

# Special Terms for PTV Cloud Services Value-Added Reseller (US Version)

## Document information

Short title	Special Terms PTV Group VAR US
Version	V.1.0.0 from 01/13/2025

## Contents

<b>1</b>	<b>General Provisions</b> .....	<b>5</b>
<b>2</b>	<b>Definitions</b> .....	<b>5</b>
<b>3</b>	<b>Object of the Agreement</b> .....	<b>6</b>
<b>4</b>	<b>Quality of the PTV Cloud Services</b> .....	<b>6</b>
<b>5</b>	<b>Prices</b> .....	<b>7</b>
<b>6</b>	<b>These Special Terms, PTV Group VAR Agreement, Order of precedence</b> .....	<b>7</b>
<b>7</b>	<b>Customer contracts</b> .....	<b>8</b>
<b>8</b>	<b>Modifications, Rights to PTV Cloud Services</b> .....	<b>9</b>
8.1	Modifications .....	9
8.2	Rights to use Trademarks for PTV Cloud Service; Copyright notices	9
<b>9</b>	<b>Support and Standby Services</b> .....	<b>10</b>
9.1	VAR first level support for PTV Cloud Services .....	10
9.2	PTV second level support for PTV Cloud Services .....	10
9.3	Customer inquiries .....	10
9.4	SLA.....	11
9.4.1	SLA support for errors of the PTV Cloud Service	11
9.4.2	Error classification	11
<b>10</b>	<b>Professional Services</b> .....	<b>14</b>
10.1	Scope and delivery of Professional Services .....	14
10.2	Acceptance.....	15
<b>11</b>	<b>Limitations on Rights of VAR for Defects</b> .....	<b>15</b>
<b>12</b>	<b>Indemnification for Infringement Claims</b> .....	<b>16</b>
12.1	Indemnification of Intellectual Property Infringement Claims .....	16
12.2	Remedy .....	16
<b>13</b>	<b>Force Majeure</b> .....	<b>16</b>
<b>14</b>	<b>Obligations of VAR on Termination of the PTV Group VAR Agreement</b> .....	<b>17</b>
<b>15</b>	<b>Confidentiality and data protection</b> .....	<b>17</b>
15.1	Confidentiality .....	17
15.2	Data Security, Data Protection.....	18

<b>16</b>	<b>Final provisions.....</b>	<b>18</b>
16.1	Written Form.....	18
16.2	Export Control Regulations .....	19
16.3	Code of Conduct .....	19
16.4	Transfer to Third Parties, Subcontractors.....	19
16.5	Severability clause; Waiver and Modification .....	19

# 1 General Provisions

- 1.1. These Special Terms for PTV Group Value-Added Reseller (“Special Terms”) are part of and incorporated into the PTV GROUP VALUE-ADDED RESELLER AGREEMENT BETWEEN PTV and VAR and set forth the framework for the non-exclusive advertisement and distribution of PTV Cloud Services by VAR to its Customers.
- 1.2. PTV will notify VAR of any changes to these Special Terms in writing, by facsimile or email. If VAR does not object to such changes within six (6) weeks from the date of receipt of the aforesaid notice, such changes are deemed to have been consented to. In the event of any amendment to these Special Terms, VAR’s attention is specially drawn to its right of objection and to the legal consequences of silence. In the event that VAR objects in writing within the six-week period, the contractual relationship shall be continued under the previously applicable terms and conditions. If VAR does object timely, PTV shall be entitled to terminate the contractual relationship existing with VAR by providing one (1) month’s prior written notice to VAR.

# 2 Definitions

- 2.1. “**Customer**” is a company which wishes to purchase or has purchased the PTV Cloud Service from VAR and uses it for its own business purposes.
- 2.2. “**PTV Data**” means any data or digital content made available by PTV to Customer. PTV Data may include geographical data, traffic data, point-of-interest and geodata.
- 2.3. “**PTV Cloud Service(s)**” means cloud-based software and PTV Data provided by PTV to VAR via the Internet in a public cloud, usually by means of an API.
- 2.4. “**Product Description**” means the technical specifications and functionalities of the PTV Cloud Service as amended from time to time, available for each PTV Cloud Service at:
  - PTV Access  
[https://legaldocs.ptvgroup.tech/en/ptv\\_access\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_access_service_description_en.pdf)
  - PTV Bicycle  
[https://legaldocs.ptvgroup.tech/en/ptv\\_bicycle\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_bicycle_service_description_en.pdf)
  - PTV Flows  
[https://legaldocs.ptvgroup.tech/en/ptv\\_flows\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_flows_service_description_en.pdf)
  - PTV Lines  
[https://legaldocs.ptvgroup.tech/en/ptv\\_lines\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_lines_service_description_en.pdf)
  - PTV Visum Publisher  
[https://legaldocs.ptvgroup.tech/en/ptv\\_visum\\_publisher\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_visum_publisher_service_description_en.pdf)
  - PTV Hub  
[https://legaldocs.ptvgroup.tech/en/ptv\\_visum\\_publisher\\_service\\_description\\_en.pdf](https://legaldocs.ptvgroup.tech/en/ptv_visum_publisher_service_description_en.pdf)
- 2.5. “**Subscription**” is a paid subscription for the time-limited use of a PTV Cloud Service ordered by VAR.

- 2.6. **“Value-Added Reseller”** is a company that intends to sell PTV Cloud Services on a non-exclusive basis to Customers in its own name and for its own account. A Value-Added Reseller is not a commercial agent.
- 2.7. **“Authorized Users”** shall mean the persons who use the PTV Cloud Service in their position as employees or representatives of VAR or Customer.
- 2.8. The **“contractual relationship”** consists of these Special Terms and the PTV Group Value-Added Reseller Agreement (**“PTV Group VAR Agreement”**).
- 2.9. The terms **“distribution”** and **“purchase”** used in these Special Terms refer to the Subscription of a PTV Cloud Service.

### 3 Object of the Agreement

- 3.1. The improvement, extension and further development of PTV Cloud Services is carried out by PTV at its own discretion. PTV usually informs VAR about updates once per calendar year. New versions of PTV Cloud Services become object of the agreement upon their deployment (“Deployment”). As part of its general product policy, PTV is entitled to make further changes, additions and restrictions to PTV Cloud Services and to its product portfolio, especially to replace PTV Cloud Services and to discontinue individual PTV Cloud Services. PTV shall inform VAR in writing at least six (6) months before implementing such change. The change is binding and therefore an integral part of the agreement if VAR does not terminate the PTV Group VAR Agreement in writing within one (1) month after receipt of the notification with a notice period of one (1) month to the end of the month. If PTV Cloud Services are discontinued, PTV is entitled to terminate the PTV Group VAR Agreement with a notice period of one (1) month to the end of the month. VAR shall ensure by means of appropriate agreements that the aforementioned reservations of change also apply in relation to the Customers.
- 3.2. PTV reserves the right to distribute the PTV Cloud Services in the distribution area without restriction itself (direct sales) and/or through other intermediaries, including other authorised resellers, commercial agents, OEM partners, system integrators and e-commerce.

### 4 Quality of the PTV Cloud Services

- 4.1. VAR must fulfil all technical requirements with regard to the PTV Cloud Services and must ensure by means of appropriate contractual agreements that the Customer also fulfils them.
- 4.2. PTV may, at its own discretion, provide VAR and the Customer with marketing information on the performance and use of the PTV Cloud Services in the form of tutorials, web help and other marketing materials. This additional information is non-binding and is not an agreement on quality.

## 5 Prices

- 5.1. VAR shall acquire the PTV Cloud Services from PTV at the prices agreed in the PTV Group VAR Agreement or at the applicable prices adjusted by PTV. All prices are net prices excluding statutory VAT.
- 5.2. PTV shall be entitled to change the prices within the scope of its general pricing policy by means of a written declaration of adjustment to VAR with effect from January 1 of a calendar year, subject to a notice period of four (4) months.
- 5.3. VAR shall pay to PTV the prices applicable to the purchased PTV Cloud Services within thirty (30) days from the date of invoice.
- 5.4. If VAR is in default with a payment, PTV shall be entitled to withhold all services and the allocation of license keys in connection with the concerned PTV Cloud Services until payment is received. The assertion of further rights due to default of payment remains unaffected.
- 5.5. Prices do not include any applicable federal, state and local taxes (including VAT) applicable to the PTV Cloud Service. PTV will add an amount equal to the appropriate taxes to the invoice where PTV has the legal obligation to collect and remit such taxes. VAR will pay any sales, use, excise, import or export, value added or similar tax (except taxes based on PTV's income) and any penalties or interest associated therewith imposed by any governmental authority with respect to either or both of any payments to be made by VAR to PTV. VAR will indemnify and hold PTV harmless from any and all liability associated with failure to comply with its obligations.
- 5.6. If VAR is required by law to deduct or withhold taxes from any amount payable, the amount payable shall increase to the extent necessary for PTV to receive, after making all required deductions and withholdings, a payment equal to the amount which PTV would have received without such deductions or withholdings. PTV will support VAR in order to achieve any withholding tax reduction under an applicable double taxation agreement.
- 5.7. PTV shall have the right, upon reasonable notice and at reasonable times, through an independent certified public accountant selected by PTV, to examine the records of VAR to the extent reasonably necessary to verify the accuracy of any reporting ("Reporting"), invoice, statement, charge, payment, or computation made under this agreement. If in this process an inaccuracy of the billing occurs to the disadvantage of PTV, VAR shall be obligated to bear the costs, otherwise, PTV shall bear the costs.

## 6 These Special Terms, PTV Group VAR Agreement, Order of precedence

- 6.1. The PTV Group VAR Agreement defines the technical and commercial terms that apply to the individual PTV Cloud Service and contains, in particular, the following information:
  - number and date of the PTV Group VAR Agreement;
  - description of the PTV Cloud Service;
  - business model (Subscription with corresponding terms) and prices that apply to the purchase of the PTV Cloud Service by VAR and its distribution to the Customer;

- distribution area;
  - all applicable conditions regarding additional subscriptions, options, extensions, upgrades, updates and termination;
  - technical requirements;
  - delivery conditions and/or activation terms;
  - invoicing and payment terms;
  - annual targets;
  - conditions for reporting and communication.
- 6.2. In case of any contradictions, the following hierarchy of contractual provisions shall apply in the order indicated:
- the PTV Group VAR Agreement;
  - annexes to the PTV Group VAR Agreement including documents linked via URL in the PTV Group VAR Agreement;
  - these Special Terms;
  - annexes to these Special Terms including documents linked via URL in these Special Terms.
- 6.3. To the extent that PTV provides services - whether customer-specific maintenance, support and stand-by services, adaptations, system integration and other professional services - in addition to rights of use, the rights of use and the respective services are individual service obligations, each of which exist separately and independently of the other service obligations and can be separately defined ("distinct"). The rights of use are always separable from the services and constitute an independent benefit for VAR as well as for the Customers directly or in combination with already available resources. There is no claim against PTV to provide bundled services or to achieve specific results. VAR and Customers shall be granted rights of use without PTV's obligation to provide any significant adjustment to other objects or services. Furthermore, there is neither a dependency nor a correlation between the transfer of the rights of use and any services, as these are not significantly interdependent and are not interrelated.

## 7 Customer contracts

- 7.1. VAR may not grant Customers more extensive rights to the PTV Cloud Services than those provided for in the Terms of Use for PTV Group as amended from time to time, available at [https://www.ptvgroup.com/en/terms\\_of\\_use\\_ptv\\_cloud\\_services\\_us](https://www.ptvgroup.com/en/terms_of_use_ptv_cloud_services_us).
- 7.2. VAR shall ensure by means of appropriate contractual agreements with the Customers that each Customer and each User undertakes vis-à-vis PTV to comply with the aforementioned Terms of Use for PTV Group as amended from time to time and shall upon request provide PTV with written proof thereof. Agreements between VAR and its Customers may not extend beyond the then-current term of the PTV Group VAR Agreement.



- 7.3. VAR shall immediately notify PTV in writing if there are indications or suspicions that PTV Cloud Services are being used by Customers, Users or third parties contrary to the contractual provisions or copyrights and shall fully support PTV in prosecuting such violations.

## 8 Modifications, Rights to PTV Cloud Services

### 8.1 Modifications

- 8.1.1. VAR is not entitled to modify, change or localise the PTV Cloud Services (collectively referred to as “**Modifications**”).
- 8.1.2. VAR may only change the parameters of the PTV Cloud Services to the extent that they can be changed in the user interface or the software development kit without interfering with the source code of the PTV Cloud Services. VAR may only modify those parts of the PTV Cloud Services that have been created in script language, and only in such a way that the functionalities of the corresponding PTV Cloud Service are extended without rewriting the program itself. These restrictions apply to all Modifications made by VAR.
- 8.1.3. VAR shall have no right whatsoever to receive, review, or otherwise use or have access to the source code of the PTV Cloud Services which are permitted under these Special Terms to be distributed by VAR in object code only.
- 8.1.4. Any integration must be done using the existing programming interfaces (“APIs”) provided by PTV. VAR shall transmit to the Customer the tokens which the Customer requires for the use of the PTV Cloud Services.
- 8.1.5. PTV may provide VAR with code samples for interfaces and additional components at its own discretion (“Code Samples”). Code Samples are provided for testing purposes “as is” without warranty of any kind. VAR must carefully evaluate and test all Code Samples before using them for its Customers on its own responsibility and at its own risk. Any liability on the part of PTV with regard to defects in Code Samples shall be excluded unless they are due to intentional or fraudulent conduct on the part of PTV. The same applies to any additional components which PTV makes available for testing purposes without obligation and without liability, such as analysis tools, tools for creating and testing sample data, free connected tools such as the Driver App, web applications for demonstration purposes, etc.
- 8.1.6. Any use of the PTV Cloud Services beyond the contractually agreed use, in particular systematic reading out data, building and storing databases, reverse engineering, decompiling, passing on software or data to unauthorized third parties and processing thereof, is prohibited.

### 8.2 Rights to use Trademarks for PTV Cloud Service; Copyright notices

- 8.2.1. Subject to the terms and conditions of the PTV Group VAR Agreement and these Special Terms, PTV grants to VAR the non-transferable, non-sublicensable right during the term of the PTV Group VAR Agreement, to use the trademarks associated with the PTV Cloud Service (“**Trademarks**”) solely in its advertising, sale and promotion of the PTV Cloud Service.

VAR must comply from time to time with applicable law and PTV's Trademark usage guidelines as provided by PTV. VAR will not use any other trademark or service mark confusingly similar to the Trademarks or combine the Trademarks with other marks without the written approval of PTV. VAR understands and agrees that the use of any Trademarks in connection with the agreement will not create any right, title or interest in or to the Trademarks, and that all such use and goodwill associated therewith will inure solely to the benefit of PTV.

- 8.2.2. All technical property rights and intellectual property rights (copyrights, trademarks, patents and ancillary rights) with regard to the PTV Cloud Services remain vested with PTV.
- 8.2.3. VAR may neither modify nor remove the copyright and trademark notices in the PTV Cloud Services. This applies to references to PTV's copyright and trademarks as well as to its contractual partners and suppliers.
- 8.2.4. VAR is not entitled to register an internet domain associated with a PTV Cloud Service.

## 9 Support and Standby Services

VAR shall provide all maintenance, support and standby services - including first- and second-level support - for the PTV Cloud Services to the Customer at its own expense and responsibility. PTV exclusively provides second-level support for the PTV Cloud Services to the extent described below

### 9.1 VAR first level support for PTV Cloud Services

- 9.1.1. VAR shall provide first-level support for the PTV Cloud Services to the Customers in its own name and under its own responsibility.
- 9.1.2. As first-level support provider, VAR is responsible vis-à-vis the Customer for correcting all errors in the PTV Cloud Services within the scope of its technical expertise and in compliance with Section 8.1 of these Special Terms.

### 9.2 PTV second level support for PTV Cloud Services

- 9.2.1. VAR shall only make use of PTV's second-level support if VAR within its technical possibilities and capabilities was not able to correct the error despite all reasonable efforts.
- 9.2.2. PTV will only provide second level support if this is expressly agreed in the PTV Group VAR Agreement. VAR shall pay PTV the fee agreed in the PTV Group VAR Agreement for second-level support. PTV is entitled to change the fees for support services within the framework of its general pricing policy.
- 9.2.3. Support requests can be sent to [support.community@ptvgroup.com](mailto:support.community@ptvgroup.com).

### 9.3 Customer inquiries

- 9.3.1. PTV answers VAR's general questions about the functionality, use and operation of the PTV Cloud Service ("Customer Inquiries"). Customer Inquiries do not include answering specific

questions about application development, technical connection to the VAR systems as well as technical support and any sort of error analysis and error correction.

9.3.2. Customer Inquiries can be made by VAR via the Helpdesk Portal at <https://support.ptvgroup.com> or the Support App of PTV Group and are processed by the contracting PTV Group company responsible for VAR.

## 9.4 SLA

### 9.4.1 SLA support for errors of the PTV Cloud Service

SLA support requests for errors of the PTV Cloud Service can be made by the VAR via the Helpdesk Portal at <https://support.ptvgroup.com> or the Support App of PTV Group.

In cases of Error Classes 1 or 2, the VAR shall send its SLA Support requests to the incident address provided in the notification of the product activation.

### 9.4.2 Error classification

9.4.2.1. Upon observing an error of the PTV Cloud Service, the VAR shall create a support request, containing

- a description of the error;
- evidence of the occurrence of the error; and
- the severity of the error in accordance with the error classes 1-4 set out in sec. 9.4.2.2.

9.4.2.2. Errors shall be classified according to their severity as follows:

- Class 1: Errors that have critical impact on the business operations, in particular, major features are unavailable, severely disturbed or frequently interrupted. Daily work cannot be carried out, there is a risk of losing data or a threat of a total system failure. There is no way to work around the problem.
- Class 2: Errors that have a significant impact on the business operation. The PTV Cloud Service continues to perform but with important restrictions in performance or functionality.
- Class 3: Errors that have moderate impact on the business operations. Performances or functions are temporarily or partially restricted, affecting slightly the daily work.
- Class 4: Errors without any impact on the business operations and of lowest priority, such as functional questions or routine messages.

PTV reserves the right to re-classify the error if it appears that the Customer's original classification was not reflecting its real severity or if subsequent corrections have been partly implemented and have caused a change in severity.

### 9.4.3. Response Times

The response times for correctly reported errors of the PTV Cloud Service by the VAR are determined depending on the severity of the error as follows:

Error category	Response time
1	Four (4) hours
2	Six (6) hours
3	One (1) week
4	More than one (1) week

The beginning of the response time corresponds to the time at which the ticket has been logged into the Helpdesk Portal or the receipt of the SLA support request to the incident email address.

The processing of an error starts with the acknowledgement of the ticket, continues with its analysis and concludes with the definition and implementation of a permanent solution or a workaround. The VAR is aware that software programs and solutions are prone to errors which cannot be resolved as rapidly or as completely as estimated. In other respects, Section 11 applies.

#### 9.4.4. Availability

The availability of the PTV Cloud Service is determined on the basis of the following values which are calculated as a time percentage over a month, excluding the time slots reserved for Planned Maintenance:

- Gross availability in minutes:  $VB = \text{number of calendar days per month} * 24 \text{ hours} * 60 \text{ minutes}$
- Maintenance in minutes:  $WG = \text{Time for Planned Maintenance}$
- Net availability in minutes:  $VN = VB - WG$
- Downtime in minutes:  $A$
- Actual availability in percentage:  $V = (VN - A) / VN$

The actual availability of the PTV Cloud Service is

$$V: \quad 99.9\%$$

PTV plans periodic proactive maintenance (“**Planned Maintenance**”) on the servers. In average, the interruption for a given PTV Cloud Service is likely to amount to one (1) hour per week per cartographic cluster. PTV Cloud Service interruptions superior to one (1) hour are usually notified seventy-two (72) hours in advance, barring emergencies which are handled immediately. The following definitions shall apply:

- The transfer point is the point of transition from the Internet to the servicing data processing centre (“**Transfer Point**”).
- The PTV Cloud Services are deemed available if the methods of the PTV Cloud Service interface or the application generate defined responses (“**Responses**”) to the defined requests (“**Requests**”) at the Transfer Point.

- Downtime is the time when a defined Request at the Transfer Point does not generate a Response.

#### 9.4.5. Service credits

- 9.4.5.1. If PTV does not meet the indicated availability for the PTV Cloud Service including times for unavailability according to Section 9.5.5.2, VAR is eligible for a service credit for unavailability as described in this Section 9.5.5.1.

The service credit as described in this Section 9.5.5.1 is VAR's sole and exclusive remedy and PTV's sole liability for unavailability of the PTV Cloud Service. Service credits are calculated as a percentage of the total fees VAR owes to PTV for services each month as follows:

Total available uptime per month

- 100% - 99,9%: 0% service credit
- 99,89% - 99,0%: 10% service credit
- Less than 99,0%: 20% service credit.

In order for PTV to consider a claim, VAR must submit to PTV within thirty (30) days following the end of the unavailability a full report with all necessary information, in particular a detailed description of the incident(s), information about time and duration of the incident, a network traceroute, affected URL(s) and a description of all of VAR's attempts to resolve the incident at the time of occurrence. This report together with supporting evidence must be submitted within thirty (30) days following the end of the unavailability via email at [ordermanagement@ptvgroup.com](mailto:ordermanagement@ptvgroup.com).

If PTV confirms that the uptime percentage in a month covered by VAR's claim for a service credit is below 99,9%, PTV will issue the service credit to VAR.

Service credits (i) can be applied to any future invoices issued by PTV to VAR (including Subscription extensions, subsequent orders and overages), (ii) cannot be exchanged for, or converted to, monetary compensation, and (iii) will expire without substitution if not used within twelve (12) months of being issued.

The maximum service credit that PTV will issue for downtime in a month is 20% of the fees VAR otherwise owes PTV for the month covered by VAR's claim for a service credit.

PTV shall evaluate all information available to it with due consideration and conduct an analysis of the service data in connection with the incident to consider the validity and scope of VAR's claim.

- 9.4.5.2. In determining unavailability, a period of unavailability is excluded from consideration for a service credit if
- the unavailability is due to Planned Maintenance, provided the Planned Maintenance is notified to VAR at least seventy-two (72) hours in advance;
  - the unavailability is due to the use of services, soft- or hardware not provided by PTV, e.g. software or services of VAR or a third party;

- the unavailability is due to acts or omissions of employees, agents, contractors or vendors of VAR, or anyone gaining access to VAR's PTV Cloud Service access via the accounts or devices of unauthorized users;
- the unavailability is due to factors outside PTV's reasonable control, including but not limited to events of force majeure;
- VAR breaches the terms and conditions of the PTV Group VAR Agreement (including payment obligations to PTV).

## 10 Professional Services

### 10.1 Scope and delivery of Professional Services

- 10.1.1. The Parties may agree in the PTV Group VAR Agreement that PTV will provide Professional Services against payment. PTV is neither obliged to accept VAR's orders nor to submit corresponding offers.
- 10.1.2. Professional Services exclusively concern PTV Cloud Services and focus on training, modelling, implementation, customer-specific software development, software integration, project management or consulting. VAR may use the Professional Services provided by PTV exclusively for internal operational purposes. The transfer by VAR to Customers of Professional Services as subcontracted services is not covered by these Special Terms; for this, VAR requires a separate agreement with PTV for each individual case.
- 10.1.3. The PTV Group VAR Agreement defines the technical and commercial conditions for Professional Services and contains, in particular, the following information:
- description of the Professional Services with reference to the concerned PTV Cloud Service;
  - VAR's obligations to cooperate, in particular the provision of hardware, software, telecommunications, remote access to IT systems, access to VAR's business premises;
  - Ownership rights and rights of use to the Professional Services and their results, if applicable;
  - scope and presentation of the individual work packages together with a time schedule;
  - compensation, invoicing and payment terms;
  - acceptance process including milestones, if applicable.
- 10.1.4. The obligations and claims for payment arising from the PTV Group VAR Agreement regarding PTV Cloud Services on the one hand and Professional Services on the other hand exist independently of each other and can be defined separately.
- 10.1.5. Ownership rights to the Professional Services and their results as well as the in respect of place, time or content unlimited, exclusive, transferable and sublicensable right to all known and unknown types of use remains solely vested with PTV.
- 10.1.6. The time schedules for the provision of Professional Services are non-binding and are always only approximate, unless a fixed date has been expressly agreed in writing. The

delivery periods shall be extended by the period during which PTV was unable to perform the Professional Services through no fault of its own, including, but not limited to, industrial disputes, force majeure and other unusual and unforeseeable events.

## 10.2 Acceptance

If Professional Services are subject to acceptance, PTV may set VAR a reasonable period - usually two (2) weeks - for acceptance ("**Acceptance**") after provision of the Professional Services. Acceptance may only be refused if the Professional Services deviate materially from the specifications in the PTV Group VAR Agreement ("**Material Defect**"). Acceptance shall be deemed to have been declared if VAR:

- has not refused Acceptance within the set period, stating at least one defect; or
- uses the Professional Services in its operations; or
- has paid the fee without reservation

## 11 Limitations on Rights of VAR for Defects

- 11.1. If the PTV Cloud Service has a defect or deviates functionally from the Service Description, VAR shall immediately inform PTV with an exact description of the problem in text form, including all information useful for resolving the error. PTV will rectify correctly reported defects within a reasonable time. If attempts to rectify the defects fail and this represents good cause for VAR, VAR is entitled to terminate the contractual relationship without adhering to a notice period. VAR is not entitled to reduce the usage fees because of defects. The right of VAR to a partial or total refund of the usage fees on the principles of unjust enrichment in case of defects, is not affected by this.
- 11.2. Any claims for defects are always and exclusively limited to PTV Cloud Services in their stand-alone PTV standard version.
- 11.3. Claims for defects are excluded if
  - VAR or the Customer has used the PTV Cloud Service improperly or contrary to the agreement; or
  - VAR has provided incomplete or incorrect information,unless these circumstances were without influence on the occurrence of the defect.
- 11.4. VAR is aware that applications with maps, geographical attributes, points of interest, toll information, emissions, speed limits, truck features, long postcodes and other content as well as traffic data and forecasts never provide a perfectly accurate and complete picture of the actual circumstances, in particular because of the time delay between a change in the external environment and their inclusion in the PTV Cloud Service. Such gap between the actual circumstances and its rendering, and the resulting lack of quality, do not constitute a defect of the PTV Cloud Service.
- 11.5. If an alleged defect does not qualify for remediation by PTV ("Apparent Defect"), VAR may be charged with the services rendered by PTV for verification and rectification of defects at

PTV's corresponding remuneration rates and expenses incurred, unless VAR could not have recognized the Apparent Defect even if it had exercised due care.

- 11.6. The warranty period for claims for defects shall be twelve (12) months from the date of the Customer agreement. For partial services under a contract to produce a work the warranty period shall commence upon acceptance of the respective partial service.

## 12 Indemnification for Infringement Claims

### 12.1 Indemnification of Intellectual Property Infringement Claims.

In the event of any actual or threatened claims by a third party that the PTV Cloud Service infringes upon any intellectual property of such third party, PTV will indemnify VAR with respect to such claims. VAR shall immediately notify PTV of any such claim. The foregoing indemnity shall be ineffective if any of the PTV Cloud Service has been modified, altered, or otherwise changed by VAR (or on behalf of VAR by any person other than PTV) other than as permitted by these Special Terms. PTV will have no liability or obligation under this Section 12 if any claim of infringement is based upon: (i) the combination, operation, or use of the PTV Cloud Service with any component other than PTV products or services, if such claim would have been avoided but for such combination, operation, or use; and/or, (ii) any derivative of any PTV intellectual property created by any person other than PTV. PTV shall have sole control over the selection of counsel and the defense and settlement of any legal proceeding or other claim and VAR shall provide PTV with all reasonable assistance in the defense of the same.

### 12.2 Remedy

In the event of a third party claim that the PTV Cloud Service infringes the intellectual property rights of a third party, PTV shall have the right, as VAR's sole and exclusive remedy against PTV, at PTV's sole election, to: (i) modify the allegedly infringing PTV Cloud Service to be non-infringing, provided that such modification does not adversely impact the functionality of the PTV Cloud Service in any material respect; (ii) obtain a license or other rights to enable VAR to continue to use the applicable PTV Cloud Service as contemplated in this agreement, or (iii) to terminate this agreement and return to VAR any unearned fees paid by VAR to PTV.

## 13 Force Majeure

- 13.1. If the Parties are prevented from fulfilling their obligations arising out of the contractual relationship due to force majeure such as natural disasters, war, industrial action, sovereign orders or other circumstances that are beyond their control or whose prevention cannot be achieved with reasonable technical or economic effort, the Parties shall be released from their obligations arising out of the contractual relationship as long as these circumstances and their consequences have not been finally eliminated. In all the above-mentioned cases



of exemption from performance, the Parties cannot claim compensation for damages, unless there is a fault of the Party invoking force majeure.

- 13.2. The Parties shall notify each other immediately, stating the circumstances preventing them from fulfilling the obligations arising out of the contractual relationship; in addition, they will remove the impediment to perform as soon as possible, provided that this is possible for them with reasonable technical or economic effort.

## 14 Obligations of VAR on Termination of the PTV Group VAR Agreement

Upon termination of the contractual relationship, VAR shall delete all software and data in connection with the PTV Cloud Service and shall return to PTV marketing materials of PTV and other materials and documents provided by PTV in connection with the performance of the agreement (together "Materials and Documents"). Insofar as copies of the software and data, Materials and Documents are located on data processing systems of VAR, including the data processing systems operated on its behalf, VAR shall delete these software and data, Materials and Documents or have them deleted and shall confirm the deletion to PTV in writing. Upon termination of the agreement, any right of VAR to use a logo of PTV or to refer to PTV shall expire.

## 15 Confidentiality and data protection

### 15.1 Confidentiality

- 15.1.1. VAR is not allowed to disclose to third parties any Confidential Information (including trade secrets) which it becomes aware of in connection with this contractual relationship and its performance. Confidential Information is defined as information marked as confidential or whose confidentiality is apparent from the circumstances, regardless of whether it has been communicated in written, electronic, embodied or oral form. Confidential Information in the above sense is not information that
- a) was public or known by VAR at the time of disclosure or has become known in retrospect;
  - b) has been made available to VAR by third parties without breach of law; or
  - c) VAR has developed itself without using the Confidential Information.
- 15.1.2. VAR is prohibited from obtaining Confidential Information by means of reverse engineering. In this context, "Reverse Engineering" means all actions, including observation, testing, examination and dismantling and, where applicable, reassembly, with the aim of obtaining Confidential Information.
- 15.1.3. The obligation to maintain confidentiality in accordance with Section 15.1.1 does not apply insofar as VAR is legally obliged to disclose Confidential Information or obliged to disclose Confidential Information based on a final and binding official or court decision. In this case, VAR shall immediately inform PTV of the obligation of

disclosure. In addition, VAR shall make it clear in the course of disclosure that the information disclosed is a trade secret and shall cooperate with PTV in protecting the confidentiality of the Confidential Information.

- 15.1.4. If VAR breaches its obligations under this Section 15.1, PTV shall be entitled to seek injunctive relief to prevent any violation or further violation of this Section 15.1, as well as the right to recover proven damages. PTV shall also be entitled to liquidated damages from VAR it shall owe PTV a liquidated damage of USD 25,000.00 for each breach of the confidentiality obligation under this Section 15.1, unless it is not responsible for the breach of the confidentiality obligation.

## 15.2 Data Security, Data Protection

- 15.2.1. PTV shall process any registration data and all other data which VAR transmits to PTV when using the PTV Cloud Services, exclusively for the purpose of establishing, implementing and terminating the contractual relationship and for provision of the PTV Cloud Services, Professional Services, maintenance and support in accordance with the applicable conditions. Any further processing of personal data (e.g. for the transmission of information on PTV products and services) shall only take place if VAR has given instructions for such processing. The details of the data processing are described in the data protection declaration as amended from time to time, product-specific available at [https://legaldocs.ptvgroup.tech/en/data\\_privacy\\_statement\\_cloud\\_services\\_mobility\\_us\\_.pdf](https://legaldocs.ptvgroup.tech/en/data_privacy_statement_cloud_services_mobility_us_.pdf), TOMs at [https://www.ptvgroup.com/en/TOMs\\_EN.pdf](https://www.ptvgroup.com/en/TOMs_EN.pdf).
- 15.2.2. Insofar as VAR uses the PTV Cloud Service to process data which can be assigned to an identified or identifiable natural person (personal data within the meaning of Art. 4 GDPR), VAR shall be solely responsible for ensuring that the concerned person has consented to this processing of its data or that legal permission has been otherwise obtained. VAR shall always remain the responsible body with regard to such personal data. VAR shall indemnify PTV from all claims of the concerned person and shall compensate PTV for all damages incurred by PTV due to the transmission of personal data to PTV in violation of data protection law, unless VAR proves that it is not responsible for the violation.
- 15.2.3. The Parties shall conclude a data processing agreement pursuant to Art. 28 GDPR, in accordance with the respectively applicable template, available at [https://www.ptvgroup.com/en/data\\_processing\\_agreement\\_ptv.pdf](https://www.ptvgroup.com/en/data_processing_agreement_ptv.pdf).

## 16 Final provisions

### 16.1 Written Form

Offers, agreements, amendments and supplements are only valid if they are agreed in writing between the Parties. Verbal ancillary agreements are excluded. This also applies to the amendment of this provision.

## 16.2 Export Control Regulations

The Parties are aware that PTV Cloud Services may be subject to export and import restrictions. In particular, obtaining an approval may be required, or the use of the software or related technologies may be subject to restrictions abroad. VAR shall comply with the applicable export and import control regulations of the Federal Republic of Germany, the European Union and the United States of America, as well as all other relevant regulations. Fulfilment of the agreement is subject to national and international regulations of export and import law or other statutory provisions.

## 16.3 Code of Conduct

In the performance of its obligations under this contractual relationship, VAR undertakes to comply with all principles and requirements of PTV's Code of Conduct as amended from time to time, available at [https://www.ptvgroup.com/en/code\\_of\\_conduct\\_en.pdf](https://www.ptvgroup.com/en/code_of_conduct_en.pdf).

## 16.4 Transfer to Third Parties, Subcontractors

- 16.4.1. PTV may transfer the rights and obligations arising from this contractual relationship to a third party without the consent of VAR. PTV shall give written notice of such transfer four (4) weeks in advance. If VAR does not agree to such transfer, it may terminate the contractual relationship with immediate effect within a period of four (4) weeks from receipt of the letter of notification. PTV shall inform VAR in the notice of the objection period and the legal consequences of non-compliance with this delay.
- 16.4.2. PTV may involve subcontractors for the provision of the PTV Cloud Service, Professional Services and support.

## 16.5 Severability clause; Waiver and Modification

The provisions of the PTV Group VAR Agreement all apply to these Special Terms. The provisions of these Special Terms are severable, and if any one or more such provisions are determined to be illegal or otherwise unenforceable, in whole or in part, under the laws of any jurisdiction, the remaining provisions or portions of these Special Terms will, nevertheless, be binding on and enforceable by and between the parties hereto. The Parties will use commercially reasonable efforts to agree to a substitute provision which is legally and economically most appropriate to the objective of the clause which was determined to be illegal or unenforceable. Any waiver, modification or amendment of any provision of these Special Terms will be effective only if in writing and signed by the authorized representatives of both Parties.