these obligations, TomTom may withhold payments to the Supplier and terminate the Contract with immediate

effect. TomTom may allow the Statements of Payment History to be provided in the form of a statement by an auditor appointed in consultation with TomTom.

**20.4.** If Supplier is a sole-trader, sole practitioner or a management company owned by an individual who will perform the Services and falls within the scope of the Dutch tax regime, the parties agree that they act in accordance with the provisions as proscribed in the template agreement drafted by the Dutch tax authorities, registered as Nr. 9015550000-06.

**20.5.** TomTom may request the Supplier to open a blocked account (*G-rekening*) to allow TomTom to deduct the taxes and/or social security contributions, as referred to in Clause 20.2, from any amounts due to the Supplier and transfer these amounts to the blocked account for payment to the tax authorities.

**20.6.** The Supplier shall impose on its subcontractors the same obligations as those contained in this Section 20.

## **21. Conversion partial invalidity**

In the event that any provision of these General Terms and Conditions, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of these General Terms and Conditions will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

## **22. Authority to amend**

No amendment to these General Terms and Conditions is effective unless it is in writing and signed by an authorized representative of each party.

## **23. Waiver**

The rights of either party under any Contract are without prejudice to all other rights and remedies available to either party. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition or to exercise any right or remedy consequent upon a breach thereof will constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

## **24. Interpretation**

**24.1** In these General Terms and Conditions:

**24.1.1.** Where the context so requires words denoting the singular include the plural and vice versa;

**24.1.2.** References to each party herein include references to its successors in title, permitted assigns and novates; and

**24.1.3.** References to “including” and “include” will be deemed to mean “including without limitation” and “include without limitation” respectively; and

**24.1.4.** References to termination include reference to expiry.

## **25. Survival**

Termination or expiration of these General Terms and Conditions will not terminate or otherwise affect any rights or obligations of a party that either expressly or by their nature survive termination or expiration.

## **26. Relationship of the parties**

Nothing contained in these General Terms and Conditions will create any association, partnership, joint venture, or principal and agent relationship between the parties or be construed to evidence the intention of the parties to constitute such.

*(Intentionally left blank)*



**27. Disputes and governing law**

These General Terms and Conditions will be construed as to both validity and performance and enforced in accordance with and governed by Dutch law. Any action brought by either party against the other concerning the transactions contemplated by the Contract must be brought exclusively in a competent court in Amsterdam, the

Netherlands which will have exclusive jurisdiction in respect of any such disputes. The parties agree to submit to the jurisdiction of such courts. The application of the United Nations Convention for the International Sale of Goods (CISG) is excluded.

By signing this form Supplier hereby accepts and agrees to the terms and conditions as stated in this General Terms and Conditions for the Procurement of Products and Services.

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Telephone:** \_\_\_\_\_

**eMail:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Name (printed):** \_\_\_\_\_

**Position/Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_