



SOFTWARE LICENCE AND MAINTENANCE AGREEMENT of 4PS GROUP B.V. hereinafter referred to as 4PS ®

in conjunction with the

MICROSOFT Product Terms for Online Services

Authorised Microsoft Dynamics 365 Business Central partner for Registered 'Add-on Software'
4PS CLOUD– (C-Configuration)

PART A - LICENSING CONDITIONS

1. The software of 4PS and Microsoft

- 1.1. For this agreement should also the following companies be included as '4PS Group': 4PS Bouw B.V., 4PS Installatie B.V., 4PS GWW B.V., 4PS Beheer B.V., 4PS Development B.V., 4PS International B.V., 4PS Belgium N.V. So wherever this agreement says '4PS Group', should also these companies be read.
- 1.2. The 4PS Software (hereinafter the **Software**) has been built as 'Add-on software' onto Microsoft's software (**Business Central Software**).
- 1.3. They are licensed or, as the case may be, rented out to the Customer and maintained based on the 4PS software licence and maintenance agreement (abbreviated to: **SLMA**).
- 1.4. 4PS has been **authorised** by Microsoft to supply the Business Central Software to the Customer and to use the Business Central Software for Software developed by 4PS itself based on this.
- 1.5. 4PS therefore commits itself to Microsoft's licensing and maintenance and support conditions for the use of its Online Services.
- 1.6. The applicable **Microsoft Product Terms** are online accessible via <https://www.microsoft.com/licensing/terms/productoffering>. You may first receive a page 'Product Terms', on which you have to select the blue words 'Product Offerings'. You are now on the correct web page and select the program '**Microsoft Customer Agreement**' in the blue bar at the top. The following products of the Online Services are applicable:
 - Microsoft Azure
 - Microsoft Power Platform
 - Microsoft 365
 - Microsoft Dynamics 365 Services
 - Office 365 Services.
- 1.7. These Microsoft Product Terms can change with the passage of time, and to which the Customer agrees in advance, or otherwise has two months to cancel as from this time.
- 1.8. The "**Commencement Date**" of this Agreement is as agreed in the Contract between 4PS and Customer.
- 1.9. This Agreement determines the licensing conditions in **Part A**, and the maintenance conditions for the Software and Business Central Software in **Part B**.
- 1.10. The Customer hereby declares to accept the **SLMA** and the Microsoft Product Terms. Therefore, the Customer undertakes vis-à-vis 4PS to sign the Microsoft Product Terms provided by Microsoft.
- 1.11. In case of a conflicting interest between the SLMA on one hand and the Microsoft Product Terms on the other, the Microsoft Product Terms will prevail, with the exception of the articles in the SLMA regarding the Intellectual Property of the 4PS Software.
- 1.12. 4PS makes the Software and Business Central Software available to the Customer 'remotely' (software-as-a-service / SAAS) in cooperation with Microsoft. Depending on the starting position of 4PS or the Customer with Microsoft, this will be distinguished in C1 or C2-configurations, which system is designated as **4PS-Cloud**.
- 1.13. Where 4PS offers the 4PS-Cloud, this is contractually designated as either a purchase license (in case of purchase) or a **4PS-Subscription** (in case of Subscription).
- 1.14. Where Microsoft supplies its Azure software for use, this is designated as an **Azure-Subscription**.
- 1.15. Based on the Azure-Subscription, either 4PS (designated as C1-configuration), or the Customer (designated as C2-configuration) will have the Azure

software (hereinafter “**Azure-environment**”) at its disposal.

1.16. In the **C1-configuration** (or shared customer-environment), 4PS has already situated the Software and Business Central Software in its Azure-environment to connect to a Customer.

1.16.1. The Customer will acquire a partition of the Azure-environment of 4PS, but 4PS will remain its manager.

1.16.2. From its Azure-environment, 4PS will supply its Software and the Business Central Software to multiple Customers simultaneously in multiple partitions.

1.17. The Customer will also be referred to as ‘**the Tenant**’. Multiple C1-configurations will be designated as ‘**Multi tenant**’.

1.18. With the **C2-configuration** (customer-specific environment) the Customer will have its own Azure-environment at its disposition, but not yet the Software and the Business Central Software. As the manager of its Azure-environment, the Customer firstly grants 4PS access via its ‘Dedicated Administrator Permission’, upon which 4PS sets this up and manages it using the Software and Business Central Software.

1.18.1. An Azure-Subscription remains a requirement for the Customer where a C2-configuration is concerned.

1.19. For the functioning of the **4PS-Cloud**, the Customer will follow Microsoft’s availability.

1.20. Where the **4PS-Cloud** is concerned, the 4PS-Cloud standard Service Level Agreement will apply unless agreed otherwise in a Customer-Specific Service Level Agreement (**C-SLA**). In this case, the Customer is not obliged to migrate as a Tenant to new versions and updates, and another migration and price policy will apply.

1.21. Based on the SLMA and the Microsoft Product Terms, 4PS can also make (parts of) the Software and (parts of) the Business Central Software accessible to the Customer via an app (“**4PS App**”) or a portal (“**4PS Portal**”).

1.22. 4PS’ licenses can be differentiated as follows:

A-configuration: On-Premise

B-configuration: On-Premise with an external host

C-configuration: 4PS Cloud (this agreement)

D-configuration: Microsoft Cloud

2. **Definitions – functionally categorised:**

2.1. “**the Parties**”: the Parties are 4PS and the Customer.

2.2. “**Multi tenant**”: multiple Customers use the same tenant

2.3. “**Named User**”: a pre-identified user who is licensed to use the Software;

2.4. “**Tenant**”: the Customer in a C1 or C2-configuration.

2.5. “**Software**”: the computer software as developed by 4PS (the Add-on), as hereby licensed to the Customer and described in the Investment Overview which forms part of the agreement between the Customer, Microsoft and 4PS.

2.6. “**Business Central Software**”: as developed by Microsoft; Microsoft has authorised 4PS to supply Business Central Software to the Customer and to allow the Customer to use this Software for the Software developed by 4PS based on this, which Business Central Software 4PS hereby licenses to the Customer on behalf of Microsoft.

2.6.1. 4PS will thus supply Software based on Business Central Software to the Customer, either on a yearly basis on the grounds of a licence right, or on a Subscription basis (rental); if no choice is made, Subscription will apply.

2.6.2. Where necessary, this Agreement expresses the interwovenness between the Software and the Business Central Software.

2.7. “**Software Components of Third Parties**”: the Investment Proposal may include software of third parties, which is not the Software. This is subject to the conditions of the relevant suppliers; these do not form part of the agreement between the Customer and 4PS.

2.7.1. The Software Components of Third Parties will function in the 4PS Cloud after an extension to be activated by 4PS or the Customer (e.g. Mercash or 2-Control).

2.7.2. The Software Components of Third Parties can function after a test to be approved by 4PS, as to be further agreed on by 4PS and Customer.

2.8. “**Custom Components of Third Parties**”: software of third parties can be included in the Investment Proposal, which is not the Software. This is subject to the conditions of the relevant suppliers; these do not form part of the agreement between the Customer and 4PS.

2.8.1. The Custom Components of Third Parties function in the MS Cloud after a test to be approved by 4PS, as to be further agreed on by 4PS and Customer.

2.9. “**Azure-Subscription**”: the supply of Azure software by Microsoft.

- 2.10. **"Azure-environment"**: having Azure software at one's disposal.
- 2.11. **"4PS-Subscription"**: the supply by 4PS of its Software.
- 2.12. **"C1-configuration"**: the partition of the Azure-environment acquired by the Customer from 4PS ('shared server').
- 2.13. **"C2-configuration"**: the Customer who opens up its own Azure-environment to 4PS ('dedicated server').
- 2.14. **"4PS-Cloud"**: the online remote supply of the Software and Business Central Software to the Customer (as Tenant), functioning in an Azure-environment in a C1 or C2-configuration.
- 2.15. **"4PS App"** ("App"): the online (remote) supply of parts of the Software and parts of the Business Central Software to the Customer, functioning from a mobile telephone or tablet, and functionally restricted or, as the case may be, further set up based on a format determined by 4PS.
- 2.16. **"4PS Portal"** ("Portal"): the online remote supply of parts of the Software and parts of the Business Central Software to the Customer, functioning from a 'portal' made accessible by 4PS, and functionally restricted or, as the case may be, further set up based on a format determined by 4PS.
- 2.17. **"Dedicated Administrator Permission"**: the software code provided to 4PS for access to the Customer's Azure-environment.
- 2.18. **"Use"**: the loading, use, storage or visualisation of the Software and Business Central Software for the number of users mentioned who have been admitted for the benefit of data processing and computer requirements; insofar as the Business Central Software is concerned, this use extends to Internal Users (namely, personnel of the Customer) or External Users (namely, others than personnel of the Customer and other persons authorised thereto), without prejudicing Article 4 of the SLMA, exclusively with a view to accessing and changing data in the Business Central Software licensed to the Customer.
- 2.19. **"Delivery Date / Delivery"**: the day on which the Software, together with the Business Central Software, is remotely activated for the Customer 'online' with Microsoft ('delivery': see **Plan of Approach**, forming part of this agreement).
- 2.20. **"Error"**: the non-functioning of the Software and Business Central Software in accordance with the Documentation, and/or the non-functioning of the Custom Components of Third Parties in accordance with their functional design (provided that documentation of the Custom Components of Third Parties is available to 4PS).
- 2.21. **"Third-party error"**: the non-functioning of the Software Components of Third Parties and/or Custom Components of Third Parties in accordance with their respective functional designs will be assessed by the relevant supplier, and only after a well-reasoned analysis shared with 4PS will this supplier or the Customer contact 4PS to provide maintenance and support where the analysis or solution lies, among other things, in the Azure environment of the Software and/or Business Central Software (4PS Cloud).
- 2.22. **"SLMA"**: this 4PS software licence and maintenance agreement.
- 2.23. **"Appendices"**: the documents belonging to the SLMA (possibly only supplied electronically, among other things including the 4PS Cloud-SLA, the Investment Proposal, Documentation, and if applicable the Customer-Specific Service Level Agreement (C-SLA)).
- 2.24. **"Documentation"**: all (possibly online) auxiliary files and written manuals concerning the Use of the Software and Business Central Software.
- 2.25. **"Microsoft Product Terms"**: the online accessible Microsoft Terms applicable to this agreement.
- 2.26. **"App and Portal conditions"**: the conditions applicable for the use of the App and/or a Portal.
- 3. Licensing or, as the case may be, Rental (4PS-Subscription)**
- 3.1. 4PS grants the Customer a non-exclusive and non-transferrable rent or licence:
- 3.1.1. for the Use of the Software and Business Central Software;
- 3.1.2. for the reproduction of the Software for back-up and archiving purposes; this will take place via a 'download', to be carried out by the Customer itself, of the Software, Business Central Software and the data in its database.
- 3.1.3. for the use of the Documentation for the purpose of Use of the Software and Business Central Software;
- 3.1.4. to change the Software in accordance with the permissible use of Software supplied by 4PS, provided that all copyright notices, symbols, captions, trademarks and other propriety notices

are reproduced and does not include the transfer of intellectual property rights to the Customer.

3.1.5. for the App and the Portal according to the conditions published in the App, together with the Portal or via the 4PS-website for each of these; and these conditions may functionally vary from the Software, the Business Central Software or the Azure-environment.

3.2. 4PS will provide the Customer with Maintenance Services in accordance with the Maintenance Policy applicable at 4PS, as set out in Part B, Maintenance Conditions in the 4PS Cloud. This Maintenance Policy may have been made customer-specific if thus agreed.

3.3. The Customer is permitted to print out the Documentation for its internal use.

4. Licence or rental restrictions (4PS-Subscription)

4.1. The Customer declares vis-à-vis 4PS that the Software and Business Central Software will only be used for own use.

4.2. The Customer is entitled to use the Software at subsidiaries, provided that they have a majority interest in these companies or decisive control in another manner.

4.3. The Customer is also entitled to use the Software and Business Central Software in connection with building consortiums, the main contractor status of which has been placed with the Customer.

4.4. The Use of the Software and Business Central Software for other businesses, branches, etc. is ruled out.

4.5. The Customer is also prohibited from:

4.5.1. 'reverse engineering' or decompiling the Software and Business Central Software, or any part thereof, notwithstanding that permitted on the grounds of mandatory legal provisions, e.g. in the event of writing interfaces for the Customer's own use of other software with the Software or Business Central Software;

4.5.2. licensing, sublicensing, subleasing, leasing, selling, encumbering or otherwise trading the Software and the Business Central Software or the Documentation, or any part thereof, whereby such trading includes supplying services to third parties concerning data processing, commercial 'time sharing', or actual other participation arrangements (on a 'service-agency basis');

4.5.3. making the Software and Business Central Software or its use available to others than the Customer's employees without prior written permission from 4PS, although the Customer is permitted to allow its dealers, distributors and own customers to use the Software, but exclusively to do business with the Customer and within the limits of their dealer's, customer's or distributor's relationship with the Customer or for the implementation of the Software with an implement specialist in accordance with this Agreement;

4.6. The 4PS Cloud is set up in conformity with the number of 'named' users of the Software mentioned in the Investment Proposal. In case of a license, monthly up- and downscaling of the number of named users is not possible. In case of a subscription, the Customer can change the number of named users once a month, with the change taking effect on the first day of the following month.

4.7. If the Customer wishes to switch to another configuration (C1->C2 or C2->C1) or to a so-called D-configuration of an Azure-environment, the parties will consult each other regarding a new investment proposal.

5. Payment

5.1. The Customer undertakes to pay 4PS the agreed amount for the use of the Software and Business Central Software on the Commencement Date (from the date on which this agreement is signed), which is either for a year or for shorter periods as indicated in the investment proposal; if no choice is made, a year will apply, and 4PS can make changes under Article 5 of Part B.

5.2. The fees, prices and costs mentioned in this Agreement are exclusive of Dutch VAT [BTW].

6. Indemnity against breach

6.1. 4PS will bring a defence or reach a settlement for its own account with regard to third parties who are of the opinion that the Software is committing a breach, unless the apparent breach concerns the Business Central Software with regard to which Microsoft brings or will bring its own defence, e.g. regarding the copyrights of third parties. This will apply provided that the Customer immediately notifies 4PS in writing of such a (legal) claim and the Customer then authorises 4PS to act as indicated above. In such a case, 4PS will have the exclusive right to bring a defence at its own discretion against the relevant claim or to reach a settlement in this regard, whereby the Customer will not be permitted to agree to any settlement in this regard, except with the

prior written permission of 4PS. If a claim from a third party has been or is at risk of being instituted because of the breach referred to (e.g. concerning copyright), 4PS will, at its own discretion and for its own account:

- 6.1.1. adapt or change the Software or the breaching part thereof or replace it by other computer software, containing substantially the same or better functional possibilities; or
- 6.1.2. ensure that the Customer acquires the right to continue to Use the Software or the breaching part thereof in such a way that intellectual property rights of the relevant third party/parties are no longer breached;
- 6.1.3. if none of the aforementioned possibilities are commercially feasible, terminate this Agreement insofar as is possible and insofar that the breaching part of the Software is concerned; 4PS will refund to the Customer the part of the licensing fee paid by the Customer for the breaching part of the Software. This will discharge 4PS vis-à-vis the Customer from further obligations in connection with the breaching part of the Software.

6.2. 4PS will not indemnify the Customer if the breach of the rights of third parties regarding the Software, as mentioned above, is the result of standard Software Components of Third Parties or Custom Components of Third Parties made at the request of the Customer by third parties. The articles included in this agreement entail the full liability of 4PS regarding the breach of any intellectual property rights concerning the Software.

7. Confidential information

- 7.1. "Confidential Information" is not information which:
 - 7.1.1. is known to the public, or
 - 7.1.2. was received by one of the Parties from third parties without restrictions to its disclosure, or
 - 7.1.3. which must be disclosed pursuant to a legal judgment or government decree.
- 7.2. The following is regarded as Confidential Information:
 - 7.2.1. this Agreement, Documentation,
 - 7.2.2. attached Appendices,
 - 7.2.3. Software description and specifications,
 - 7.2.4. source codes (commands of the Software readable for programmers),
 - 7.2.5. object codes (for computer-readable commands of the Software),regardless of whether this was known when the Agreement was entered into or subsequently, and regardless of whether this has been or will be provided

to the Customer by 4PS or to 4PS by the Customer, provided that this is designated as "confidential information" or words of similar import.

- 7.3. Without prejudice to the foregoing, the Customer agrees that if so desired, 4PS or Microsoft will use the name of the Customer in press releases and product booklets, without mentioning financial data, such with a view to publicising the fact that the Customer is a buyer of 4PS.
- 7.4. The Parties each undertake to observe the secrecy of all Confidential Information.
- 7.5. 4PS will collect data in the Business Central Software in the 4PS Cloud in which the On Premise data are present, with a view to measuring the correct functioning (the 'performance') of the Software, and if necessary optimising it. This is done by means of fully anonymised data.
- 7.6. The handling and the protection of personal data are subject to the separate Processing Agreement between 4PS and the Customer. Such a Processing Agreement will also apply between 4PS and the third-party suppliers involved in this.

8. Guarantee and restriction of liability

- 8.1. 4PS guarantees the Customer that the Software will essentially function in accordance with the Documentation for a period of three (3) months as from the Delivery Date.
- 8.2. If the Software does not function as such during this period, 4PS will repair the Software at no charge or, if repairing it is not reasonably possible, replace it at no charge. If neither repairing nor replacing the Software appear to be commercially feasible, 4PS will terminate the Agreement insofar as it pertains to the non-functioning part of the Software and 4PS will repay to the Customer the part of the licensing fee for that part of the Software, subject to a maximum of 75% of a monthly licensing fee excluding Dutch VAT based on the number of 'named users' in the previous month.
- 8.3. This guarantee will only apply for the Customer and will only be enforceable against 4PS if:
 - 8.3.1. all modifications of or additions to the Software, if any, have been made using Software activated for the Customer by 4PS; and
 - 8.3.2. no unauthorised modifications or additions have been made by or at the request of the Customer in consultation with 4PS, as a result of which the Software varies from the Documentation; and

- 8.3.3. the Software will remain parametrised in the agreed manner; and has always been used in accordance with the instructions for use.
- 8.4. 4PS guarantees that the Software has been written efficiently and coherently with regard to the Business Central Software.
- 8.5. 4PS guarantees that the Software does not contain any other security measures or functions, or elements that are foreign to the Software than those mentioned in the Documentation, without prejudice to the fact that such functions may have been built in by Microsoft for the security or functioning of Business Central Software.
- 8.6. Without prejudicing the foregoing, 4PS will not provide any explicit or implicit guarantees related to the Software, Documentation or services provided, including Maintenance. 4PS does not guarantee that the Software is Error-free or will function without any interruptions; this also applies for the conditions under which the Business Central Software functions. Insofar as permitted by law, 4PS expressly excludes any implicit guarantees regarding the suitability or marketability of the Software or Documentation for a specific purpose (even if 4PS has been informed hereof).
- 8.7. In no case are the Parties liable for damage and/or loss suffered by the other Party following from a breakdown of Software, loss of profit, loss of data, interruptions to business continuity, fallback or replacement costs or for any other indirect, special, additional or consequential loss and/or damage related to or following from the supply or the use of the Software or following from services provided, or for a delay in the supply of the Software or the provision of services, unless such loss or damage is attributable to the gross negligence or intent of 4PS, without prejudice to the liability of Microsoft, insofar as not excluded.
- 8.8. The total liability of the Parties for damage and/or loss, whether this follows from a breach in the fulfilment of the Agreement or an unlawful act or any other ground, and whether or not this is attributable to intent or gross negligence, is limited to 75% of the amount paid for the licence or Subscription fee, excluding Dutch VAT, in the previous 12 months, as specified in the Investment Proposal, for the relevant Software and/or Business Central Software that caused the damage and/or the loss.
- 8.9. None of the employees, intermediaries or representatives of 4PS or enterprises affiliated with 4PS are authorised to bind 4PS to any oral declarations or

guarantees regarding the Software. A written declaration not included in or pursuant to this Agreement will not have any legal effect.

- 8.10. In the event of damage and/or loss, claims for compensation by the Customer must be made known to 4PS, giving reasons, without which the claims will cease to apply up to three months previously.

9. Force majeure

- 9.1. Neither Party will be liable vis-à-vis the other Party for damage and/or loss that may have arisen from failure to fulfil this Agreement or a part thereof, or failure to fulfil it or a part thereof on time, if the delay or failure to fulfil was entirely or partially caused by instances or circumstances of force majeure (non-attributable breach), including but not limited to natural disasters, strikes, lockouts, epidemics, riots, acts of war, earthquakes, fire and explosions. This expressly excludes, however, the inability of a Party to meet its financial obligations.

10. Duration and termination

- 10.1. The Agreement will enter into effect on the Commencement Date and apply for an indefinite period, unless it is terminated in accordance with this Article 10.
- 10.2. This Agreement can be terminated by the Customer by means of a written notice sent to 4PS, with due observance of a term of notice of ninety (90) days in case of a licence and thirty (30) days in the event of rent ('Subscription'), counting from the last day of the month in which the Agreement is cancelled, on the understanding that this termination will never give the Customer the right to repayment of any part of the fees paid to 4PS, including fees for Business Central Software.
- 10.3. This Agreement can be terminated by 4PS by means of a written notice sent to the Customer in the cases described hereinafter, on the understanding that such termination will never give the Customer the right to repayment of any part of the fees paid to 4PS:
- 10.3.1. if the Customer goes bankrupt or discontinues its business activities in another manner or declares in writing that it is unable to fulfil its payment obligations, realises an assignment of claims for the benefit of creditors, or is placed under guardianship, or is granted a moratorium;
- 10.3.2. if the Customer fails to fulfil its obligations following from this Agreement, has been put into default in this regard, and within in thirty (30) days of being notified hereof by 4PS has failed to

contest the notice of default, and has still failed to fulfil its obligations.

10.4. If one of the cases set out above occurs, this Agreement will end on the date mentioned in the written notice or alternatively, the date mentioned in the online environment, provided that this is expressly confirmed by 4PS. Provisions that will continue to apply after the termination of this Agreement are those regarding payment obligations for amounts owed to 4PS, the liability of 4PS (regarding action taken before the aforementioned 'termination'), the mutual handling of Confidential Information by the Customer or 4PS, applicable law and legal forum.

11. Transfer restriction / Migration

11.1. Without prior permission in writing from 4PS or alternatively online (by email) and then expressly confirmed by email by 4PS, this Agreement and all rights and obligations following therefrom are not permitted to be transferred by the Customer, whether in their entirety or in part and whether voluntarily or by operation of law, including by way of sale of assets or in connection with a merger.

11.2. 4PS will not withhold its permission on unreasonable grounds (e.g. after payment of invoices), even if the Customer or 4PS have already effected such a transfer.

11.3. Without prejudice to the foregoing, this Agreement is binding for the Parties, as well as for their legal successors and successors in title.

11.4. The Customer can migrate its current C1 or C2-configuration to a so-called C1, C2 or D-configuration (all SaaS-configurations). This will be with the most up-to-date Release applicable in that C or D-configuration. This must take place exclusively in consultation with 4PS. At the request of the Customer, 4PS will send an Investment Proposal, together with the contract form for the 4PS Cloud or MS Cloud applicable at the time (D configuration). Upon the migration, the Customer will agree to the 'Subscription model' of 4PS and Microsoft thereby applicable.

11.5. The Customer can migrate its current C-configuration to a so-called A or B-configuration (the Server Location will then be changed to the address of the Customer in the A-configuration and to the address of the designated external Hosting Party in the B-configuration respectively). This will be in the Release applicable at the time or if possible the most up-to-date Release in the A or the B-configuration respectively. This must take place exclusively in consultation with 4PS. At the request of

the Customer, 4PS will send an Investment Proposal for the transitional costs, together with the SLMA for the A or B configuration.

12. Notifications and announcements

12.1. Notifications and announcements that must or can be given or made pursuant to the law or this Agreement must be made in writing by registered letter with acknowledgment of receipt, in registered email modus (secured by a Trusted Third party), in all cases sent to the address mentioned in this Agreement, attn. the respective boards of management.

12.2. Each Party can change the address given for notifications and announcements by notifying the other Party hereof in writing. A notice or announcement will be deemed to have been effected either three (3) working days after being posted, or one (1) day after being sent in registered e-mail modus.

13. Other provisions

13.1. General conditions of the Customer that are directly or indirectly apparent or are printed on stationary and in orders, confirmations or other documents of the Customer will not apply vis-à-vis 4PS and therefore, will not have any effect on this Agreement.

13.2. By signing this Agreement, the Customer is deemed to have waived such own or sectoral conditions, regardless of whether or not 4PS fails to object to such conditions of the Customer.

13.3. In case of inconsistencies between the SLMA and the Microsoft Product Terms regarding the Business Central Software, the Microsoft Product Terms will prevail.

13.4. In case of inconsistencies between the SLMA and the Microsoft Product Terms regarding maintenance and support, the Microsoft Product Terms will prevail.

14. Split-off

14.1. In the event that a provision included in this Agreement appears to be unlawful, invalid or unenforceable in another manner, the Parties will do their best to come to an agreement in good faith regarding amendments which, insofar as is possible, continue to represent the intentions set out in this Agreement.

15. Waiver of rights

15.1. Waiving the provisions included in this Agreement, or the rights or powers accruing to a Party pursuant to this

Agreement, will only be legally valid if effected in writing.

- 15.2. The fact that a Party fails to require the (timely) fulfilment of the provisions of this Agreement or fails to exercise its rights or powers (in a timely manner) will not be regarded as this Party having waived, or be deemed to be a waiver of, its rights following from this Agreement and will not in any way affect the validity of this Agreement or any part thereof, or detract from the right of that Party to take measures in the future.

16. Applicable law and choice of forum

- 16.1. This Agreement is exclusively governed by Dutch law.
- 16.2. All disputes will be brought before the Dutch Foundation for the Settlement of Automation Disputes

[Stichting Geschillenoplossing Automatisering], with its registered office in Heemstede (www.Sgoa.eu), The Netherlands, in accordance with the arbitration procedure employed at the time by the aforementioned foundation.

- 16.3. Proceedings will be conducted in the Dutch or English language. If the Customer then so requires and if the aforementioned Foundation or other third party offers that possibility, the Customer and 4PS can each choose an arbitrator, the two of which will choose a single arbitrator as chair; these 3 arbitrators will then decide by majority vote.

Standard SOFTWARE MAINTENANCE AGREEMENT

1. Maintenance Conditions:

- 1.1. The 4PS Software has been built as 'Add-on software' on the Business Central Software of Microsoft and functions in the 4PS Cloud.
- 1.2. The Software will be rented out or, as the case may be, licensed and maintained based on the **SLMA**, namely the **Part B**, whereby continuous maintenance is provided which is part of the 4PS-Subscription, and the fee owed per agreed time unit (if no choice is made, per month), and includes migrations of the (Minor) Release, unless agreed otherwise (see Article 2.2 hereinafter).
- 1.3. 4PS has been authorised by Microsoft to supply the Business Central Software to the Customer and to use the Business Central Software for Software developed by 4PS itself based on this.
- 1.4. 4PS therefore commits itself to Microsoft's licensing and maintenance and support conditions for the use of its Online Services. The conditions for the maintenance and support agreement concern the Microsoft Product Terms - which – like the SLMA - can change with the passage of time and will then enter into force unless the Customer cancels within 2 months of their prior announcement.

2. Definitions

- 2.1. The articles below concern the: the Software (the functionalities) and not the other components that form part of the SLMA and the Microsoft Product Terms
- 2.2. The Customer has the possibility of concluding an additional Customer-Specific Service Level Agreement (C-SLA) with 4PS. The content and conditions of this C-SLA will apply in addition to the Maintenance Conditions included below.
- 2.3. **"Release"**: this is a Minor Release or Major Release.
- 2.4. **"Minor Release"**: a set of Software and/or an Upgrade (according to the SLT) of Business Central Software in which, in addition to any corrections to any defects discovered, (minor) functional extensions have been included; Minor Releases fall under the Maintenance Fee of the Release installed with the Customer.
- 2.5. **"Major Release"**: a set of Software of a new generation of Software which incorporates substantially new functionality/technology or other changes compared with the last Major Release. Minor Releases can be installed within a Major Release, and as soon as

- 2.6. Microsoft charges 4PS a licensing fee, it will be partially or fully charged on to the Customer via an additionally offered and accepted Investment Proposal. The Customer will be notified hereof in advance and relinquish this, following from which the Software or the Business Central Software will reach the phase of Outdated Software or Outdated Business Central Software and the applicable rules;
- 2.7. **"Release Date"**: notionally, the last day of the month of the actual introduction of a new Release.
- 2.8. **"Release Period"**: 3 successive months after the Release Date.
- 2.9. **"Maintenance Period"**: the period from the Delivery Date until the last calendar date of that year, or each successive calendar year or part of a calendar year.
- 2.10. **"Certificate"**: proof provided by 4PS of the ability to carry out migrations or updates of the Software and Business Central Software; this is in one's personal name and valid for a maximum period of 1 year, unless stated otherwise.
- 2.11. **"Maintenance"**:
 - 2.11.1. the provision, where available, during Service Hours, of Software (no Minor releases) and corresponding online Documentation;
 - 2.11.2. assistance by telephone or on the Internet or otherwise regarding the Software and Business Central Software for a technical problem or, as the case may be, reproducible Errors of or defects in the recent Software;
 - 2.11.3. assistance - after the so-called business model of the Software or, as the case may be, Business Central Software is ready at the Customer's - in the form of an explanation of the functions and features of the Software after relevant users at the Customer's have followed the agreed training for the Software or Business Central Software;
 - 2.11.4. the analysis, verification and correction of Errors by telephone and/or on the Internet.
- 2.12. **"Response time"**: the time passing between the receipt of a Notification and the time at which 4PS commences the Maintenance of the Software and/or Business Central Software and confirms this to the Customer orally / in writing.

- 2.13. **“Website”**: 4PS’s website can be found at <http://www.4PS.nl> and is available for continuous support (i.e. for 90% per year), 24 hours per day.
- 2.14. **“Service Hours”**: 4PS’s usual office hours from 8.30 hours to 17.00 hours, from Monday to Friday, unless the Maintenance Agreement or, as the case may be, the Investment Proposal states otherwise;
- 2.15. **“Notification”**: a Priority Urgent, High, Medium or Low Notification, either separately or simultaneously. Customer can submit notifications via the 4PS Support system.
- 2.15.1. **“Notification Priority Urgent”**: the Customer’s system has completely broken down and is no longer able to process data via the Software as a result of a catastrophic event in the system database or the Software and/or Business Central Software, or as a result of a serious application error in an essential processing period.
- 2.15.2. **“Notification Priority High”**: the Software and/or Business Central Software has a serious breakdown of an essential business function, that cannot be (temporarily) solved by programme rerouting.
- 2.15.3. **“Notification Priority Medium”**: a non-essential problem in the Software and/or Business Central Software whereby the Customer can continue to use the system and/or the application, or a workaround is available;
- 2.15.4. **“Notification Priority Low”**: a problem in the Software and/or Business Central Software that cannot be regarded as Priority Urgent, High or Medium
- 2.16. 4PS provides maintenance for the **“Software”**, while **Microsoft** provides maintenance for the **Business Central Software**: this is the most up-to-date Release of Software, or, as the case may be, Business Central Software in the market that is licensed to the Customer from the Delivery Date.
- 2.17. **Customer-Specific 4PS-Cloud-SLA (C-SLA)**: the (optional) maintenance agreement to be agreed in addition to the MS-Cloud-SLA.

3. Release policy – no migration duty / limited maintenance

- 3.1. The Customer and 4PS agree that if 4PS or Microsoft introduce a new Release (including Upgrades of the Business Central Software according to the Microsoft Product Terms) into the market, after the Release Period, the Release supplied to the Customer will automatically

lose the ‘Software’ or ‘Business Central Software’ qualification contractually relevant for maintenance and will instead be regarded as ‘Outdated Software or, as the case may be, Outdated Business Central Software’, unless the Customer has 4PS implement the new Release within the Release Period.

- 3.2. If 4PS introduces a new release, Customer will, after having accepted this Release, have it installed by 4PS according to 4PS’s and Microsoft’s guidelines.
- 3.3. In the event of a new Release of the Software there will be two possibilities:
- 3.3.1. - Either the Customer will purchase the new Release within the **Release Period**;
- 3.3.1.1. The Maintenance for the Release already installed will continue to apply after the installation of the new Minor Release, as if there had been no new Minor Release within the Maintenance Period current at the time.
- 3.3.2. - Alternatively, the Customer will not purchase the new Release within the **Release Period**.
- 3.3.2.1. The Maintenance Fee for the Release already installed will not continue to apply without the installation of the new Release. Where the remaining calendar months of the Maintenance Period after the **Release Period** are concerned, the Maintenance Fee will be 150% of the Maintenance Fee expressed in Euros in the year of the new Release.
- 3.3.2.2. The subsequent **Maintenance Period** (in the new calendar year) will, however, run up to 1 year at the latest after the Release Date of the new (but not purchased) Release.
- 3.3.2.3. The Maintenance of the Outdated Software, or, as the case may be, the Outdated Business Central Software, will continue to apply technically until 1 year after the Release Date. The above-mentioned 150% Maintenance Fee will then also be calculated in proportion to the number of months in the **Maintenance Period** in the new calendar year, unless the Customer does not require any more Maintenance in that new calendar year.

4. Maintenance Fee (Software, Business Central Software)

- 4.1. The fee for the Helpdesk and Newer Versions of the Software (where equivalent functionalities are concerned) is included either in the annual or the monthly fee per Named user.

4.2. The Customer has the possibility in the 4PS Cloud of concluding an additional Service Level Agreement (SLA) with 4PS, insofar as this can be integrated into the Microsoft Product Terms, which may relate to the Software Components of Third Parties or Custom Components which are connected ('interfaced'), for instance, with: SQL Server, White vision, HB PowerBI Desktop).

5. Change to Annual or Monthly Fee per Named user

5.1. The Customer has opted for the 4PS-Cloud solution and therefore, the Microsoft Product Terms forming part thereof will apply. 4PS is entitled to charge any changes implemented by Microsoft in its licence and/or maintenance policy and the related maintenance fee on to the Customer. If applicable, 4PS will provide the Customer with an official letter announcing the change.

5.2. Besides the change to the Maintenance Fee as laid down in the article concerning the Release Policy, 4PS will be entitled to increase the Maintenance Fee for each subsequent Maintenance Period, which fee will not however be more than the rise of the Price Index based on the Dutch Price Index increase based on 'collective bargaining agreement wages, contract-based wage costs and working hours', excluding special pay. 4PS will notify the Customer of any changes forty-five (45) days before the end of the then current Maintenance Period at the latest.

6. Outdated Software / Business Central Software Maintenance

6.1. 4PS will provide Support for Outdated Software and Outdated Business Central Software in the following manner. For Outdated Software and Outdated Business Central Software, the Customer will receive an analysis, verification and correction of defects by telephone and/or on the Internet for Red and Orange Category Notifications exclusively.

6.2. 4PS will provide these services if the Customer uses the Software and Outdated Business Central Software on a software/hardware/database platform that was supported by 4PS when the Customer obtained the licence for the Software and Business Central Software, or that was approved by 4PS in writing in another manner. The Maintenance for Outdated Software and Outdated Business Central Software does not include services in respect of incidents that are caused by changes to system configurations, or upgrades of hardware or system software, or "backporting" of functionality in standard or changed Software codes, which services the Customer can purchase from 4PS on the grounds of a separate agreement.

6.3. No Releases or Upgrades will be supplied for Outdated Software and Outdated Business Central Software.

7. Duration and termination of the Maintenance Services

7.1. As long as the Customer pays the applicable Maintenance Fees, the Customer will be entitled to Maintenance on the conditions laid down in this article.

7.2. The provision of Maintenance to the Customer by 4PS will commence on the Delivery Date and continue throughout the initial Maintenance Period. At the end of each Maintenance Period a new Maintenance Period will automatically apply, unless the Customer notifies 4PS in writing that it does not wish to continue the Maintenance.

7.3. The Customer must pass on such notification with due observance of a term of notice of ninety (90) days at the minimum before the end of the Maintenance Period then running. If the Customer thus terminates the Maintenance this will not affect the licence or, as the case may be, the rent of the Software and Business Central Software.

8. Response Times

8.1. Maintenance for Software and Business Central Software is available during Service Hours, whereby the following response times will apply: (i) Notification Priority Urgent: one (1) hour; (ii) Notification Priority Average: four (4) hours; (iii) Notification Priority Medium and Low: eight (8) hours.

9. Responsibilities of the Customer

9.1. 4PS will provide Maintenance on the following conditions:

9.2. The Customer will provide 4PS with the necessary access to the Customer's personnel, equipment and Azure-environment (4PS Cloud). 4PS is bound at all times by the Confidentiality Provisions of the Agreement and will only make information available within 4PS to those persons who should have such information at their disposal in order to help solve a problem of the Customer.

9.3. The Customer will ensure the supervision and management of the Use of the 4PS Cloud.

9.4. The Customer will immediately notify 4PS of all Errors and breakdowns established in the 4PS Cloud, providing documentation. The Customer will take all necessary steps to execute measures to remedy Errors or breakdowns within a reasonable term after having been

notified of such measures by 4PS. The Customer will moreover refrain from destroying 'log files' so that 4PS can no longer see what changes the Customer's recent system management has experienced: maintenance and support will be additionally charged on to the Customer.

- 9.5. The Customer will train its personnel properly (or have them trained by or via 4PS) in the Use and the application of the 4PS Cloud at the level indicated in the Plan of Approach.

10. Contact persons

- 10.1. The Customer will appoint four (4) persons at the maximum at each location of the Customer who are well-versed in the functioning and the operation of the Software and Business Central Software, to act as the main contact persons between the Customer and 4PS regarding the registration and transmission of Notifications. All the Customer's Maintenance requests will be made through these contact persons.

- 10.2. This will not prevent other persons within the Customer's organisation from requesting direct Maintenance from 4PS via 4PS's Website. The Customer

is entitled to appoint more persons who can act as main contact persons after the receipt by 4PS of the fee charged for this at that time.

11. Subcontracting

- 11.1. 4PS is permitted to engage the services of third parties for the fulfilment of Maintenance Obligations. Unless agreed otherwise in writing, such a business will not discharge 4PS, however, from its responsibility towards the Customer for proper fulfilment.

12. Personnel recruitment

- 12.1. The Parties acknowledge that the employees and advisors of the other Party that are involved with the supply of services as mentioned here are of great value for the respective Parties and cannot be easily replaced. Therefore, the Parties agree that during the period of this Agreement and a period of six (6) months thereafter, they will not offer any employee or advisor of the other Party any work as an employee, independent contractor or advisor.
