

# General Terms and Conditions Esri Nederland

November 2014

## General

1. These General Terms and Conditions apply to offers and agreements pursuant to which Esri Nederland B.V. delivers goods and/or services of any nature or denomination to the Client.
2. Applicability of the purchasing conditions or further conditions is expressly denied.
3. Departures from these General Terms and Conditions shall be valid only if they are agreed to in writing.

### Offers

4. All offers by Esri Nederland are subject to confirmation, unless stated otherwise in writing.
5. The Client guarantees that all information it provided, on which Esri Nederland has based its offer, is accurate and complete.

### Prices

6. All prices are exclusive of turnover tax (VAT).
7. Any cost estimates or budgets provided by Esri Nederland are indicative only. An available budget made known to the supplier by the Client shall only be deemed a fixed price agreement if such has been expressly agreed in writing.
8. If a periodic payment obligation on the part of the Client applies, Esri Nederland is entitled to adjust its prices and rates with the observance of a notice period of three months. In the event that the Client does not agree to the adjustments, the Client is entitled to terminate the contract, in writing, within thirty days following notice of the adjustment, the termination of which shall take effect on the date on which the new prices and/or rates would take effect.
9. The accounts of Esri Nederland shall count as conclusive evidence with respect to delivered goods and services and the subsequent amounts due by the Client, without prejudice to the Client's right to produce evidence to the contrary.

### Payment

10. Amounts owed must be paid by the Client in accordance with the payment conditions given on the invoice. The Client is not authorised to suspend payment or settle the invoice amount against other amounts owed by the supplier.
11. In the event of untimely payment or lack of payment, the Client shall owe statutory interest for commercial contracts on the outstanding amount (art. 6:119a Dutch Civil Code).
12. Esri Nederland may refer the debt for collection when the Client fails to fulfil the amount due after a demand for payment or a notice of default. In this event, the Client is furthermore obligated to pay all judicial and extrajudicial costs, including all costs and fees charged by external experts.

### Non-Disclosure, Protection of Personal Data and Security

13. The Client and Esri Nederland shall ensure that all information received from the other party, of which the receiving party knows, or may reasonably be expected to know, that is of a confidential nature, shall be kept in strict confidence. This duty of confidentiality does not apply to Esri Nederland if and insofar as provision of this information is required due to a ruling of the court, a legal requirement, or where this is required to properly execute the agreement by Esri Nederland.
14. The party that receives confidential information shall use this only for the purpose for which it was provided.
15. The Client acknowledges that all software originating from Esri Nederland is confidential in nature and that this software contains company and trade secrets of Esri Nederland, its suppliers or the producer of the software.
16. Where applicable, the Client shall notify Esri Nederland of the manner in which it complies with current legislature pertaining to the protection of personal data.
17. The Client indemnifies Esri Nederland against claims by persons whose personal data is recorded or processed within the context of a register of personal data that is maintained by the Client or for which the Client is otherwise responsible by law, unless the Client proves that the facts on which a claim is based are attributable to Esri Nederland.
18. The Client is fully responsible for the data it processes within the context of using a service of Esri Nederland. The Client guarantees vis-à-vis Esri Nederland that the content, use and/or processing of the data are not unlawful and do not infringe on the rights of any third party.
19. The Client indemnifies Esri Nederland against any legal claim instituted by a third party in connection with this data or the execution of the agreement.
20. In the event that Esri Nederland provides a form of information security, this security shall meet the specifications agreed

to in writing between the parties to the best efforts of Esri Nederland. Esri Nederland does not guarantee that the information security provided is effective under all circumstances. The security provided shall always meet a standard that is reasonable in terms of the current state of technological advances, the sensitivity of the data and the costs of security.

21. The access or identification codes and certificates provided to the Client are confidential and must be handled as such, and may only be disclosed to authorised personnel within the Client's own organisation. Esri Nederland is entitled to regularly change access or identification codes and certificates.
22. The Client must adequately secure its systems and infrastructure and run anti-virus software at all times.

### **Intellectual Property**

23. All intellectual property rights to the software, training courses, educational and examination materials or further materials such as analyses, designs, documentation, reports, offers, and including preparatory materials to these final products developed or made available to the Client remain exclusively with Esri Nederland, its licensors or its suppliers.
24. The Client will acquire those user rights expressly defined in the written agreement closed between parties. Any right of use granted to the Client is non-exclusive, non-transferable and may not be sublicensed.
25. If parties agree in writing to the transfer to the Client of the intellectual property right pertaining to the software specifically developed for the Client, this shall be without prejudice to the right of Esri Nederland to use the fundamental designs, ideas, protocols, standards, etc. for other purposes, such as the completion of developments of a customised product for its own use or for a third party that are similar or derived from developments for the Client.
26. Esri Nederland shall always be entitled to take technological measures in order to protect the software provided for use related to an agreed limitation to the content or the duration of the right of use. The Client may not remove or bypass such technical measure(s).
27. Esri Nederland indemnifies the Client against any claim by a third party based on the allegation that software or any other goods or services developed by Esri Nederland infringe on the intellectual property rights of that third party, subject to the condition that the Client must immediately notify Esri Nederland in writing about the existence and content of the claim and leaves the settlement of the claim, including any subsequent related arrangements, entirely to Esri Nederland. The Client shall provide Esri Nederland with any required powers of attorney, information and his or her full cooperation in order to allow Esri Nederland to defend itself against these claims. This indemnity obligation shall not apply if the alleged infringement concerns (i) materials made available to Esri Nederland by the Client for use, modification, processing or maintenance or (ii) changes to the software or the addition of any items executed or commissioned by the Client without the written consent from Esri Nederland. If it is irrevocably established by a court of law that software developed by Esri Nederland or any other items are an infringement on any intellectual property right held by another party, or in the event that Esri Nederland assesses that there is a likelihood of the occurrence of such an infringement, Esri Nederland shall, where possible, ensure that the Client may continue to use the delivered, or a functional equivalent of said software or items. Any other or further indemnification obligation on the part of Esri Nederland due to infringement of the intellectual property right held by a third party are expressly denied.
28. The Client guarantees that there are no contradicting third party rights with respect to the provision to Esri Nederland of equipment, software and/or other materials and/or designs, for the purpose of use, maintenance, processing, installation or integration. The Client indemnifies Esri Nederland against any third party claims based on the allegation that such provision, use, maintenance, processing, installation or integration infringes on any right of that third party.
29. Esri Nederland cannot be obliged to execute data conversion, unless this has been expressly agreed in writing.

### **Client resources**

30. In the event that the Client deploys employees or assistants for the execution of the agreement, these employees and these assistants shall have the required expertise and experience.
31. In the event that employees of Esri Nederland work at the Client's location, the Client shall provide, in a timely manner and free of charge, all required resources, such as a proper workspace with sufficient computer and network facilities.
32. Prior to executing the scheduled work, the Client shall inform those employees deployed by Esri Nederland to execute the work following all applicable house and security regulations. Should the Client make available to Esri Nederland any software, equipment or other resources, the Client guarantees it shall acquire all necessary licenses or approval for use of these resources as needed by Esri Nederland.

### **Information Obligation**

33. The Client guarantees that all information provided to Esri Nederland concerning data, information, designs and specifications is accurate and complete.

#### **Project Groups and Advisory Committees**

34. In the event that both parties are represented by one or more employees in a project group or an advisory committee, any decisions made in that project group or advisory committee shall only be binding for Esri Nederland where the decision making process is in accordance with the written agreements between parties, or, in the absence of a written agreement, where Esri Nederland has accepted these decisions in writing. Representatives appointed to a project group or advisory committee by the Client must, however, be authorised to make binding decisions on the Client's behalf.

#### **Terms**

35. Interim dates and delivery dates specified by Esri Nederland or agreed to amongst parties are target dates and are indicative in nature.
36. In the event that the agreed activities are performed in stages, Esri Nederland is authorised to postpone work to that stage until such time as the Client has approved the results of the preceding stage in writing.
37. Esri Nederland is not bound to a date or delivery date or term or delivery period, final or not, if parties have agreed to an amendment of the content or scale of the agreement or a modification of the approach with respect to the execution of the agreement, or in the event that the Client is in default of his or her obligations pursuant to the agreement or fails to meet his or her obligations on time or in full.
38. Even in the event that parties have agreed to a final (delivery) term or (delivery) date, Esri Nederland shall not be held in default as a result of untimely delivery until such time that Esri Nederland has been given notification of such default in writing and with good cause, in which the Client grants Esri Nederland a reasonable term within which it may correct the situation, after the expiry of which term actual default shall commence.

#### **Rescission and Termination**

39. Esri Nederland or the Client may only rescind the agreement unilaterally in the event of an attributable failure in the execution of the contract if the other party, after receiving a written notice of default, which is as detailed as possible and that grants a reasonable term within which this breach may be remedied, culpably fails to fulfil essential obligations pursuant to the contract. Payment obligations by the Client are deemed essential contractual obligations.
40. If, at the time of rescission, the Client has already received goods or services pursuant to the execution of the contract, these goods and services and the associated payment obligations shall not be undone unless the Client is capable of proving that Esri Nederland is in default with respect to an essential aspect of such goods or services. Amounts invoiced by Esri Nederland prior to rescission in connection with performed services or delivered goods pursuant to the contract shall remain payable in full and shall become immediately due and payable at the time of termination.
41. Each party may terminate the agreement in writing, in whole or in part, without a requirement of a notice of default and with immediate effect, in the event that the other party is granted suspension of payment, has filed for bankruptcy, or in the event that his or her organisation is liquidated or dissolved. As a result of this termination, Esri Nederland is not held to restitution of any received payments nor is it held to the payment of any compensation. In the event that the Client enters into an irrevocable state of bankruptcy, all rights to the use of previously provided resources such as software, programmes, websites, etc. and the right of the Client to access and or use the services of Esri Nederland shall be terminated immediately, without requiring any termination action by Esri Nederland.

#### **Liability**

42. The total liability of Esri Nederland as a result of attributable failure in the execution of the agreement, no matter what the grounds, including the compliance with a warranty agreement made with the Client, is limited to the payment of immediate damages to a maximum amount equal to the total amount negotiated for that particular agreement (excl. VAT), or, in the event of a long-term agreement, the total of the negotiated amount (excl. VAT) for a period no longer than one year.
43. The total liability of Esri Nederland for immediate damages shall never exceed € 500,000, barring an incidence of death, bodily harm or material damages, in which case the liability of Esri Nederland shall never exceed € 1,250,000.
44. The liability of Esri Nederland for indirect losses, consequential losses, lost profits, lost savings, lost goodwill, losses due to business interruption, losses as a result of claims by the Client's customers, losses as a result of use prescribed to Esri Nederland by the Client of specific third-party goods, materials or software and losses related to the engagement of suppliers prescribed to Esri Nederland by the Client are expressly excluded. The liability of Esri Nederland for corruption,

destruction or loss of data or documents is likewise excluded.

45. These exclusions and limitations are not applicable if and insofar as losses are the result of deliberate intent or recklessness on the part of the management of Esri Nederland.
46. Barring circumstances where execution of the obligations pursuant to the agreement by Esri Nederland is permanently impossible, Esri Nederland shall only be liable on the grounds of attributable failure to execute the agreement if the Client serves Esri Nederland with an official written notice of default forthwith, in which a reasonable term for remedy of the stated failure is given, and where Esri Nederland continues to culpably fail to meet its obligations after the expiry of this term for remedy.
47. Prerequisite to any right to compensation of damages shall be the timely written notification of Esri Nederland of such damages. Each claim to compensation shall become null and void by the mere expiry of a period of 24 months following the inception of the claim, unless the Client has instituted a legal action for damages prior to the expiry of this period.

#### **Force Majeure**

48. Neither party is held to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure on the part of Esri Nederland is constituted by (i) force majeure of its suppliers, (ii) the failure to properly fulfil obligations on the part of suppliers that were prescribed to Esri Nederland by the Client, (iii) defects in goods, equipment, software or materials of third parties, the use of which was prescribed to Esri Nederland by the Client, (iv) government measures, (v) power failures, (vi) internet, data network or telecommunication facility failures and (vii) war.
49. Either party shall have the right to rescind the contract in writing if a situation of force majeure persists for over sixty days. In this event, those obligations pursuant to the contract that have already been met shall be paid for on the basis of proportionality.

#### **Additional Work**

50. If, upon the request or prior consent of the Client, Esri Nederland has conducted work or performed other services that fall beyond the scope of the agreed work and or services, such goods or services shall be paid for in accordance with the agreed rates or, if no rates have been agreed between parties, in accordance with the usual rates charged by Esri Nederland.

#### **Miscellaneous**

51. The Client is responsible throughout for the instruction to users, and the use by users.
52. During the term of the agreement and for one year following its termination, the Client shall not employ or otherwise directly or indirectly engage employees of Esri Nederland for the purpose of work, barring those instances where prior written approval has been granted. Esri Nederland may refuse such approval at its discretion without further grounds, and may attach financial conditions to its approval. Violations of this article shall entail an immediately payable claim from the Client by Esri Nederland equal to the gross annual salary of the employee, or the sum of the gross annual salaries of all employees involved, without prejudice to the right of Esri Nederland to demand compensation.
53. The Client shall not transfer or sell the rights and obligations pursuant to this agreement to a third party.
54. In the event that any provision from this agreement is deemed null and void, all further provisions of these General Terms and Conditions shall remain in force. Esri Nederland and the Client shall then come to a mutual agreement concerning new provisions that shall, in their nature and consequence, be as similar as possible to the null and void provisions they substitute.
55. All agreements between Esri Nederland and the Client are governed by Dutch law. Applicability of the 1980 Vienna Sales Convention is explicitly denied.
56. Disputes shall be brought before the competent court in Rotterdam, unless parties mutually agree to seek resolution through arbitration, in accordance with the Arbitration Regulations of the Foundation for the Settlement of Automation Disputes (Stichting Geschillenoplossing Automatisering) in The Hague, without prejudice to the right of each party to request summary judgement through the courts.

#### **SOFTWARE**

*The following provisions apply in addition to the general terms and conditions when Esri Nederland provides software for use.*

#### **Right of Use and Maintenance**

57. The Client shall have non-exclusive, non-transferrable and non-sublicensable access to computer software and any user documentation for the duration of the agreement, on the basis of a user license (in Dutch at [www.esri.nl/licentievoorwaarden](http://www.esri.nl/licentievoorwaarden)).
58. In the event of third-party software, only the (license) terms and conditions of that third party shall apply, with the exception of any stipulations that deviate from the provisions of these general terms and conditions and the conditions stipulated in the agreement between Esri Nederland and the Client, barring those instances where there is an explicitly stated deviation from the given individual license conditions.
59. Esri Nederland offers no guarantees and shall make no commitments with regard to such software; only the guarantees as defined in the license agreement between the relevant third party and the Client shall apply, also in those cases Esri Nederland co-signs the agreement in the role of distributor or otherwise.
60. The Client is not authorised to alter (parts of) the software without the prior written approval from Esri Nederland. Esri Nederland is entitled to withhold its approval without further mention of its grounds to do so and may attach conditions to its approval. The Client shall bear the full risk of all modifications executed by or on commission by the Client – regardless of whether or not said approval from Esri Nederland was received.
61. Esri Nederland is not obligated to maintain the software and/or lend support to users and/or administrators of the software.

#### **Documentation**

62. Any user documentation will be provided either in English or Dutch, at the discretion of Esri Nederland.

#### **Acceptance and Installation**

63. The Client accepts the software in the condition in which it is at the time of delivery (“as is”), i.e. with all visible and invisible errors and faults, without prejudice to the applicability of any written guarantees.
64. Esri Nederland does not guarantee that the software is suitable for the actual and/or intended use. Nor does Esri Nederland guarantee that the software shall operate without interruptions, nor that errors will be corrected. Esri Nederland is never obligated to repair corrupted or lost data.
65. If parties have agreed upon an acceptance test, the criteria shall be defined to mutual consent.
66. In the general terms and conditions, ‘error’ refers to the substantial failure of the software to meet the written and specifically agreed upon functional or technical specifications. The term error may only be used where the Client can demonstrate this error and when it is reproducible. Errors must be reported forthwith. Esri Nederland bears no obligations with respect to any other faults in or to the software.
67. If parties have agreed to an acceptance test, the software is deemed accepted on the first day after the end of the test period, or upon receipt by Esri Nederland of a test report by the Client prior to the end of the test period, and where the errors specified in said test report have been corrected, without prejudice to those faults that do not serve as grounds for non-acceptance. The software is also deemed accepted if the Client uses the software in any manner for productive or operational purposes.
68. In the event that the acceptance test reveals errors, the Client shall provide sufficiently substantiated documentation thereof to Esri Nederland, no later than on the last day of the test period. Esri Nederland shall put forth its best efforts to resolve such errors within a reasonable period of time, in so far it has the required rights to do so, and shall otherwise seek other remedies, in which case it is authorised to apply temporary solutions, programme bypasses or problem avoiding limitations.
69. Acceptance may only be withheld in the event that the software does not meet the expressly agreed upon specifications or in the event of errors that significantly hinder the operational or productive use of the software. If the software is delivered in stages and/or components, non-acceptance of a specific stage or component does not effect the validity of the acceptance of previous stages and/or components.
70. Esri Nederland shall not install the software with the Client, unless expressly agreed otherwise.

#### **SOFTWARE DEVELOPMENT**

*The following provisions shall apply in addition to the general terms and conditions where Esri Nederland shall develop software for the Client and potentially install this software.*

#### **Specifications and Development of Software**

71. Together, the parties shall draft a project plan, including a definition of the intended specifications for each project stage.

This project plan will subsequently be signed for approval by authorised representatives of both parties.

72. In the absence of timely and clear progress-related decisions by the Client, such as those defined in the project plan, Esri Nederland is authorised to make the decisions it deems appropriate.
73. The Client accepts the software in the condition it is in at the time of the final development stage ('as is, where is'). After the final development stage, Esri Nederland is not bound to remedy faults unless expressly agreed otherwise in writing.
74. If the Client should desire maintenance and/or support, a separate written agreement thereto is required. This will also entail the separate invoicing at the usual Esri Nederland rates.

#### **Right of Use**

75. Esri Nederland shall license the Client to use the software developed on assignment of the Client, in addition to any relevant user documentation. The source code and technical documentation shall remain with Esri Nederland.
76. In the event that the Client, based on an agreement, has the right to modify the software, Esri Nederland is not obligated to provide the support software, software libraries or data libraries required for the use and/or maintenance of the software.

### **MAINTENANCE AND SUPPORT**

*The following provisions shall apply in addition to the general terms and conditions where Esri Nederland shall provide the maintenance of the software and offers software user support.*

#### **Maintenance**

77. If agreed in writing, Esri Nederland shall perform maintenance work with respect to the software specified in the agreement. The maintenance obligation includes remedying errors in the software, providing support services and potentially providing new versions of the software.
78. The Client shall provide all cooperation requested by Esri Nederland with respect to such maintenance, including temporarily refraining from using the software and generating a backup of all data.
79. Maintenance by Esri Nederland does not release the Client from his or her own responsibility regarding the management of the software, including monitoring of all settings and the manner in which the results from operating the software are applied. The Client shall remain responsible for the installation, organisation, parameterisation, and tuning of required (support) software, and where necessary shall modify the equipment, other software and user environment and achieve the interoperability that is desired by the Client.

#### **New Versions**

80. In the event that maintenance is agreed to include the provision of new versions, these new versions shall be made available at the discretion of Esri Nederland.
81. Three months after an improved version has been made available, Esri Nederland shall no longer be responsible for the remedy of faults in the previous version nor to providing support and/or maintenance with respect to a previous version. Esri Nederland may require that the Client enter into a further written agreement for a version with new functionalities and may require additional compensation. Esri Nederland does not guarantee that each new version will contain the same functionalities as preceding versions. Esri Nederland is not obligated to maintain, modify or add certain software features or functionalities specifically for the Client.
82. In the event of third party standard software, Esri Nederland is not required to do more than make available the new standard version of that third party software. In the event of faults, Esri Nederland shall put forth its best efforts to encourage third parties to correct errors. At its own discretion, Esri Nederland may execute remedies that eradicate or mitigate the consequences of such errors, where this does not infringe upon the intellectual property rights of third parties to the standard software.
83. Esri Nederland may require that the Client modify his or her system (equipment, software, etc.) where necessary for the proper functioning of a new version of the software.

#### **Support Services**

84. If the services provided by Esri Nederland pursuant to the agreement include the provision of support to users and/or administrators of the software, Esri Nederland shall provide telephone or email support and recommendations concerning the use and functioning of that software. Esri Nederland may attach conditions to the qualifications and the number of persons that are eligible for support. Esri Nederland shall address proper and motivated support requests within a reasonable period of time after receipt, in accordance with its applicable procedures (Esri Nederland's support policy is

available in Dutch at [www.esri.nl/beleidsdocumenten](http://www.esri.nl/beleidsdocumenten)).

85. Esri Nederland does not guarantee the accuracy, thoroughness or timeliness of responses or provided support.
86. Support is offered on working days during Esri Nederland's regular office hours.

#### **Payment**

87. In the absence of an expressly agreed payment schedule, all amounts relating to the services provided by Esri Nederland with respect to the maintenance of software are payable in advance on an annual basis, regardless of whether the Client is using the software or exercising the option of maintenance or support.

#### **FURTHER SERVICES**

*The following provisions shall apply in addition to the general terms and conditions where Esri Nederland shall provide any further service, of any nature, to the Client.*

#### **Execution**

88. Esri Nederland shall endeavour to put forth its best efforts to execute its services with due care, where possible in accordance with the written agreements and procedures.
89. All services are executed on the basis of a best effort obligation, unless and where Esri Nederland has expressly committed to a sufficiently specified, specific result.
90. Service level agreements are specifically only to be agreed upon in writing.
91. In the event that agreements concerning service levels have been made, the availability of software, systems and related services shall be measured in such a manner that any interruptions in the functioning thereof which were announced by Esri Nederland beforehand within the scope of preventive, corrective or adaptive maintenance or any other forms of service, including circumstances that are beyond the control of Esri Nederland, shall not be taken into account. The availability measured by Esri Nederland shall be sufficient proof, without prejudice to evidence of the contrary.
92. In the event that the agreement was entered into with the intent of having it executed by a particular person, Esri Nederland is authorised to substitute this person for another person with similar qualifications.
93. Appointments for service or training may be cancelled or changed free of charge up to ten working days prior to the agreed date(s). In the event of cancellation or alteration within ten working days, 50 percent of the quoted fees will be invoiced. In the event of cancellation or alteration from two working days prior to the appointment, or in the event of a no-show for training appointments, Esri Nederland shall invoice the full, quoted amount.
94. The Client is always responsible for any loss of data and must personally ensure complete backups of his or her data and software.

#### **Consultancy Services**

95. The Client shall not provide the recommendations or reports received by Esri Nederland to any third party, nor disclose these in any other manner. The Client shall bear the full risk of the execution of any recommendation given by Esri Nederland.
96. Esri Nederland shall provide the Client with periodic reports regarding the execution of the work.
97. The Client shall inform Esri Nederland in writing of any circumstances that are or may be of relevance prior to commencement. This includes the reporting method, main points of interest that the Client wishes to have addressed, the Client's priorities, availability of resources and the Client's employees and any other specific facts or circumstances of which Esri Nederland may not be aware.
98. The Client shall ensure a further distribution and acknowledgement within the Client's organisation of information provided by Esri Nederland, and shall assess this information in part on the basis thereof, and shall inform Esri Nederland about this assessment.

#### **Outsourcing Services**

99. Esri Nederland shall make the employee specified in the agreement available to perform certain tasks under the management and supervision of the Client.
100. The results of the work are at the Client's risk.
101. The employee may not be outsourced to third parties by the Client.
102. Esri Nederland shall endeavour to put forth its best efforts to ensure that the outsourced employee shall remain available for the duration of the agreement for work on the specified days, barring illness or the termination of the employment contract of the employee.

103. The Client may request replacement of the employee if the employee demonstrably fails to meet the expressly agreed quality requirements and the customer notifies Esri Nederland in a substantiated manner within three days following commencement of the work, or in the event of prolonged illness of the employee. Esri Nederland cannot guarantee that a replacement is always available. Should replacement prove impossible or not promptly possible, the Client's rights with respect to further performance of the contract shall cease to have effect, as shall all claims by the Client due to non-performance of the agreement. The Client's payment obligations with respect to the work performed shall be unaffected.
104. The working hours and days of the outsourced employee shall remain equal to those that apply at the Client's workplace.
105. The Client guarantees that these times and the safety and labour circumstances meet all relevant legal requirements and regulations.
106. If the employee, on the request of the Client, works more hours per day than the usual number of working hours, or works on days that are not regular working days with Esri Nederland, the Client shall owe the usual overtime rate for these hours. If so requested, Esri Nederland shall inform the Client of its current overtime rates.
107. Expenses will be invoiced to the Client 'at cost'. Travel time is not included in the agreement and will be invoiced separately, in accordance with the usual Esri Nederland rates.
108. Esri Nederland indemnifies the Client against all claims by the tax authorities or agencies tasked with implementing social insurance legislation pursuant to the agreement with the Client, subject to the condition that the Client shall immediately inform Esri Nederland in writing about the existence and the content of the claim, and shall leave the settlement of the claim, including any arrangements made in this regard, entirely to the supplier. The Client shall provide the powers of attorney and information required to Esri Nederland and assist Esri Nederland in its defence, where necessary in the name of the Client, against such claims.

#### **Training**

109. The Client is responsible for the selection and suitability of the training course for the participants. A lack of required prior knowledge on the part of a participant does not affect the Client's obligations pursuant to the contract.
110. Esri Nederland is authorised to cancel the course, combine it with one or more other courses, move this to a later date or time, and may change the location of the training course.
111. In the event that Esri Nederland provides the training course at the Client's location and with the Client's equipment, the Client shall ensure the availability of properly working equipment and software.
112. Administering an examination or test is not a standard component of the agreement.
113. In the event that a participant is unable to attend, the Client may send a replacement.