

## **TWINFIELD CARIBBEAN BV GENERAL TERMS AND CONDITIONS OF TWINFIELD FOR PARTNERS V22**

### **GENERAL**

Twinfield Caribbean B.V. is the strategic partner from Twinfield International N.V. in the following Caribbean countries:

U.S. Virgin Islands, Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cuba, Dominica, Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Cayman Islands, Montserrat, Curacao, Bonaire, St. Eustasius, Saba, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, Navassa, Saint Barthelomy, St. Maarten and Surinam.

### **1. DEFINITIONS**

**1.1** In these terms and conditions, the following capitalised terms have the meaning set forth hereunder.

**Administration:** financial records which are kept with the use of the Webservice;

**Customer:** a natural or legal person who is a customer of Partner and for whom Partner maintains one or more Administrations in the Environment;

**Environment:** an environment within the Webservice dedicated to Partner;

**External Administration:** an Administration to which one or more External Users have access via the Webservice;

**External User:** a User at a Customer, who has access to one or more Administrations which are kept for the Customer;

**Internal Administration:** an Administration which can only be accessed by Internal Users;

**Internal User:** a User at Partner, who has access to the Environment and/or one or more Administrations;

**Order Form:** the electronic order form on Twinfield's website which has been completed and submitted to Twinfield by Partner or any other document in which these terms and conditions have been declared applicable;

**Partner:** the natural or legal person who has submitted the Order Form and has therewith entered into the Partner Agreement;

**Partner Agreement:** the agreement referred to in Article 2.1;

**Parties:** Partner and Twinfield;

**Price List:** Twinfield's price list for the use of the Webservice and additional services, as amended from time to time;

**Report:** a report from a User to Twinfield on a problem relating to the Webservice or a question about the use or the implementation of the Webservice;

**Servers:** a collection of dedicated computers and related hardware managed by Twinfield International N.V., upon which is installed webserver software, support software or database software for providing the Webservice via the Internet;

**Service Hours:** the opening hours of Twinfield's helpdesk, being Monday to Friday 08.00-18.00 UTC -04:00;

**Special Conditions:** any special terms and conditions which may have been agreed between the Parties;

**Subscription:** a subscription to the Webservice giving an External User access to one or more Administrations on behalf of a Customer;

**Subscription Conditions:** the terms and conditions published on Twinfield's website which apply to the relevant Subscription;

**Super User:** an Internal User who has been appointed by Partner as administrator of the Environment;

**Support:** the provision of customer support pursuant to Article 16;

**Twinfield:** Twinfield Caribbean B.V., with its registered seat at Curaçao, and its office address at Emancipatieboulevard 29;

**User:** a natural person who uses the Webservice on behalf of Partner or a Customer;

**Webservice:** the on-line web application for bookkeeping as supplied by Twinfield International N.V.

## **2. APPLICABILITY AND ORDER OF PRIORITY**

**2.1** These terms and conditions, together with the Order Form, any Special Conditions, and the Subscription Conditions which apply to each of the Subscriptions constitute the Partner Agreement between Partner and Twinfield and are legally binding on Partner and Twinfield. These terms and conditions apply to all Subscriptions of Partner and all services rendered to Partner. Any general terms and conditions of Partner do not apply.

**2.2** The documents constituting the Partner Agreement have the following order of priority: the Order Form; the Special Conditions (if any); the Subscription Conditions; these terms and conditions. In case of conflict between those documents, the document with the highest priority will prevail.

**2.3** Twinfield may make amendments to the Partner Agreement. In case of such amendment, Twinfield will give Partner at least 30 days prior notice thereof. An amendment will be considered to be accepted by Partner and will enter into force on the date determined by Twinfield if Partner does not reject the amendment within 30 days following the notification thereof. If Partner rejects an amendment, Twinfield may terminate the Partner Agreement by giving at least 30 days notice of termination.

## **3. AVAILABILITY OF THE WEBSERVICE AND SUBSCRIPTIONS**

**3.1** Twinfield shall grant Partner access to the Webservice and keep the Webservice operational in accordance with the Partner Agreement. Twinfield shall provide Partner with the Environment.

**3.2** Partner may create Administrations, Super Users and Internal and External Users in the Environment. Partner shall register in the Environment to which Administrations each External and Internal User has access and which Subscription applies to each of the External Users. Partner may not create Administrations outside the Environment, provide a Customer with its own environment or allow a Customer to create Administrations or Users.

**3.3** A Subscription provides one External User access to at most 5 Administrations which are held by Partner for the

relevant Customer. If Partner or a Customer wishes to give an External User access to more than 5 Administrations, it must register or take out one additional Subscription for each 5 additional Administrations to which the External User will get access. The functions offered under a Subscription and the rights attached to a Subscription depend on the subscription level.

**3.4** Partner declares to be familiar with and to accept the functionalities of the Webservice as provided by Twinfield and the rights granted under each of the Subscriptions.

## **4. INDEBTEDNESS OF THE FEES**

**4.1** Partner shall be obliged to pay the fees set forth in the Price List for each Internal Administration and each Subscription in the Environment (with the exception of the Subscriptions referred to in Article 4.5). No fee will be due for Internal Users. Each Administration in the Environment which does not comply with Article 4.4 will be considered as an Internal Administration.

**4.2** The fees for Subscriptions and Internal Administrations are charged on a monthly basis and are payable in arrears. In addition, certain specific functionalities may be charged on the basis of actual use. The fees for Subscriptions and Internal Administrations are based on the maximum number of Subscriptions and Internal Administrations of Partner and the most comprehensive Subscription for each External User during the relevant month, with due regard for the duration and the notice period of the Partner Agreement and each of the Subscriptions.

**4.3** Partner shall be charged and pay for at least the minimum number of Internal Administrations set forth in the Order Form, whether or not such Administrations are opened or being used by Partner.

**4.4** No fee will be due by Partner for External Administrations. Such fee is included in the Subscription fee. An Administration will become an External Administration if an External User has access to such Administration under a Subscription registered in the Environment and will remain an External Administration during the term of such Subscription.

**4.5** Customers may take out a Subscription with Twinfield directly by submitting an order form to Twinfield specifying

the Subscription level, the External User to whom the Subscription applies and the Administrations to which the External User will have access. At the request of Twinfield, Partner will register these Subscriptions and External Users in the Environment and remove them from the Environment upon the termination of the relevant Subscription. These Subscriptions will be charged by Twinfield to the relevant Customer.

**4.6** The fees for Subscriptions which are registered in the Environment and have not been taken out by a Customer in accordance with article 4.5 shall be charged to and paid for by Partner. If an External User has access to more than 5 Administrations in the Environment, Twinfield will be entitled to charge Partner for one additional Subscription for each 5 additional Administrations to which the External User has access, unless Twinfield can charge such additional Subscriptions to a Customer pursuant to article 4.5. In addition, Twinfield may charge Partner in respect of each External User for the subscription level which corresponds with the most comprehensive functions of the Webservice used by or made available to such External User.

**4.7** Partner may only register its officers, employees and other persons employed or engaged by Partner as Internal Users. A User who is registered as an Internal User, but does not meet these requirements, will be considered as External User. Twinfield shall be entitled to charge Partner for such User at the rate of the most comprehensive Subscription for each 5 Administrations to which such User has access. On request of Twinfield Partner, must demonstrate that an Internal User meets the above mentioned requirements. The burden of proof that a User meets the above mentioned requirements rests on Partner.

**4.8** Without prejudice to article 4.6, Twinfield will be entitled to suspend an External User's access to all Administrations in the Environment if such External User has access to more Administrations than the number of Administrations which corresponds with the number of Subscriptions registered in the Environment for such External User. Twinfield will be entitled to suspend an Internal User's access to all Administrations in the Environment if it has prima facie evidence that such Internal User does not meet the

requirements set forth in Article 4.7.

**4.9** Partner shall be responsible for the timely removal from the Environment of Administrations and Subscriptions which are no longer used by Partner and shall be charged and pay for those Administrations and Subscriptions until they have been removed from the Environment.

Partner shall also be responsible for the timely removal from the Environment of each External User whose Subscription has ended and shall be charged and pay for such Subscription for the term until the External User has been removed from the Environment.

## **5. PRICING AND TERMS OF PAYMENT**

**5.1** The fees to be paid by Partner to Twinfield for the Webservice and additional services are to be Twinfield's list prices as specified in the Price List. Those prices are exclusive of VAT. The prices for services which are not specified in the Price List will be determined by agreement.

**5.2** Twinfield is entitled to increase its fees annually with the same percentage as the increase of the consumer price during the prior year as published by Statistics Netherlands (Centraal Bureau voor de Statistiek) and to round up those prices to whole USD.

**5.3** Twinfield will send Partner an invoice each month for the use of the Webservice and additional services in the prior months. The fees for training sessions are due in advance. Consultancy services shall be charged after they have been supplied. Consultancy services which are provided during more than one calendar month will be charged monthly in arrears. Twinfield may demand advance payment of the fees for consultancy services.

**5.4** Partner shall pay Twinfield's invoices within 14 days of the date of invoice. If Partner disagrees with an invoice it must give Twinfield notice thereof within 2 months from the date of invoice. If no objection has been made against an invoice within this term, the indebtedness of the invoice amount by Partner will therewith be established. Partner will be in default if it fails to pay an invoice in time. A failure of Partner to pay any amount due to Twinfield in time shall be considered as a material breach of the Partner Agreement.

**5.5** Twinfield may request Partner to pay by direct debit. In case of such payment by direct debit, the amount of the invoice will be debited from Partner's account on the day of the invoice. If Partner does not agree to pay by direct debit or the direct debit entry fails or is not honoured, Twinfield will be entitled to charge an administration fee to Partner of at most € 5,- per invoice.

**5.6** All payments made by Partner will first be applied against the oldest of any outstanding invoices from Twinfield, irrespective of any other indication by Partner. Partner may not postpone payment or withhold payment of any amount due to Twinfield because of any set-off, counterclaim, abatement, or other reason.

**5.7** Twinfield is authorised to read out, whether or not automatically, the user management data entered in the Environment and to use those data to ensure correct calculation and invoicing to the Partner. In addition, Twinfield has the right to check the numbers of Users, Administrations and Subscriptions maintained by Partner in the Webservice.

**5.8** If Partner fails to pay Twinfield on the due date, Twinfield may:

- a.** charge interest on the overdue amount at the rate of 4% per annum above the 3-months Euribor rate from time-to-time. The interest period shall run from the due date of payment until receipt of the full amount by Twinfield, whether before or after judgment. Notwithstanding the foregoing, Twinfield may in the alternative claim interest from Partner under Article 6: 119 a of the Dutch Civil Code; and
- b.** suspend all provision of the Webservice to Partner until payment has been made in full.

**5.9** All sums payable by Partner to Twinfield shall become due immediately on the termination of the Partner Agreement.

## **6. LIABILITY**

**6.1** Twinfield's liability to Partner for whatever reason is limited to the amount of the aggregate fees paid by Partner to Twinfield for the use of the Webservice during the period of 12 months preceding the event which caused the loss or damage. Twinfield is not liable to Partner for any loss or damage of Partner caused by loss of business, loss of profit, loss of goodwill, business interruption, or loss or corruption

of data. Twinfield cannot invoke this limitation of liability clause if the loss or damage has been caused by an intentional act or gross negligence of Twinfield or senior management of Twinfield.

**6.2** In addition to Twinfield, each of its affiliated companies, employees, agents and sub-contractors may invoke the limitation of liability set forth in Article 6.1.

**6.3** This article 6 shall survive termination of the Partner Agreement.

## **7. INDEMNITIES**

**7.1** Partner shall indemnify Twinfield against all liabilities, costs, expenses, damages and losses (including legal costs and expenses) suffered or incurred by Twinfield arising out of or in connection with:

- a.** any breach of Articles 9.3, 11.5, 12.3, 12.8, 12.11, 12.14, 15.2 and 15.6;
- b.** any third party claim arising out of or in connection with Partner's unauthorized use or adaptation of the Webservice;
- c.** any claim by a Customer arising out of or in connection with Partner's use of, or omission with regard to the use of the Webservice;
- d.** claims from third parties that are based on an allegation that the information saved and/or exchanged by Partner or Internal Users is unlawful.

**7.2** This Article 7 shall survive termination of the Partner Agreement.

## **8. IP RIGHTS AND RIGHTS IN THE ADMINISTRATIONS**

**8.1** Partner acknowledges and agrees that all intellectual property rights in the Webservice, including the functional and technical design, the lay out, the programming, the structure of the database, the functionalities, and the source codes of the Webservice, and all related documents exclusively belong to Twinfield or its licensors. The provision of the Webservice or any related product or service does not imply any transfer of intellectual property rights to Partner.

**8.2** All rights of whatever nature in the data in an Administration belong to the Customer whose accounts are kept in the Administration.

**8.3** At the request of a Customer, Twinfield may transfer all Administrations of such Customer, with all data therein and with the layout and the headings of the chart of accounts thereof, to the environment in the Webservice of another accountancy firm, accounting office or other service provider, or to Twinfield's own environment in the Webservice. The Customer, the other accountancy firm, accounting office or service provider and Twinfield will be entitled to continue such Administrations in the layout and with the headings of the chart of accounts thereof. Partner shall inform Twinfield of all user codes and passwords in respect of those Administrations.

**8.4** Article 8.3 shall apply accordingly in case of termination of the Partner Agreement.

## **9. TERM AND TERMINATION**

**9.1** The Partner Agreement commences on the date of the submission of the Order Form by Partner. The Partner Agreement is entered into for an indefinite period and shall continue for a minimum period of one year, unless terminated as provided in Article 9.2. Either Party may terminate the Partner Agreement for convenience after the minimum period has lapsed by giving 30 days written notice to the other Party with effect from the end of a calendar month.

**9.2** Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate the Partner Agreement with immediate effect without liability to the other Party if:

- a.** the other Party commits a material breach of any of its obligations under the Partner Agreement and (if such a breach is remediable) fails to remedy such breach within 30 days of that Party being notified in writing of the breach;
- b.** the other Party commits persistent breaches of its obligations under the Partner Agreement, so as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to abide by the Partner Agreement;
- c.** the other Party has been declared bankrupt or granted moratorium;
- d.** the other Party takes or suffers any similar or analogous action in any foreign jurisdiction in consequence of debt; or

**e.** the other Party ceases its business.

**9.3** On termination of this Partner Agreement for any reason:

- a.** Partner shall no longer have access to the Webservice and all Subscriptions of Partner shall end;
- b.** Partner shall immediately cease to hold itself out as a Twinfield Partner;
- c.** the right of Partner to use the Webservice lapses immediately and Partner shall cease all use of the Webservice;
- d.** Twinfield will no longer be responsible for saving the data in the Internal and External Administrations and the Environment. The data referred to in Article 21.2 shall be made available to Partner, provided that Partner makes a written request to that effect to Twinfield within one month after the effective date of the termination of the Partner Agreement, in which case Article 21.2 shall apply;
- e.** the accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

**9.4** In case of the termination of an Administration, Twinfield will no longer be responsible for saving the data in such Administration. The data in the terminated Administration referred to in Article 21.2 shall be made available to Partner, provided that Partner makes a written request to that effect to Twinfield within one month after the effective date of the termination of the Administration, in which case Article 21.2 shall apply.

**9.5** Twinfield will be entitled to charge a fee for saving data after termination of an Administration or the Partner Agreement.

## **10. FORCE MAJEURE**

**10.1** Twinfield shall not be in breach of the Partner Agreement, nor liable for a failure of a supplier of Twinfield International N.V. and Twinfield, government measures or instructions, strikes, power cuts, internet or telephone interruptions and other circumstances beyond Twinfield's reasonable control.

**10.2** If any delaying event under Article 10.1 continues for a period of 60 days or more, either Party may terminate the Partner Agreement by giving written notice to the other Party

of its intention to terminate the Partner Agreement at the expiry of 14 days from the date of such notice, unless in the meantime the delay in performance has ended.

## **11. MISCELLANEOUS**

**11.1** Partner consents to Twinfield indicating in advertisements and brochures that Partner is a Twinfield Partner and using Partner's name and logo for that purpose.

**11.2** Partner consents to receiving messages, newsletters, advertisements and other communications from Twinfield by e-mail, unless it informs Twinfield via Twinfield's website or by e-mail to [info@twinfield.cc](mailto:info@twinfield.cc) that it does not wish to receive such communications.

**11.3** All notices and other communications by Partner to Twinfield must be in writing and can be sent by e-mail to [info@twinfield.cc](mailto:info@twinfield.cc). Partner will bear the burden of proof that an e-mail or other written communication has been received by Twinfield. All notices to Partner may be given by e-mail or a communication in the Webservice.

**11.4** No amendment or variation of the Partner Agreement shall be effective unless it is in writing and signed by both Parties or in accordance with Article 2.3.

**11.5** Partner may not, without the prior written consent of Twinfield, assign, transfer, or pledge its rights and obligations under the Partner Agreement or allow a third party to make use thereof.

**11.6** Twinfield may at any time assign, transfer, pledge or in any other manner dispose of any or all of its rights and obligations under the Partner Agreement. Twinfield may sub-contract or delegate any or all of its obligations under the Partner Agreement to a third party.

**11.7** The Partner Agreement and all other agreements and legal relationships between the Parties shall be governed by and construed in accordance with Dutch law.

**11.8** The Parties irrevocably agree that the Court of Amsterdam, the Netherlands, shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the explanation or performance of the Partner Agreement and all other agreements and legal relationships between the Parties.

## **USE OF THE WEBSERVICE**

### **12. PROVISION AND USE OF THE WEBSERVICE**

**12.1** The Webservice is offered from a central location as a shared generic solution. The Webservice is not specifically maintained for Partner or a Customer.

**12.2** Twinfield will send Partner the URL of the Webservice, a user code, a password and the code of the Environment within 5 working days after the date on which the Partner Agreement becomes effective. A Super User can use these to configure and manage the Environment and the Administrations in the Environment on behalf of other Users.

**12.3** Partner will use the Webservice for maintaining and managing the Environment and the Administrations in the Environment and providing support to its Customers. Partner will only have access to the Environment and the Administrations in the Environment. Customers will only have access to the Administrations, which are kept by Partner on behalf of such Customer.

**12.4** If a second User tries to log in to the Webservice with a combination of user code and password that is already being used, the session already in use will automatically be terminated.

**12.5** Partner may open a maximum number of 5 demo Administrations. Each of those demo Administrations may be used by maximum 3 Users for demonstrating and testing the Webservice. Twinfield will be entitled to remove or block a demo Administration if it is used for any other purpose or in any other manner, or if it is used for more than 30 days by the same User or for the same Administration. The demo status is indicated to the User on the desktop of the Webservice and the Administrations concerned are not accommodated in the back-up procedure.

**12.6** The Environment will contain 2 template Administrations. Partner may open a maximum number of 5 template Administrations free of charge.

**12.7** Twinfield International N.V. has the right to modify the offered functionalities of the Webservice from time to time to improve or change the functionalities and correct errors. Twinfield International N.V. will make every effort to solve errors in the Webservice, but does not warrant that

all errors are corrected. If a modification results in a change in the functionality, Twinfield will give notice thereof via a communication in the Webservice or an e-mail to the Super User.

**12.8** The Users determine which information is saved and/or exchanged using the Webservice. Twinfield has no knowledge of this information. Partner is responsible for ensuring that the information saved and/or exchanged by Internal Users is lawful and does not breach the rights of third parties.

Twinfield does not accept any liability whatsoever for the information saved and/or exchanged using the Webservice.

**12.9** Twinfield is not responsible for the correctness of the data or the compliance by Users with accounting regulations. Twinfield International N.V. makes every effort to ensure that transactions entered by Users are correctly recorded and validated by the Webservice. However, information that is incorrectly entered by a User cannot be recognised as such by the Webservice and will consequently be incorrectly saved or recorded.

**12.10** If it becomes apparent to Twinfield that the information that is saved in or exchanged via the Webservice is unlawful, then it will delete such information or block the access to it. In no case shall Twinfield be liable for damages resulting therefrom.

**12.11** Twinfield, Partner and the Users are obliged to keep all user codes and passwords secret.

**12.12** Twinfield is not liable for misuse or loss of user codes and passwords, and it may assume that the Users who login using a user code and password are actually the Users who have been authorised to do so by Partner or a Customer.

The moment Partner knows or has reason to suspect that user codes or passwords have fallen into the hands of unauthorised persons, it will immediately inform Twinfield thereof.

**12.13** Each User can change his/her own password. Partner will endeavour to ensure that the Users change their passwords at least every 2 months.

**12.14** Partner shall ensure that the Users shall carefully observe the user instructions and directions of Twinfield and are bound to the applicable practices of normal use of a webservice such as the Webservice. If the conduct of Partner or a User endangers the proper functioning of the Webservice,

Twinfield will be entitled to block access to the Webservice by such User or all Users, without prior notice.

**12.15** Twinfield applies no fixed limit to the quantity of data and/or master files that Partner and/or the Users may process using the Webservice. However, this does not mean that Twinfield will permit an unlimited processing of such data or master files. In case of higher than average use of an Administration or the Environment compared to the number of Administrations and/or Subscriptions being paid for, Twinfield will inform Partner thereof. When Partner does not reduce or cause the reduction of such use, Twinfield may impose a reasonable increase in fees. If Partner does not agree to pay the higher fees, Twinfield has the right to terminate the Partner Agreement at no cost with 30 days notice.

**12.16** If Partner wishes to use its own system for user management and therefore allows one or more Users to log in via a single sign-on functionality, it needs to sign a declaration to be obtained from Twinfield. The use of a single-sign-on functionality will be at the risk of Partner.

**12.17** Twinfield International N.V. is not permitted to use the data from the Environment or Administrations, other than to provide services to Partner or the relevant Customer. Twinfield is permitted to use the data in anonymous form for statistical purposes. Twinfield is allowed to use a copy of the Environment in the acceptance environment to monitor the correct functioning of the Environment or to test the correct functioning of an update of the Webservice.

**12.18** The Webservice will be regularly audited by registered EDP auditors (RE) from a reputable independent IT audit firm.

**12.19** Partner is able to monitor in the Webservice which Users use a certain functionality.

### **13. TRAINING SESSIONS**

**13.1** Partner can register Users to attend a Twinfield training session on the use of the Webservice. If the number of registrations in the judgement of Twinfield gives reason to do so, Twinfield is permitted to reschedule the training session or to combine it with one or more other training sessions. Twinfield gives no warranty whatsoever regarding the content or result of the training. Partner accepts that the training will be given by Twinfield to the best of its ability.

**13.2** The fees for attending a training session, the cancellation policy and other terms and conditions in respect of training sessions are published on Twinfield's website.

## **14. CONSULTANCY SERVICES**

**14.1** The Parties can separately and in writing agree on additional advisory and other services by Twinfield to Partner or a Customer. Such services will be provided on a consulting bases. Twinfield shall use reasonable skill and care in the performance of such services in accordance with the consultancy agreement. Twinfield does not warrant that it will achieve a specific result in providing consultancy services, even if it has committed itself to achieve such result.

**14.2** If it is agreed that the consultancy services will be given in phases, Twinfield is authorised to defer the commencement of the services that form a part of a phase until Partner or the Customer has approved the results of the preceding phase in writing.

**14.3** Twinfield is only obliged to follow instructions by Partner regarding the performance of consultancy services if this is explicitly agreed in writing and does not require extra work, and provided that the instructions are reasonable and given in good time.

**14.4** If an agreement to provide consultancy services is entered into with the view of having it performed by a specific person, Twinfield is nevertheless at all times authorised to replace this person with another person after notifying Partner.

## **15. PRIVACY AND SECURITY**

**15.1** Twinfield and all employees of Twinfield shall observe strict confidentiality in respect of all data in the Administrations and the Environment and all information that can be derived there from. Twinfield and Partner will observe strict confidentiality in respect of all information on each others business which is of a confidential nature.

**15.2** The use of the Webservice may involve processing personal data. In this regard, Twinfield will act as data processor as referred to in Article 1 sub e of the Dutch Data Protection Act (Wet Bescherming Persoonsgegevens) and shall observe all obligations resulting therefrom. Partner will

be deemed to be the responsible person as referred to in Article 1 sub d of the Dutch Data Protection Act in respect of these personal data and shall meet all its obligations resulting thereof.

**15.3** All staff who act under the authority of Twinfield and have access to personal data will observe confidentiality with respect to those personal data.

**15.4** Twinfield will take reasonable measures to protect the personal data saved or processed in the Webservice and shall strictly adhere to the Dutch Data Protection Act. Twinfield will make reasonable effort to prevent unauthorised persons from accessing data of Partner or Customers. The information regarding these measures will be made available to Partner for inspection, to a limited and responsible extent, on Partner's request.

**15.5** The data of Partner and the Customers will only be saved and processed on one of the Servers, all of which are located in a country forming part of the European Economic Area (EEA).

**15.6** Partner shall take reasonable measures to ensure that the Users will use the customary security software that should normally be installed on a computer, such as anti-virus, anti-spam, anti-spyware, anti-malware, anti-phishing and firewall software, as well as the security measures that Twinfield makes available.

## **SERVICE LEVEL**

### **16. SUPPORT**

**16.1** Partner and External Users have the right to Support for the use of the Webservice with respect to the functionality of the Webservice. Support is available during Service Hours. Twinfield can only offer Support if Partner or the relevant Customer uses operating systems that are at the moment of Support supported by the manufacturer of the operating systems. Support comprises general assistance regarding the use of Webservice, explanation of the documentation, help to allow Partner to get the Webservice working correctly and verification and analyses of the correctness of the entered and processed data. Support does not extend to the full operation of functions when no training has been followed by the User, or the provision of implementation, training and consultancy services.

**16.2** Partner shall appoint at least one Super User. One of the Super Users will act as principal contact person with Twinfield. Twinfield may require that a Super User meets certain standards of competence set by Twinfield or attends certain training sessions. The Articles 5 and 13 shall apply to those training sessions.

**16.3** Support is provided via an online helpdesk function in the Webservice or by telephone. Twinfield will be entitled to offer telephone support as a phone paid service. Support by telephone will only be given during Service Hours and will only be available to Super Users. Twinfield will endeavour to adequately answer questions, but does not warrant the correctness and/or completeness of the answers. Questions regarding the method of accounting or internal bookkeeping regulations will not be handled.

**16.4** Internal and External Users can send Reports to Twinfield via the online helpdesk in the Webservice.

**16.5** Partner shall enhance that, before making a Report, Internal and External Users will first put their questions in respect of the Webservice to a Super User and consult the knowledge base behind the questions mark in the Webservice.

**16.6** Twinfield and third parties who are engaged by Twinfield may have access to the Environment and the Administrations in the Environment for providing Support and may make those changes to the Environment and the Administrations in the Environment as they deem necessary for solving a problem indicated in a Report.

**16.7** Support is provided from an office of Twinfield. If assistance is desired at the location of Partner or a Customer, a separate agreement must be made at the then applicable rate. Article 14 shall apply to such agreement.

**16.8** Twinfield is not liable for the incorrect, incomplete or delayed sending and/or receipt of a Report submitted by a User, caused by the malfunctioning of telecom services or hardware of third parties and/or Partner.

**16.9** Twinfield can freely choose which staff member deals with a Report. Partner cannot demand to be served by a specific person.

**16.10** Partner can be charged by Twinfield for processing Category 40 Reports (as referred to in Article 17). If so, Twinfield will inform Partner in advance.

**16.11** Partner can monitor in the Webservice how Twinfield follows up a Report.

## **17. RESPONSE TIMES**

**17.1** Reports have the following priority:

- a.** Category 10 Report: a report on the Webservice being entirely unreachable owing to a fault on the part of Twinfield International N.V. or the webservice having entirely stopped, such that none of the functions are available;
- b.** Category 20 Report: a report on a problem that causes a serious application error, which can endanger the progress of an essential processing period, but which does not bring the entire Webservice to a stop;
- c.** Category 30 Report: a report on a minor problem in the Webservice that does not require the immediate response of Twinfield;
- d.** Category 40 Report: all questions and requests for information regarding the use or implementation of the Webservice.

**17.2** The following response times apply within the Service Hours: Category 10 Reports: 2 hours; Category 20 Reports: 5 hours; Category 30 Reports: 8 hours; and Category 40 Reports: 20 hours. Twinfield will decide in good faith which category applies to a Report.

## **18. ACCESSIBILITY**

**18.1** Twinfield International N.V. will make every effort to ensure the accessibility of the Webservice by Partner and Customers for the purposes to which they are entitled.

**18.2** Twinfield International N.V. will provide a minimum level of accessibility (uptime) of the Webservice of 99.6% per month, with the exception of the exclusions as indicated in Article 20. The above mentioned percentages are measured over a calendar month and at the closest measuring point. Accessibility is understood to mean that the Webservice is available on the internet at the URL provided to Partner and is actually provided on the Servers. Accessibility is not understood to mean the existence of a working point-to-point connection between the systems at Partner or the Customers and the Servers. Twinfield is not responsible for the systems

at Partner or the Customers and the connecting internet infrastructure.

**18.3** The accessibility of the Webservice is measured every 3 minutes from at least 6 locations around the world. The current value of the accessibility can be retrieved using the login screen of the Webservice. The given values reflect the average minimum accessibility from all the measuring locations around the world.

## 19. PERFORMANCE

**19.1** Twinfield International N.V. will make every effort to ensure that the Webservice works properly without any problems and that the speed is sufficient to be able to continuously work with it during the day. In this regard, the following measurement is used as an objective measuring assessment: the manual retrieval or saving of an entry with two lines using an average computer via an internet connection of average speed in an environment with an average size is effected in two out of three cases within 1,5 seconds, where in the third case the time may not be longer than 2 seconds.

**19.2** Twinfield International N.V. only warrants the performance indicated in Article 19.1 if and insofar as Partner satisfies the minimum system requirements specified by Twinfield International N.V., including the support of Internet Explorer, Firefox and other browsers that run under Windows, Apple Macintosh and Linux or other platforms. Moreover, Partner must have sufficient bandwidth. In this regard, it is assumed that at least 128 Kbit/sec (both download and upload) is available at all times for the workstation from where the Webservice is used, to be measured by an independent website such as [www.speedtest.nl](http://www.speedtest.nl). However, it is not necessary for every individual workstation to have this bandwidth.

**19.3** Twinfield International N.V. is at all times authorised to change these minimum system requirements. In this case, Partner will be given prior notice. If Partner does not satisfy these new requirements, the abovementioned warranty regarding performance lapses.

**19.4** The Webservice is a pure webservice. This means that the Webservice was not developed for use via Terminal

Services or Citrix. Twinfield endeavours to support such constructions to the best of its ability.

**19.5** The Webservice is offered from a location equipped to offer the Webservice in a professional manner according to the current state of the art and customary and acceptable level of costs. This includes the physical protection of the premises, the prevention of access by unauthorised persons, 24/7 hardware-support, fire prevention, power backup and internet access security including a firewall, general security, data protection, and making reserve copies.

**19.6** The data traffic from and to the Servers is monitored 24 hours a day from a central control room. Twinfield International N.V. will endeavour to respond within 30 minutes to unauthorised attempts by third parties to access the Webservice, to irregular traffic that cannot be handled by the Webservice, to harmful data traffic or other attempts to undermine the correct functioning of the Webservice. In such cases, Twinfield International N.V. is authorized to block access to the Webservice.

## 20. EXCLUSIONS

**20.1** The service level set forth in Articles 16 through 19 of these terms and conditions does not apply in the following situations:

- a.** during the regular maintenance windows. These will not be scheduled more than 2 times a month and will not commence before 23.00 hours Dutch time. Twinfield will inform Partner about such a maintenance window at least 2 working days in advance;
- b.** in case of incidents resulting from or attributable to force majeure;
- c.** in case of any problem or disruption caused by an act of a User;
- d.** in case of the unavailability of the Webservice at Partner's request, and/or unavailability of the Webservice during work at the request of Partner;
- e.** if Twinfield needs the assistance of Partner or a Customer to determine or isolate a problem or fault, and Partner or such Customer does not provide such assistance;
- f.** if the Partner does not comply with the minimum system requirements set forth in Article 19.2;

g. in case of malfunctioning of the systems at partner or a Customer or the internet infrastructure.

## **21. BACK-UP AND OTHER SERVICES**

**21.1** Partner consents to a reserve copy being made of its data and the data of the Customers. The back-up procedure used by Twinfield International N.V. is as follows. Twinfield International N.V. will make every effort to a) make an interim copy each hour, which will be kept for one day, b) make a reserve copy once a day that will be kept for 7 days, c) make a week backup each Friday that will be kept for 3 weeks, d) make a month backup each last day of the month that will be kept for one year, and e) keep the backup of 1st January of each year for 7 years. Each reserve copy will be compressed and encrypted via the Rijndael (AES) or 448- Blowfish encryption principle. The reserve copies are saved in an externally located data centre in a country forming part of the European Economic Area (EEA). Files in the function file management are not saved in the reserve copies. No reserve copies will be made of demo Administrations and template Administrations.

**21.2** After termination of the Partner Agreement or an Administration and provided that the request thereto has been made in accordance with Articles 9.3 sub d or 9.4, Twinfield will at the expense of Partner and provided that agreement has been reached by the Parties on the conditions thereof, make the audit file(s) of the Administrations in the Environment or the relevant Administration or specific data or records in the Environment or the relevant Administration available to Partner, in a generally accessible file format. In case of such request Twinfield will make an offer to Partner as regards the data to be exported, the fee and the other terms and conditions of the data transfer. Such offer will be based on Twinfield's consultancy fees as specified in the Price List. Partner agrees that the liability of Twinfield for the availability, completeness, integrity or possibilities for use of such data is entirely excluded. Twinfield is not obliged to convert the data provided or otherwise make them appropriate for use.

**21.3** Partner can request the restoration of data using the reserve copies. To this end, a separate agreement must be made at the then applicable rate and under the then applicable terms and conditions.