



General Terms and Conditions of Sale

Fujitsu Technology Solutions NV

MODULE A : GENERAL

1 TERMS AND CONDITIONS

1.1 These Terms and Conditions apply to all Proposals and/or Agreements.

1.2 Customer's general terms and conditions or any other Customer's terms shall not apply to the Agreement, regardless whether they have been communicated to Fujitsu after the conclusion of the Agreement and if they have not been protested by Fujitsu. Any applicability of such Customer terms is expressly rejected and excluded.

2 DEFINITIONS AND INTERPRETATION

2.1 In the Agreement the capitalized words shall have the meaning attributed to them in Annex 1.

3 AGREEMENT

3.1 The Proposal will expire after fourteen (14) calendar days from the date Fujitsu sent the Proposal, unless specified otherwise in that relevant Proposal.

3.2 Any counteroffer made by Customer to procure the Products and/or Services on other conditions than as set out in the Proposal shall only be validly accepted if such acceptance is in writing and signed by a duly authorized representative of Fujitsu.

4 FUJITSU'S RIGHTS AND OBLIGATIONS

4.1 Fujitsu shall provide the Product and/or Services to Customer as set out in the Agreement.

4.2 Fujitsu is entitled to use Open Source Software in the Software.

4.3 Fujitsu is entitled to change the manner of providing the Product and/or Services to Customer provided that such change shall not materially affect such Product and/or Services, for instance by replacing Third Party Products, Software and/or Services with other similar Third Party Products, Software and/or Services with comparable functionality.

4.4 When changes in applicable laws occur that relate to Customer and require Fujitsu to change the provision of the Product and/or Services, the costs and expenses for such changes shall be borne by Customer.

5 CUSTOMERS' RIGHTS AND OBLIGATIONS

5.1 Customer shall provide all cooperation reasonably necessary for Fujitsu to provide the Product and/or Services.

5.2 Customer is responsible for an adequate IT environment, including but not limited to the necessary hardware, software and internet-connections, in order to facilitate the proper functioning of the Products, Software and/or Services. Customer acknowledges that modifications or changes to the Customer environment may cause interoperability problems or malfunctions of the Products, Software and/or Services and/or the Customer environment.

5.3 Customer shall prepare any installation site and/or Customer environment in accordance with Fujitsu's

instructions and ensure that any equipment is properly configured as required and operates in accordance with the relevant manufacturer's specifications, at its own costs. If Customer fails to make any preparations required herein and this failure causes Fujitsu to incur costs during the Implementation or provision of the Services then Fujitsu reserves the right to invoice Customer for such costs.

5.4 Customer shall use the Product, Software and/or Services in accordance with the laws applicable to Customer.

5.5 When the Product and/or Services provide for access and use by Authorized Users, Customer shall ensure that these Authorized Users comply with the Agreement.

5.6 Customer will not: (i) modify or create derivative works based on the Product, Software and/or Services or attempt to decode, decipher, decompile, disassemble, or reverse engineer these or any Deliverables; and (ii) sell, resell, distribute, license or sublicense the Services. Customer may be obliged by Fujitsu to update, upgrade and/or provide new versions of the Software at any time, unless agreed otherwise in the Proposal.

6 IMPLEMENTATION, TRANSITION, TRANSFORMATION AND COMPLETION

6.1 Where Implementation, Transition and/or Transformation forms part of the Proposal, Fujitsu shall carry out the Implementation, Transition and/or Transformation when and as set out in the Proposal.

6.2 The Implementation, Transition and Transformation shall be deemed accepted and successfully completed ("Completion"):

- a. When Customer uses the Services in any way in its production environment and/or for operational purposes;
- b. In case an acceptance test has been agreed, within five (5) calendar days following the test period and Customer does not inform Fujitsu in writing of any business-critical issues during that period of five (5) calendar days; and/or
- c. When Fujitsu informs Customer in writing of such completion and Customer does not inform Fujitsu in writing of any business-critical issues during that period of five (5) calendar days.

6.3 Upon Completion, Fujitsu shall be discharged from any of its obligations regarding the Implementation, Transition and/or Transformation and Completion shall constitute a waiver of Customer's claims with respect to said Implementation, Transition and/or Transformation.

7 THIRD PARTY PRODUCTS

7.1 Customer is solely responsible for purchasing, installing and maintaining, at Customer's expense, any Third Party Products required for Customer to use the

Services, unless set forth otherwise in the Proposal. Fujitsu is not liable for any such Third Party Products and the use thereof by Customer.

7.2 If and insofar Fujitsu makes Third Party Products available to the Customer as part of the Services, these Third Party Products shall be specified in the Proposal and the relevant terms and conditions of these Third Parties ("Third Party Terms") shall apply between the Third Party and Customer.

7.3 Customer undertakes to comply with the Third Party Terms.

8 PRICE AND PAYMENT

8.1 The applicable Fees are set out in the Agreement.

8.2 Fujitsu shall invoice, and Customer shall pay the Fees to Fujitsu in conformity with the Agreement.

8.3 All sums payable under the Agreement shall be paid in EURO.

8.4 The Fees are exclusive of value added tax (VAT).

8.5 Customer shall pay the invoice in full within thirty (30) calendar days of the date of the invoice ("Due Date"). Payment shall be made to the bank account nominated in the invoice of Fujitsu. In case of non-payment by the Due Date, interest at a rate of five (5) % per annum calculated on a monthly basis shall start to accrue automatically and without notice on the outstanding undisputed invoice amount. Every started month will be considered a full month.

8.6 After expiration of each contract year, Fujitsu may increase the Fees as per commencement of the subsequent contract year:

The formula of the price revision will be based on the Agoria index: $V_n = V_o (0.2 + 0.8 S_n/S_o)$, Whereby: V_n = the new price, V_o = the current price, S_n = Agoria index ("referteloonkost" / "salaries de reference") on 1st January of the year when indexation will occur. S_o = Agoria index ("referteloonkost" / "salaries de reference") on 1st January of the previous year in which indexation occurred – will serve as basis reference to calculate the new price.

8.7 Customer may not set-off (schuldbetaling/compensation) any outstanding payments due by Fujitsu with any Fees or other payments due to Fujitsu.

8.8 In case of non-payment by Customer of invoices for which the Due Date has lapsed and/or if Fujitsu's credit check shows that there are material insolvency or bankruptcy risks, to be determined by Fujitsu in its sole discretion, Fujitsu is entitled to suspend (opschorting/suspension) the performance of all or part of the Agreement and/or to terminate the Agreement for cause, provided that Fujitsu has sent one (1) written payment reminder to Customer offering the Customer an extended payment term of fourteen (14) calendar days and the Customer failed to make the payment within this additional payment term.

9 CONFIDENTIAL INFORMATION

9.1 Each Party shall treat as confidential and not disclose or cause to be disclosed to Third Parties or publish or cause to be published the other Party's Confidential Information, except as required for the performance of its rights and obligations under the Agreement.

9.2 The restrictions imposed by clause 9.1 shall not apply to the disclosure of any Confidential Information which:

- a. follows from the disclosing Party's instructions;
- b. is now in or hereafter comes into the public domain otherwise than as a result of a breach of this clause 9;
- c. before any negotiations or discussions leading to the Agreement was already known by the receiving Party and was obtained or acquired in circumstances under which the receiving Party was not bound by any form of confidentiality obligation;
- d. is required by law or regulation to be disclosed to any person who is authorised by law or regulation to receive the same (after consultation, if practicable, with the disclosing Party to limit disclosure to such authorised person to the extent necessary); or
- e. is required by law or for the purposes of legal proceedings.

9.3 Each Party shall notify the other Party if it (or any of its employees connected with the performance of the Agreement) becomes aware of any unauthorized disclosure of any Confidential Information of that other Party and shall afford reasonable assistance to the other Party, at that other Party's reasonable cost, in connection with any enforcement proceedings which that other Party may elect to bring against any person.

9.4 At the request of the other Party, once the Agreement terminates, the Party holding the Confidential Information of the other Party shall return or destroy all the Confidential Information of the other Party in its possession within thirty (30) working days, unless the Party is required to retain Confidential Information by applicable law. In the event of the destruction of the Confidential Information, the Party holding the Confidential Information of the other Party shall confirm to the other Party in writing that such destruction has taken place.

10 INTELLECTUAL PROPERTY RIGHTS

General

10.1.1 Except as explicitly agreed otherwise, nothing in the Agreement shall constitute a transfer, assignment, license or other way of granting any Party any right or interest in an IP Right of any Party.

Customer Materials and Data

10.2 All IP Rights in Customer Materials and Data shall remain vested in Customer.

10.2.2 For the duration of the Agreement, Customer grants Fujitsu a royalty-free, non-exclusive license to:

- a. use all required Customer Materials and Data for the sole purpose of providing the Services to Customer; and
- b. permit Affiliates of Fujitsu and/or Sub-Contractors the same as referred to in the previous clause 10.2.2 a.
- c. as is agreed under the Agreement and for as long as is required for Fujitsu to perform its obligations under the Agreement.

10.2.3 Fujitsu is entitled to perpetually use Customer Materials and Data in an anonymized and/or aggregate manner: (i) in order to improve the Services; (ii) in order to create business insights; and/or (iii) otherwise for its business purposes.

10.3 Fujitsu Materials

- 10.3.1 Fujitsu shall retain all IP Rights in Fujitsu Materials, including any modifications made to them by or on behalf of a Party under the Agreement.
- 10.3.2 If Parties did not agree to specific license terms in the Proposal, Fujitsu grants, upon payment in full of the associated Fees, Customer a limited, royalty free, non-exclusive, revocable, non-transferable and non-sub licensable license to use the Fujitsu Materials for its internal business purposes during the term of the Agreement.
- 10.4 Deliverables
- 10.4.1 All IP Rights in Deliverables shall vest in Fujitsu. If Parties did not agree to specific license terms in the Proposal, Fujitsu grants, upon payment in full of the associated Fees, Customer a limited, royalty free, non-exclusive, revocable, non-transferable and non-sub licensable license to use, copy and distribute the Deliverables for execution of the Agreement, for its internal business purposes during the term of the Agreement.
- 10.4.2 To the extent required, Customer hereby irrevocably assigns and delivers - in the broadest possible sense - all IP Rights in the Deliverables on creation to Fujitsu with full title guarantee, at no cost to Fujitsu and without imposing any further conditions. Customer shall provide assistance and execute all documents necessary to perfect Fujitsu's title to the Deliverables under this clause on first request by Fujitsu. Customer hereby waives all its moral rights (morele rechten / droits moraux), or any comparable rights under any other copy rights act, with respect to the IP Rights in the Deliverables. If the applicable law would prevent such a waiver, then Customer agrees not to enforce such moral rights against Fujitsu.
- 10.5 IP Rights indemnification
- 10.5.1 Each Party shall be liable for and shall indemnify and hold the other Party harmless against all losses, liability and/or claims, including but not limited to all direct and reasonable costs and expenses, reasonable attorney's fees, suffered or incurred as a result of any actual or alleged infringement of any IP Right in connection with the use of the indemnifying Party's Materials and/or Data (if Fujitsu is the indemnifying Party for the use of Fujitsu Materials and if Customer is the indemnifying Party for the use of Customer Materials and Data).
- 11 DATA SECURITY AND DATA PROCESSING**
- 11.1 General
- 11.1.1 Where Fujitsu processes Personal Data pursuant to the Agreement as a "data processor" as defined in the GDPR, this clause 11 shall apply and constitutes a data processing agreement as required under article 28 GDPR. Where required, Parties shall specify additional information on the processing of personal data in the Agreement.
- 11.1.2 The Parties shall duly observe all their respective obligations under the applicable data protection laws. Customer warrants that it has lawfully obtained the Personal Data it provides to Fujitsu in order for Fujitsu to provide the Services. Customer will indemnify and hold Fujitsu harmless from and against all claims for damages and/or penalties brought against Fujitsu in relation to its use of the Services and/or Personal Data or its violation of applicable data protection laws.
- 11.2 Obligations Fujitsu
- 11.2.1 Fujitsu shall:
- not process any Personal Data other than in accordance with Customer's documented instructions which are to process Personal Data only to the extent necessary to carry out the Services for the purposes as further set out in the Agreement;
 - only process the Personal Data for as long as necessary for the purpose of performing the obligations of Fujitsu under the Agreement;
 - provide reasonable assistance to ensure that Customer is able to fulfil its legal obligations when a Data Subject exercises his or her rights under applicable data protection laws, provided that any costs to Fujitsu for providing such reasonable assistance to Customer will be borne by Customer;
 - implement appropriate technical and organisational measures against accidental destruction, loss, alteration, disclosure or access from or to Customer's Personal Data or any form of unlawful processing in accordance with article 32 GDPR;
 - notify Customer without undue delay after becoming aware of the occurrence of a Security Breach;
 - provide reasonable assistance to the Customer in ensuring compliance with the obligations pursuant to Articles 32 to 36 GDPR, taking into account the nature of processing and the information available to the processor, provided that any costs and expenses incurred by Fujitsu for providing such reasonable assistance to Customer will be borne by Customer;
 - inform the Customer if, in Fujitsu's opinion, an instruction infringes the GDPR or other applicable data protection laws;
 - be entitled to process or transfer any Personal Data within or outside the European Economic Area, in compliance with the applicable data protection laws.
 - ensure that persons authorized to process personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - at the choice of the Customer, delete or return all the personal data to the Customer after the end of the provision of the Services relating to processing, and delete existing copies unless storage is required by applicable laws.
- 11.3 Sub-Processor
- 11.3.1 Fujitsu may engage one or more Sub-Processors provided it enters into sub-processing agreements with the relevant Sub-Processors which requires the Sub-Processor to abide by similar obligations as Fujitsu under this clause 11. Customer consents to the engagement of the Sub-Processors listed in the Agreement.
- 11.3.2 Fujitsu may replace a Sub Processor at any time and Fujitsu will notify Customer of such replacement. If Customer does not object to such replacement within thirty (30) days and on reasonable grounds, consent to such replacement is considered granted. If Customer objects to such replacement, Parties shall conduct the escalation procedure set forth in clause 13.
- 11.4 Inspections and Audits
- 11.4.1 Insofar necessary for Customer to comply with applicable laws and legislation, including in particular

- the GDPR, Fujitsu shall make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in this article 28 of the GDPR and allow Customer or the relevant supervising authority to conduct an inspection or audit once per calendar year or more often if requested by a supervisory authority in accordance with Fujitsu's protocol for external audits to assess compliance with Fujitsu's obligations set out in this clause 11. Customer shall bear the costs incurred by Customer and Fujitsu relating to such audits.
- 11.4.2 Before commencement of any such on-site audit, Customer and Fujitsu shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement of the costs and expenses to be incurred by Fujitsu which shall be borne by Customer.
- 11.4.3 Customer shall promptly notify Fujitsu with detailed information on any possible non-compliance discovered during such an audit.
- 11.4.4 In no event is Fujitsu required to grant aforementioned auditors access to Personal Data or Confidential Information from Third Parties.
- 11.4.5 The types of Personal Data and categories of data subjects shall be specified in the Agreement.
- 12 CHANGE**
- 12.1 Changes to the Agreement are only valid when mutually agreed in writing.
- 13 ESCALATION GOVERNANCE**
- 13.1 Any disputes regarding a breach in the performance of either Party's obligations under the Agreement, may be referred by either Party for resolution in accordance with the escalation procedure set forth in this clause 13.
- 13.2 After receipt of such referral as referred to in clause 13.1 each Party will discuss the dispute and try to find a suitable solution at the appropriate level of each Party.
- 13.3 In case the Parties are not able to find a suitable solution within a reasonable time, in accordance with clause 13.2, the escalation procedure will be exhausted.
- 14 LIABILITY**
- 14.1 Where Fujitsu is liable, then irrespective of the grounds for liability, including indemnities and/or breached warranty obligations, it shall have an obligation to compensate for Direct Damages only and subject to the limitations as set forth in clause 14.2.
- 14.2 Fujitsu's total aggregate liability under the Agreement per calendar year for Direct Damages, irrespective of the grounds for liability including indemnities and breached warranties, for any and all events will be limited to the lower amount of: (i) EUR 250.000 (two hundred fifty thousand Euro's) or; (ii) 50% of the Fees paid under the Agreement in the same calendar year.
- 14.3 Clause 14.2 is not applicable to liability arising in connection with (i) willful default/misconduct or (ii) gross negligence, (iii) fraud or (iv) bodily injuries.
- 14.4 Each claim for compensation or damages of Customer arising out of or in connection with the Agreement, regardless of its nature, grounds or terms, lapses due to the expiry of a period of one (1) year after the loss or damages occurred.
- 15 DURATION AND TERMINATION**
- 15.1 The Agreement shall enter into force on the date of acceptance and signing of the unmodified Proposal by Customer within its validity period, or at any other date specified in the Proposal.
- 15.2 The Agreement is entered into for the Initial Term, unless it is terminated by either of the Parties as set out in this clause 15. If no Initial Term is specified in the Proposal, the Initial Term shall be one (1) year. Upon expiration of the Initial Term, the Agreement shall be automatically renewed for consecutive terms equal to one (1) year (each a "Renewal Term") unless either Party terminates (opzeggen/résilier) the Agreement effective at the end of the Initial Term or a Renewal Term subject to a three (3) month written notice period.
- 15.3 Without prejudice to Fujitsu's right to terminate the Agreement for a serious cause (buitengerechtelijke ontbinding door kennisgeving aan de schuldenaar/ résolution extra-judiciaire par notification au débiteur) Fujitsu may without the necessity of a prior written notice of default terminate, in whole or in part the Agreement at Fujitsu's sole discretion (i) in case of non-payment of one or more invoices for the Fees, and such non-payment still exists thirty (30) days after the relevant Due Date (ii) if a change of Control occurs at Customer pursuant to which a Third Party acquires direct or indirect Control of Customer; or (iii) Customer breaches any of the warranties (garanties) provided under this Agreement.
- 15.4 Unless prohibited by applicable law, each Party may immediately terminate the Agreement by written notice to the other Party, if: (i) any action or proceedings under any bankruptcy or insolvency law are taken by or against the other Party; (ii) or if any event analogous to any of the foregoing under the law of any jurisdiction has occurred in respect of the defaulting Party.
- 15.5 Notwithstanding the definite duration of the Agreement, Customer is entitled to terminate the Agreement at any time with immediate effect, under the condition that the following termination fee will be due and immediately payable to Fujitsu by Customer:
- the Fees for Products, Software and/or Services that are delivered until the effective date of termination; and
 - 75% of the remaining total Fees under the Agreement (of Products, Software and/or Services undelivered at the effective date of termination) that would have been payable to Fujitsu in case Customer would not have terminated the Agreement for convenience; and
 - where applicable and to the extent not yet covered by paragraph (a) or (b), the purchase value, to be determined by Fujitsu, of Products that are: (i) stored by Fujitsu for the Customer; or (ii) ordered by Fujitsu with Third Parties and such orders can no longer be cancelled.
- As long as the termination fee as set out above has not been paid in full and this condition is not satisfied, Fujitsu is entitled to consider the Agreement to remain in full effect and in force and continue to provide the Product and/or Service under the terms of the Agreement against payment of the Fees by Customer. Payment of the termination fee by Customer to Fujitsu is without prejudice to Fujitsu's right to claim damages if it can provide proof of a higher damage.
- 15.6 Irrespective of the grounds for termination, termination shall not: (i) result in any obligation for

- Fujitsu to undo / take back what was already provided (ii) affect any of Customer's payment obligations accrued until termination takes effect; and (iii) affect payments made by Customer prior to such termination.
- 15.7 Termination shall not affect clauses which by their nature are intended to continue to apply after termination, amongst these clauses are: 9 (Confidentiality), 10 (Intellectual Property Rights), 14 (Liability) and 20 (Governing Law and Jurisdiction).
- 16 EXPORT CONTROL**
- 16.1 Products, Software and/or Services delivered by Fujitsu, technology or information related to the Product or Software and data issuing therefrom can, due to the applicability of legislation and regulations, be subject to export control. The Customer herewith accepts that such legislation and regulations can have a restrictive or prohibitive effect in respect of its actions. Further, the Customer recognizes that it must submit to all relevant export control regulations and that it is possible for the distribution, export or re-export of Products or Services delivered by Fujitsu to be subject to the requirement of approvals and/or licences in connection with export control regulations. The Customer also recognises that it is solely responsible for the obtaining of such approvals and/or licences. It shall perform these actions at its own risk and expense.
- 16.2 The Customer guarantees that no Product Software and/or or Service delivered by Fujitsu, including any technology, software or data upon which it is based, shall be utilised by the Customer for purposes relating to chemical, biological or nuclear weapons, or to missiles capable of transporting such weapons, nor for military end-uses in the event that the country in which the Customer has its registered office or has its place of business or the country in which the Products or Software is to be shipped, is the subject of a weapons embargo.
- 16.3 The Customer shall take every necessary step to obtain certainty that its customers shall not utilise a Product, Software and/or Service delivered by Fujitsu, including any technology, software or data upon which it is based, for the purposes as mentioned in this clause 16. The Customer guarantees that the Product or Service shall be sold to third parties who accept this clause as binding in relation to both Fujitsu and the Customer. Further, the Customer guarantees that such third parties have been vetted and found to be credible and reliable in their behaviour with respect to the commitments laid down between Fujitsu and the Customer in this clause or, as the case may be, to similar commitments.
- 16.4 The Customer shall hold harmless and indemnify Fujitsu, each of its employees and the third parties called in by it, from any loss, claim, damage, costs, obligations or liabilities, including, without limit, any additional interest, fines, reasonable lawyers' fees and costs and any amount paid by Fujitsu in dealing with a claim, a legal action or the consequences thereof, due to a failure on the part of the Customer to fulfil the obligations which issue from this clause.
- 17 FORCE MAJEURE**
- 17.1 In case of Force Majeure that affects a Party, the other Party may suspend the performance of all or part of the Agreement without being liable for such suspension. If the period of Force Majeure lasts longer than three (3) calendar months, the other Party may terminate (beëindigen / mettre fin) the Agreement in whole or in part with immediate effect without being liable for any compensation or damages.
- 18 NON-SOLICITATION**
- 18.1 For the duration of the Agreement and for one (1) year after termination thereof, Customer shall not employ, solicit employment of, or have in any other way carried out work by, employees, agents or directors of Fujitsu, directly or indirectly, or induce them to terminate their relationship with Fujitsu in order to compete in any way whatsoever with Fujitsu or any company of the group of companies to which Fujitsu belongs, without the prior written consent of Fujitsu.
- 19 MISCELLENEOUS**
- 19.1 The rights and obligations of Customer hereunder cannot be assigned without Fujitsu's prior written consent.
- 19.2 In relation to Fujitsu's obligations under the Agreement:
- any and all terms and dates as set out in the Agreement shall be estimates only and time for performance by Fujitsu shall not be of the essence; and
 - all obligations shall be considered to be reasonable endeavors obligations (middelenverbintenis/ obligation de moyens), unless Fujitsu specifically agreed to achieve a specific result (resultaatsverbintenis/obligation de résultat) in writing.
- 19.3 Fujitsu is entitled to subcontract all or part of the performance of this Agreement and/or its obligations under the Agreement to a Sub-Contractor.
- 19.4 The performance of this Agreement, including any provision of a Product, Software and/or Services does not create any partnership between the Parties or does not make a Party the agent of the other Party for any purpose. A Party has no authority to bind, to contract in the name of, or to create a liability for the other Party in any way or for any purpose.
- 19.5 Customer is not entitled to suspend (opschorten/ suspendre) performance of any of its obligations under the Agreement.
- 19.6 If any provision of the Agreement (or part of a provision) is found by any court or administrative body or competent jurisdiction to be invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable and the other provisions shall remain in force.
- 19.7 Any variation or amendment to the Agreement must be in writing and signed by or on behalf of Parties.
- 20 GOVERNING LAW AND JURISDICTION**
- 20.1 The Agreement shall be governed by and construed in accordance with the laws of Belgium. The applicability of the Vienna Sales Convention (CISG) is expressly excluded.
- 20.2 After exhaustion of the Escalation Procedure, the competent court of Brussels, (Dutch section), shall have exclusive jurisdiction over all disputes, controversies or claims between the Parties arising in connection with the Agreement.
- 20.3 For the avoidance of doubt, the Parties retain the right to obtain preliminary relief, by means of summary proceedings (kort geding/référé) at all times and without exhaustion of the Escalation Procedure.

MODULE B : SOFTWARE LICENSE

21 LICENSE

- 21.1 Fujitsu hereby grants to Customer a limited, non-exclusive, revocable, non-transferable license, without the right to grant sub-licenses, to use the Software at the Location for its internal business purposes in accordance with and during the term of the Agreement, unless terminated pursuant to this Agreement.
- 21.2 The Software shall be used only by Customer's Authorized Users at the Location for Customer's business or organization.
- 21.3 Customer may not use the Software at a location other than the Location without Fujitsu's prior written consent in writing, which may be withheld by Fujitsu or conditional upon payment to Fujitsu of additional or revised Fees.
- 21.4 Upon termination or expiration of the Agreement, the license granted to Customer shall automatically terminate and Customer shall immediately though ultimately within two (2) business days: (i) de-install and permanently delete all Software including copies thereof and Fujitsu Materials and (ii) provide Fujitsu with a written confirmation of such de-installment and deletion. Fujitsu shall not be obliged to provide Customer with assistance on or after expiry of the license with respect to data conversion or other (re)transition services required by Customer.

22 DELIVERY

- 22.1 Fujitsu shall deliver the Software in a manner as set out in the Agreement.
- 22.2 Unless an acceptance procedure has been agreed and specified in the Agreement, the Software shall be delivered to Customer on an 'as is'-basis, in the condition that it is in at the time of delivery, therefore with possible errors and defects. Upon delivery, the Software is accepted by the Customer.
- 22.3 Customer is responsible for the installation of the Software on its premises, unless the Agreement sets out otherwise.

23 CUSTOMER OBLIGATIONS AND RESTRICTIONS

- 23.1 Customer is responsible for making maximum (2) back-up copies of the Software and the data and records used in connection with the Software solely for internal business purposes, unless set forth otherwise in the Agreement.
- 23.2 Customer shall not alter or modify the Software in any way, nor permit the Software to be combined with any other programs to form a combined work.
- 23.3 Customer may not reverse engineer, decompile or otherwise attempt to discover the source code for the Software.
- 23.4 Customer shall not request, permit or authorize anyone other than Fujitsu to provide maintenance and support services in respect of the Software.

24 DISCLAIMER

- 24.1 To the extent permitted by law, Fujitsu does not guarantee that: (i) any and all errors will be remedied; (ii) that the Software will work without any interruption or errors; (iii) the Software will be fit for purpose.

MODULE C # MAINTENANCE AND SUPPORT

25 MAINTENANCE AND SUPPORT

- 25.1 Fujitsu shall not provide maintenance- and support services in relation to the Software, unless agreed otherwise in the Proposal.
- 25.2 If and when maintenance- and support services are agreed in the Proposal, Customer shall:
- make available to Fujitsu free of charge all information facilities and services reasonably required by Fujitsu to enable Fujitsu to perform these maintenance- and support Services, including without limitation remote access to the testing environment, the production environment and office accommodation;
 - co-operate fully with the Fujitsu's personnel in diagnosis of any errors or defects in the Software.

MODULE D # DEVELOPMENT OF SOFTWARE

26 DEVELOPMENT OF SOFTWARE

- 26.1 If and when Parties agree upon the delivery of specific customized non-standard software as part of the Deliverables ("Software Deliverables"), Customer shall provide Fujitsu with sufficient and accurate information regarding these Software Deliverables, including but not limited to technical and functional specification.
- 26.2 Unless an acceptance procedure has been agreed and specified in the Agreement, the Software Deliverables shall be delivered to Customer on an 'as is'-basis, in the condition that it is in at the time of delivery, therefore with possible errors and defects. Upon delivery, the Deliverables are accepted by the Customer.
- 26.3 Customer is responsible for the installation of the Software Deliverables, unless the Proposals sets out otherwise.

MODULE E # SALE AND PURCHASE OF PRODUCTS

27 PRODUCTS

- 27.1 Fujitsu reserves the right to modify the construction design for the Product to be delivered without prior notification, provided that such a modification does not affect (except with valid reason) the agreed prices, characteristics or function of the Product or the conditions of the Agreement.

28 DELIVERY AND TRANSFER OF RISK

- 28.1 Unless the Parties expressly have agreed otherwise in writing, delivery of the Product by Fujitsu shall take place at the Location. Fujitsu is entitled to indicate the place of delivery for each transaction individually.
- 28.2 From the moment that the Product delivered by Fujitsu is indeed considered to have been delivered within the meaning of this clause or, as the case may be, within the meaning of the manner of delivery expressly agreed between the Parties in deviation from this clause, the Customer shall bear the risk of any and all direct and indirect damage/loss to or through this Product.

29 DELIVERY TIME

- 29.1 In the event that Fujitsu has provided an indicative delivery date or delivery week, the indicative delivery time shall be formed by the period between the date of conclusion of the Agreement and the delivery date or the end of the delivery week.
- 29.2 The indicative delivery time is based on the work circumstances in effect on the date of conclusion of

- the Agreement and on prompt delivery of the materials ordered for execution of the order by or on behalf of Fujitsu.
- 30 RETENTION OF TITLE**
- 30.1 Fujitsu retains ownership of the Product delivered; this retention of title is with regard to:
- a. in the event that the Product is located in Belgium, and irrespective of the fact that the evaluation of the validity of the retention of title should be done under Belgian law, i.e. under the applicable law mentioned in article 20.1 of these Terms and Conditions, a retention of title such that ownership of the Product delivered shall not pass to the Customer until everything owed by the Customer to Fujitsu for the Product and related Services under the Agreement, including interest and costs, has been paid in full to Fujitsu. In the event, and from the moment that Fujitsu, through confusion, accession or subdivision of the Product delivered, cannot or can no longer rely upon its retention of title, the Customer shall be obliged to pledge to Fujitsu the newly formed items and (in advance) the claims (to be) acquired by the Customer through the selling on of the newly formed items;
 - b. in the event that the Product is located in Belgium, a retention of title such that ownership of the Product delivered shall not pass to the Customer until everything owed by the Customer to Fujitsu for the Product and related Services under the Agreement, including interest and costs, has been paid in full to Fujitsu. Also, in the event of confusion, accession or subdivision in respect of the Product delivered, Fujitsu shall retain ownership until such time as the aforementioned amounts owed are paid in full;
 - c. in the event that the Product is located in a country other than those mentioned in this clause or the retention of title as constituted in this clause does not satisfy the requirements of the regime in effect in the country indicated, a retention of title, such that ownership of the Product delivered shall not pass to the Customer until everything owed by the Customer to Fujitsu under the Agreement, including interest and costs, has been paid in full to Fujitsu.
 - d. For as long as ownership of the Product delivered by Fujitsu has, pursuant to this clause, not yet passed to the Customer, Fujitsu shall be entitled to unhindered access to the Product. The Customer shall cooperate completely with Fujitsu to enable Fujitsu to exercise the retention of title as set out in this clause through repossession of the Product, including its dismantling, if necessary. All costs incurred in the exercise of retention of title shall be borne by the Customer. In the context of said repossession, the Customer also now for later, unqualifiedly and irrevocably grants to Fujitsu or third parties designated by it access to all places where the property of Fujitsu is located.
 - e. In the event that third parties attach the delivered items falling under retention of title or, as the case may be, wish to establish or assert rights to them, the Customer shall be obliged as soon as possible to notify Fujitsu of this.

ACCEPTANCE

- 31.1 The Customer shall inspect the Product delivered by Fujitsu at the latest within 10 calendar days of delivery. In the event that said term has elapsed without written specified notification being made of valid complaints, the Product shall be considered to have been accepted.
- 31.2 In the event that a modest shortcoming is involved, in particular, one which does not affect the functionality of the Product or hardly affects it, the Product shall, despite this shortcoming, be accepted and the Parties agree that Fujitsu shall correct the minor shortcoming as rapidly as possible.
- 31.3 Without prejudice to the statutory and contractual guarantee obligations of Fujitsu, acceptance of a Product shall, by virtue of one of the preceding sections of this clause 31, exclude all claims of the Customer relating to a shortcoming in the Product, unless a shortcoming as a result of willful misconduct or gross negligence on the part of Fujitsu is involved.
- 32 GUARANTEE**
- 32.1 The Product shall comply with the provisions of the Agreement in all material respects.
- 32.2 Unless otherwise stated in the Agreement, Fujitsu shall use its best efforts to ensure that if any material or manufacturing defect(s) in any part of the Product is (are) discovered within a period of three (3) months after delivery thereof, Fujitsu will repair such defect(s) at no cost to the Customer, by replacement or by adjustment - at Fujitsu's discretion - provided no change(s) has/have been made to the Product other than by Fujitsu and the Product has/have been maintained and operated in accordance with Fujitsu's instructions.
- 32.3 For the purposes of this clause, the term "part of the Product" shall not extend to Software (other than physical components to which these elements are inextricably bound) in the Product.
- 32.4 Guarantee on a non-Fujitsu Product is governed solely by the guarantee terms of Fujitsu's supplier. To the extent they are not included with the Product, they will be provided by Fujitsu upon first request.
- 32.5 Fujitsu does not guarantee the uninterrupted or error-free operation of the Product.
- 32.6 The above guarantees are in lieu of all other guarantees, express or implied, including the warranty that the Product is fit for a particular purpose.
- 32.7 The guarantee period for any upgrades, modifications or replacement parts for the Product will be counted from the original date of delivery of the relevant Product.
- 32.8 Unless it has been agreed with Fujitsu that the work will be carried out at the Customer's premises, this work related to guarantees for the Product will be carried out at an address to be provided by Fujitsu. The Customer must return the Product, at its own expense and risk, in appropriate packaging and with a detailed description of the alleged fault. Fujitsu will return the Product to the Customer at the Customer's expense and risk. Any parts replaced during repair will become the property of Fujitsu.
- 32.9 If, when purchasing the Product with Fujitsu, the Customer enters into a full maintenance agreement as of the delivery date, the repair of a defect as referred to above, during the guarantee period, shall be carried out at no additional cost if and to the extent covered

by the terms and conditions of the maintenance agreement entered into.

MODULE F # ON :PREMISES SERVICES

If Fujitsu provides a Product, Software and/or Services on the Customer's premises, Customer shall:

- a. provide access to these premises and provide suitable facilities, such as workspace and supplies;
- b. provide access to necessary physical and logical access to systems, specifically the systems to be supported as part of the Services, including where applicable a dedicated network communication link and any system login information that may be required;
- c. provide any authorizations, decisions and/or investigation of problems required by Fujitsu to fulfil its obligations under the Agreement, without delay and in due time; and
- d. Customer ensures that such premises and facilities as set out in this comply with all legal and other applicable workplace requirements. The Customer shall provide to Fujitsu and all employees and/or other contractors deployed at any of the premises with information of all applicable premises' safety and security rules.

ANNEX 1, DEFINITIONS

Additional Services means all services other than Services provided to Customer by Fujitsu in relation to the provision of the Services under the Agreement;

Affiliate means in relation to an entity, another entity Controlling, Controlled by, or under common Control with that entity;

Agreement means the agreement entered into between Fujitsu and the Customer regarding the purchase of a Product, Software and/or provision of Services by Fujitsu, consisting of the Proposal (including schedules, appendices, Annexes and/or any other documents specified therein), if any, and these Terms and Conditions;

Annex means every annex, schedule, appendix and/or other document, as attached to these Terms and Conditions and/or the Agreement, constituting an integral part of the Agreement;

Authorized User means any employee, agent, or representative of the Customer that is registered with Fujitsu and has been authorized under the Agreement to use the Product, Software and/or Services for the Customer's internal business purposes in accordance with the Agreement;

Change means modification of the scope of the Services and/or Service Levels;

Confidential Information means information of commercial value, in whatever form or medium, which has been kept confidential by the Party from whom the information originates including, without limitation, (i) information relating to the commercial or technical know-how, technology, (ii) information pertaining to business operations and strategies, (iii) information pertaining to customers, pricing and marketing, (iv) the terms of the Agreement and (v) Fujitsu Materials;

Completion has the meaning as described in clause 6.2;

Control means the legal, beneficial or equitable ownership, directly or indirectly, of fifty percent (50%) or more of the capital stock (or other ownership interest, if not a corporation) of an entity ordinarily having voting rights, or the equivalent right under contract to control management decisions with regard to relevant subjects;

Customer means the legal entity and/or its Affiliates designated as such in the Proposal and/or Agreement;

Customer Materials and Data means Materials and/or Data of which the IP Rights are held by Customer;

Data means all data and information provided by Customer in connection with performance of this Agreement and/or all data obtained, developed, produced or processed by Fujitsu or its Sub-Contractor in providing the Services;

Deliverables means the agreed work products specifically developed by Fujitsu for Customer under the Agreement, including but not limited to Software Deliverables, which are defined as such in the Proposal and/or Agreement;

Direct Damages means: (i) the reasonable costs in order to correct defects in the Products, Software, Deliverables and/or Services; (ii) the reasonable costs to mitigate damages; (iii) the reasonable costs incurred for temporary measures, such as the use of other (alternative or legacy) systems; and (iv) the

reasonable costs to establish liability and damages, excluding Indirect and Consequential Damages;

Due Date has the meaning as set out in clause 8.5;

Escalation Governance means the escalation governance procedure as set out clause 13;

Fees means the payable fees for the Products, Software, Deliverables and Services as set out in the Proposal;

Force Majeure means an unforeseeable circumstance or event beyond a Party's reasonable control which affects a Party's ability to perform its obligations (except for payment obligations) under the Agreement. It includes but is not limited to military actions, government actions, failure or breakdown of telecommunication and internet connections, pandemics, epidemics, or other civil emergencies, delay or non-performance of obligations by Sub-Contractors and strikes of personnel;

Fujitsu means Fujitsu Technology Solutions N.V., a private company with limited liability (naamloze vennootschap/société anonyme), incorporated under the laws of Belgium, with a registered offices at Culliganlaan 5, 1831 Machelen, Belgium, registered with the KBO (Register of legal entities Brussels) nr. 0430.262.405, or any of Fujitsu Affiliates designated in the Proposal as such, but in no event both Fujitsu and such Affiliate;

Fujitsu Materials means any Materials developed by or on behalf of Fujitsu (including any of its Affiliates) and/ or its Sub Contractors prior to or independent of or outside the scope of the Agreement or otherwise owned by any of them and used by Fujitsu in connection with the performance of the Agreement or any improvements, enhancements, modifications or customizations made thereto as part of or in the courses of performing the Agreement;

GDPR means the General Data Protection Regulation (EU) 2016/679;

Good Industry Practice means in relation to the performance by Fujitsu of Services, and any part thereof, Fujitsu's reasonable effort to provide the Services with such skill, diligence, prudence and foresight which would reasonably be expected from another service provider in the same industry as Fujitsu;

Indirect and Consequential Damages means all indirect and consequential loss, including loss of actual or anticipated profit, loss of revenue, loss of anticipated savings, loss of, damage to or corruption of data, loss of goodwill, loss of reputation, loss resulting from the use of the Products, Software, Deliverables and/or Services (analysis)models and scripts used in provision of the Services and/or the results generated when using the Services, data and errors related to Customer Materials and any other damages that are not Direct Damages;

Initial Term means the initial term as set out in the Proposal and/or Agreement;

Implementation means the implementation of the Software at Customer's premise;

IP Right(s) means patents, trademarks, service marks, logos, trade names, internet domain names, rights in designs, copyright (including rights to computer software) and moral rights, database rights, semi-conductor topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

Location means the location specified in the Proposal and/or Agreement;

Materials means software, documents, manuals, equipment, servers, infrastructure, databases, programming tools, (analysis)models, methodology, reports, designs, drawings, trade secrets and trademarks, machine readable text and files (both hard copy and electronic) and all other documentation and information;

Open Source Software means software of which the source code is available to the general public for use and/or modification from its original design free of charge;

Party or Parties means Fujitsu and/or Customer;

Personal Data means any information relating to an identified or identifiable natural person ("Data Subject") as set out in article 4(1) GDPR;

Product means the product and/or Deliverable (including Third Party Products) as specified in the Proposal provided by Fujitsu to Customer and/or sold by Fujitsu;

Proposal means Fujitsu's proposal for provision of the Services, Products, Software and/or Deliverables including any attachments, schedules or appendices thereto;

Renewal Term has the meaning as defined in clause 15.2;

Security Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed as set out in article 4(1) GDPR;

Service(s) means the services as specified in the Proposal provided by Fujitsu to Customer, which may include but are not limited to the provision of the software licenses, managed services, the development of software, maintenance services and support services, consultancy-, training- and other services;

Service Level means the performance standards associated with specific Services, where applicable and agreed as set out in the Proposal and/or Agreement;

Service Credits means any service credits, discounts (such as a 'malus') and/or other type of penalties when and as set forth in the Proposal and/or Agreement;

Sub-Contractor means any person or entity to whom Fujitsu sub contracts the performance of any of its obligations under the Agreement;

Software means the software as specified in the Proposal and/or Agreement which is licensed to Customer under the terms of the Agreement;

Software Deliverables has the meaning as set out in clause 26.1;

Sub-Processor means any data processor as defined in the GDPR engaged by Fujitsu in relation to the Agreement;

Terms and Conditions means these General Terms and Conditions including any modifications thereto;

Third Party means a legal entity, company or person(s) that is (are) not, (i) a Party to the Agreement, and (ii) is (are) not an Affiliate of a Party;

Third Party Products means any hardware, products software or other services offered by a Third Party;

Third Party Terms has the meaning as set out in clause 7.2;

Transformation means the transformation of the manner in which the Services are provided;

Transition means the transfer of responsibility for performing the Services to Fujitsu.

Contact

Fujitsu Technology Solutions NV#SA

www.be.ts.fujitsu.com

Siège social: Culliganlaan 5, bus 901, B-1831 Machelen

RPM : 0430.262.405 / VAT:BE 0430.262.405

© Fujitsu 2023. All rights reserved. Fujitsu and Fujitsu logo are trademarks of Fujitsu Limited registered in many jurisdictions worldwide. Other product, service and company names mentioned herein may be trademarks of Fujitsu or other companies. This document is current as of the initial date of publication and subject to be changed by Fujitsu without notice. This material is provided for information purposes only and Fujitsu assumes no liability related to its use.