



Fujitsu

General Purchase Conditions

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FUJITSU TECHNOLOGY SOLUTION B.V.
Registered with the Chamber of Commerce Midden Nederland
no. 30089204
General Purchase Conditions registered with the Chamber of
Commerce Midden Nederland

1. **Definitions**
 - 1.1 **Fujitsu**

Fujitsu Technology Solutions B.V. with its registered office in 3606 AZ Maarsse, Het Kwadrant 1, the Netherlands. Associated companies of Fujitsu may also use these conditions and if so, they will be indicated as "Fujitsu".
 - 1.2 **Supplier**

The natural or legal person with whom delivery of any item or service has been agreed.
 - 1.3 **Purchase order**

The order given by Fujitsu to have an item or service delivered by or on behalf of the Supplier.
 - 1.4 **Order confirmation**

The acceptance of the Purchase order by Supplier.
 - 1.5 **Agreement**

The agreement between Fujitsu and Supplier to deliver an item (such like hardware, software or any other good) or a service, all this in conformity with the provisions of article 2.
2. **General**
 - 2.1 The General Purchase Conditions apply to each Agreement between Fujitsu and the Supplier. By accepting a Purchase order, the Supplier accepts the applicability of these General Purchase Conditions, to the explicit exclusion of the Supplier's own purchase and delivery conditions.
 - 2.2 The Agreement between Fujitsu and the Supplier is concluded at the moment the Order confirmation is received by Fujitsu. This Order confirmation must be received by Fujitsu within 5 working days of the date of the Purchase order, in default whereof Fujitsu is entitled to regard the Agreement as not having been concluded.
 - 2.3 In the event of deviations between the Purchase order and the Order confirmation, the contents of the Purchase order will be considered to be the contents of the Agreement between Fujitsu and the Supplier.
 - 2.4 Stipulations deviating from or added to the Agreement and these conditions are only valid if they have been agreed upon in writing.
3. **Prices**
 - 3.1 The prices stated in the Purchase order are mentioned in Euros, they are fixed and cannot be changed unilaterally.
 - 3.2 Unless otherwise agreed in writing, the prices comprise the cost of packaging, transport, insurance, import, travel, accommodation, inspection, taxes (except VAT) and levies and/or delivery, administration and installation costs.
4. **Invoicing and Payment**
 - 4.1 The Supplier will send its invoices to Fujitsu following delivery of the items and services, quoting the (Purchase) order number of Fujitsu.
 - 4.2 Invoices and payment are made in Euros, unless expressly agreed otherwise.
 - 4.3 Invoices will be paid within 60 days of receipt of the invoice and approval of the items and/or services delivered.
5. **Delivery and risk**
 - 5.1 Items and/or services are delivered Delivery Duty Paid (Incoterms2000) to the delivery address in the manner, at the time and location as indicated on the Purchase order. If the Supplier is in default with regard to the delivery period or delivery numbers, Fujitsu is authorised to terminate the Agreement in part or in full without further notice of default and/or to refuse the items and services and to return these to the Supplier without incurring further costs. In all cases, the Supplier will timely inform Fujitsu each time a delivery period is delayed or exceeded.
 - 5.2 The moment the delivery is made at the address/location stipulated by Fujitsu on the Purchase order, the risk of damage to, or loss or theft of the items transfers to Fujitsu.
 - 5.3 The items must be packed in such a way that, subject to normal transport, they will reach their destination in good order and can be unloaded using the usual means.
 - 5.4 Each consignment must be accompanied by a packing list, indicating: the Purchase order number and, if applicable, the article code number of Fujitsu, a description of the items and the correct number. The packaging must clearly state the article number and the correct number of units per package.
 - 5.5 Ownership of the items or services transfers to Fujitsu at the time of delivery, in accordance with the provisions in article 5.1.
6. **Inspection**
 - 6.1 Fujitsu reserves the right to reject delivered items in full or in part within 14 days of delivery, if and insofar they are deviating – to a greater or lesser extent – from the requirements and specifications stated on the Purchase order, or if defects are discovered with regard to the materials or manufacture. Fujitsu will inform the Supplier in writing about the rejection. Following rejection of the items, Fujitsu will store or

- return the rejected items at the expense and risk of the Supplier.
- 6.2 In the case of rejection, the Supplier will immediately credit Fujitsu with the order sum already paid or invoiced, and the Agreement will be considered not to have been concluded. This is without prejudice to the right of Fujitsu to claim damages and/or a penalty.
- 7. Computer software**
- If part or all of the items to be delivered by the Supplier concern(s) computer software, the Supplier will provide Fujitsu with a non-exclusive, transferable licence to use this software without any restrictions for an indefinite period of time. In this case, licence is also taken to mean the right of Fujitsu to provide its clients with sub-licences on the basis of either Fujitsu' own licensing conditions as included in the Fujitsu Technology Solutions General Terms and Conditions, or the usual licensing conditions of the Supplier, which will be sent to Fujitsu free of charge at its request.
- 8. Confidentiality**
- The parties agree that they shall observe confidentiality with regard to all information exchanged by the parties within the scope of the Agreement, of which the other party has clearly stated that such information must be regarded as confidential or that must be regarded as confidential in view of its nature, unless this cannot be avoided in respect of the fulfilment of these conditions.
- 9. Termination of production**
- 9.1 Unless agreed otherwise, the Supplier will notify Fujitsu at least six months in advance of the fact that delivery of the items stated on the Purchase order will be ceased, in order to enable Fujitsu to place any further orders.
- 9.2 The provisions as stipulated in article 10.6 also apply.
- 10. Guarantee**
- 10.1 The Supplier guarantees that the items and services delivered are in accordance with the specifications stated in the Agreement and on the Purchase order, are free of faults, made of sound materials, are of sound design and fit for the purpose for which Fujitsu has ordered the items.
- 10.2 All faults or defects which arise during the guarantee period will immediately be repaired in full by the Supplier or, if repair is not possible, replaced by equivalent items, all this free of charge and following Fujitsu' first notification. If services are carried out in an inferior manner, they will be carried out again by the Supplier on first demand of Fujitsu without Fujitsu incurring any costs.
- 10.3 Unless otherwise stated in the Purchase order, the guarantee period is twelve (12) months, counting from the date of delivery, in accordance with the provisions in article 5.1.
- 10.4 The Supplier guarantees that the items and services delivered comply with all legal requirements, EC regulations and other government regulations, such as in the fields of safety, environment, ergonomics, telecommunication, electromagnetic compatibility etc, as applicable at the time of delivery, and that they also comply with the norms and technical standards generally acknowledged in this branch of industry. The Supplier guarantees that the items delivered have the CE mark.
- 10.5 The Supplier indemnifies Fujitsu against all claims, including cost of legal assistance, which arise as a result of failure in the performance of the Agreement or by the use of the items delivered by third parties.
- 10.6 The Supplier guarantees that a maintenance service, spare parts and service parts, which are required for the repair and maintenance of the items delivered, are available at reasonable prices and at the usual discount for at least five (5) years following the last delivery of the items.
- 10.7 In the event of any failure by Supplier in the performance of its obligations as mentioned in the Agreement Supplier forfeits an immediately payable penalty of € 50,000 without notice of default, unless Supplier proves the failure is not imputable to him. This penalty is without prejudice to all other rights of Fujitsu.
- 11. Intellectual property**
- 11.1 The Supplier guarantees that the items and services delivered by him do not infringe on any applicable right to intellectual property of third parties and also that the use thereof is not wrongful in respect of third parties.
- 11.2 The Supplier indemnifies Fujitsu against any claims by third parties in this matter.
- 11.3 The Supplier will, at his own expense, conduct a defence in case legal action is brought against Fujitsu, based on the claim that the items or services or any part thereof infringe(s) a worldwide patent right or copy right or infringe a model legally registered worldwide, and it will pay all costs and damages to which Fujitsu in such legal actions will be ultimately sentenced and which relate to said claim, provided that:
- a. Fujitsu immediately notifies the Supplier if it is approached by such a third party with any claim, both in and out of court; and

- b. Fujitsu enables the Supplier to arrange the defence and settlement of such a claim completely under its own management; and
- c. Fujitsu renders the Supplier all assistance for such a defence, which assistance the Supplier may reasonably expect from Fujitsu; and
- d. Fujitsu does not incur any costs or make any expenditures on behalf of the Supplier without the prior written consent of the Supplier.
- 11.4 In the event of a claim in respect of infringement of copyright or any other intellectual property right with regard to items and/or services, or if, in the opinion of the Supplier there is an imminent infringement, the Supplier can at its own discretion and at its own expense and for the benefit of Fujitsu acquire the right of continuous use, change or replace the infringing goods in order to prevent the infringement, or agree to return such goods by crediting the price already paid. This is without prejudice to the right of Fujitsu to claim damages and/or a penalty.
- 12. Employees**
- During the term of the Agreement and for a period of one year thereafter, the parties will not employ any other-party employees involved in the execution of the Agreement without the prior written consent of that other party.
- 13. Dissolution and termination**
- 13.1 If the Supplier does not fulfil any obligation from an Agreement and if he has not cured that default within fourteen (14) days of receiving a written notice of default from Fujitsu, the latter can at its own discretion immediately dissolve the Agreement, or suspend its obligations from the Agreement or any other Agreement with the Supplier until the Supplier has fulfilled his obligation(s). If, based on the previous sentence Fujitsu suspends its obligations, it will not be a reason for the Supplier to bring any claim against Fujitsu.
- 13.2 If the Supplier is declared insolvent or liquidates, or if a receiver is appointed to any part of his company, or if his possessions are seized, Fujitsu can consider each of these events as a reason to immediately dissolve the relevant and/or any other Agreement, without prior notification.
- 13.3 If the Supplier is declared insolvent or if a receiver is appointed to any part of his company, Fujitsu can fulfil its obligations to Supplier by paying the amount Supplier is obligated to pay to his Sub-contractor(s) directly to the latter. This insofar as the claim refers to the performance of services or the delivery of goods. If the Supplier is declared insolvent or if a receiver is appointed to any part of his company Fujitsu is entitled to request the Sub-contractor to continue the services or the delivery of goods and pay the Supplier directly. The claim Supplier has on Fujitsu will decrease by the corresponding amount.
- 13.4 13.4 The dissolution of an Agreement must be effected by means of a registered letter.
- 13.5 In the event the Agreement is a continuing performance contract Fujitsu is at any time entitled to terminate this Agreement subject to a reasonable notice period without being liable.
- 14. Force Majeure**
- 14.1 Neither party is held to fulfil an obligation pursuant to the Agreement, if it is hampered to do so as a result of a circumstance, which cannot be attributed to that party, nor if it is accountable for it by law, juristic act or generally accepted standards. In the event of force majeure, the other party will be notified by submitting the required evidence.
- 14.2 In any event, force majeure is not taken to mean illness or unsuitability of members of staff or third parties deployed by the other party invoking force majeure, delays caused by sub-suppliers, shortage of materials, the inability to obtain the required permits or permission, and industrial conflicts.
- 15. Liability**
- 15.1 The Supplier is fully liable for all damage suffered by Fujitsu as a result of attributable failure to fulfil his obligations pursuant to the Agreement entered into with Fujitsu.
- 15.2 The Supplier is fully liable for any unlawful act performed by him, his employees or ancillary staff deployed by him for whom the Supplier is liable by law.
- 16. Outsourcing work to third parties**
- 16.1 If the Supplier wishes to outsource his work to third parties, he can only do so following the prior written consent of Fujitsu.
- 16.2 In that case, the Supplier remains fully responsible and liable for any work carried out by third parties in respect of the Agreement.
- 17. Transfer of rights and obligations**
- If one of the parties wishes to transfer its rights and/or obligations pursuant to an Agreement, it can only do so following the prior written consent of the other party.
- 18. Income tax and social security contributions**
- 18.1 If the Supplier provides services to Fujitsu, the Supplier will, on commencement of the services and

every six months thereafter, submit to Fujitsu an audit report from a chartered accountant in which the latter states that, with regard to the staff employed by the Supplier and working for Fujitsu within the framework of the services to be provided, social security contributions and taxes have been paid in full, correctly and in time. If Supplier uses freelance workers when providing the service Supplier will at the commencement of the work and every six months after, provide a copy of the VAR-WOU or VAR-DGA. In addition to the provisions set out above, the above regulations do not affect Fujitsu's right to pay amounts into a guarantee account of the Supplier, in order to limit its liability for outside employees, all of this also if payment into a guarantee account has not been expressly agreed. If the Supplier does not cooperate in this obligation, Fujitsu is entitled to immediately dissolve the Agreement in accordance with the provisions of article 13.

- 18.2 The Supplier indemnifies Fujitsu against claims made by the industrial insurance board and the Tax Department in respect of non-payment of premiums or taxes and will fully compensate Fujitsu for the damage which Fujitsu may suffer as a result of these claims.

19. Property

All drawings, materials or tools provided by Fujitsu or manufactured or purchased by the Supplier at the expense of Fujitsu, are the property of Fujitsu and can be immediately claimed by Fujitsu at all times. The Supplier will manage and keep these resources in good order at his expense and risk. He will not put these at the disposal of third parties, unless Fujitsu has given its written authorisation to that end.

20. Applicable law and competent court

Dutch law is applicable to any Agreement between Fujitsu and the Supplier. Disputes will be submitted to the competent court of Utrecht. Applicability of the United Nations Convention on Contracts for the International Sale of Goods (which came into effect the 11th of April 1980) is excluded.