

Fujitsu

General Terms and Conditions *Issue April 2010*

FUJITSU TECHNOLOGY SOLUTIONS B.V.
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A Definitions

A1 Designated Equipment means the Equipment to be used for a computer program according to the Software Licence, as indicated in Fujitsu's Product Specification or Order Confirmation. If the Designated Equipment is not specified, the Designated Equipment is taken to mean the Equipment on which the computer program is used for the first time.

A2 Equipment means all the computer hardware components, including those of third parties ('non Fujitsu Equipment'), as specified in the Agreement.

A3 Fujitsu means Fujitsu Technology Solutions B.V, with its registered office at Het Kwadrant 1 in Maarssen, the Netherlands. Companies affiliated with Fujitsu may also use these General Terms and Conditions and will in that case be referred to as 'Fujitsu'.

A4 Order Confirmation means a written confirmation of an order by Fujitsu specifying which Products Fujitsu will deliver, also referred to as Service Order.

A5 Customer means the Customer who places an order for the delivery of Products with Fujitsu.

A6 Agreement means the agreement consisting of the General Terms and Conditions and the Order Confirmation and any other documentation and conditions referred to in the Order Confirmation.

A7 Products means any combination of Equipment and/or Software and/or Services. The constituent parts of the Products are subject to the conditions of the relevant parts of these General Terms and Conditions.

A8 Product Specification means all the specifications of the Products. The specifications may also contain guarantee provisions. In general these specifications will be appended to the Agreement.

A9 Software Licence means the non-exclusive, non-transferable right of use of computer software.

A10 Software means computer software in object code and the relating user documentation as specified in the Agreement. Software also includes any software or firmware elements that form part of the Equipment and any Software corrections and updates provided to the Customer by Fujitsu after delivery or after first use. Software also includes customized software developed by Fujitsu for the Customer ('Customized Software').

A11 Service means the activities and services to be provided by Fujitsu, including, but not limited to, training, advice, customization work, conversion, project management, maintenance, systems management services and helpdesk management services, as specified in the Agreement.

A12 General Terms and Conditions means the Fujitsu General Terms and Conditions, issued in April 2010.

B. General Conditions

B1 Applicability

Unless explicitly agreed otherwise by the parties in writing, the provisions of these General Terms and Conditions apply to all offers of and agreements with Fujitsu in accordance with which Fujitsu delivers Equipment, Software, Services, etc. to the Customer, even if such Equipment, Software, Services, etc. have not been described in further detail in these Terms. All offers are without obligation.

An Agreement with Fujitsu is effected as soon as it is signed by the Customer and Fujitsu has sent an Order Confirmation.

Any purchasing or other conditions of the Customer explicitly do not apply, unless they have been accepted explicitly by Fujitsu in writing.

Unless explicitly agreed otherwise, the Agreement replaces all previous correspondence, offers, declarations of intent, arrangements and promises between the parties, in whatever form, relating to the delivery of Products. The parties acknowledge that the Agreement is based on the accuracy of the information provided by the Customer prior to the effective date of the Agreement. If the information provided as starting point turns out to be incorrect or unfounded, the parties will consult in order to modify the Agreement.

B2 Invoicing and Payment terms

B2.1 Payments

- a. Payments are due in accordance with the provisions in this respect in these General Terms and Conditions and in the relevant Order Confirmation or offer. Payments are to be made within 30 days of the invoice date. Fujitsu reserves the right to withdraw any credit granted at any time if there is reasonable cause to do so. The Customer is not entitled to setoff, unless Fujitsu has given its explicit written consent.
- b. Unless agreed otherwise in writing, invoicing will take place as follows:
 - Invoicing of Equipment and Software will take place on the delivery date of the Equipment and Software;
 - Invoicing of Services will take place monthly in advance;
 - Invoicing will be in euros.
- c. Unless stated otherwise in the relevant price list, Order Confirmation, Product Specification or offer, and with due observance of the provisions set out in the following sentence of this article, prices are inclusive of the costs of delivery, carriage paid, to the address within the Netherlands stated in the Agreement, and inclusive of goods in transit insurance but exclusive of VAT. If, however, the Customer owes Fujitsu an amount not exceeding € 1000 for any order or delivery, Fujitsu will be entitled to charge the Customer a surcharge of € 75 for administrative, transport and delivery costs.
- d. If elements of the cost price of the Products ordered, including the costs of wages and materials, increase in price between the date the Agreement is entered into and the delivery date, Fujitsu will be entitled to raise the prices accordingly.
- e. Taxes, costs of necessary permits and permissions and any other costs relating to the delivery to or removal from the Customer's premises will be payable by the Customer.
- f. If the Customer fails to pay an amount due or fails to pay such amount within the stipulated period, Fujitsu will be entitled to suspend its obligations under the Agreement as well as any guarantee, service and support obligations, or terminate the Agreement without the Customer and/or any third parties being able to hold Fujitsu liable for the adverse consequences.
- g. If payments are not made within the stipulated period, Fujitsu will be entitled, without notice of default, to charge the Customer interest from the end of this period, equal to the current statutory default interest, plus the extrajudicial collection costs, set at 15% of the total amount due, plus any legal costs.
- h. If any delivery, installation or completion of any Service is delayed due to a circumstance attributable to the Customer, all amounts agreed in this respect will be paid by the Customer within 30 days following the date on which Fujitsu informs the Customer that it is ready for the delivery, installation or

- completion. Any costs reasonably incurred by Fujitsu as a result of such delay are payable by the Customer.
- i. Any payments by Fujitsu to the Customer take place without prejudice to any of Fujitsu's rights.

B2.2 Cancellation by the Customer

The Customer is entitled to cancel the Agreement or terminate the Agreement early (hereinafter jointly referred to as: 'cancellation'), provided it pays the following cancellation charges to Fujitsu:

- a. the entire amount for the Equipment and/or Software and/or Services already delivered, plus a sum equal to 75% of the amount Fujitsu would have received for the delivery of the remaining part of the Equipment and/or Software and/or Services had the cancellation not taken place;
- b. in the event that Fujitsu keeps Equipment and/or Software in stock for the Customer, or has ordered Equipment and/or Software for the Customer from a third party, which order cannot be cancelled: the sale value of the Equipment and/or Software concerned at the time of cancellation.

Until Fujitsu has received the cancellation charges, it may, at its discretion, consider the Agreement as not having been cancelled, arrange for deliveries, continue to provide the Service and charge the Customer for the costs involved. Receipt of the cancellation charges by Fujitsu does not affect Fujitsu's right to institute proceedings for loss or damage suffered as a result of the cancellation by the Customer.

B3 Retention of ownership and rights

B3.1 Ownership

All Products delivered to the Customer remain the property of Fujitsu until all amounts due by the Customer for Products delivered or to be delivered under the Agreement, including any interest and collection costs due, have been fully paid to Fujitsu. If the Customer fails to pay on time, Fujitsu will be entitled to take back any delivered Products or to have them returned, without further notice of default or judicial intervention, and the Customer gives Fujitsu permission in advance to access any locations in or around the Customer's business premises for this purpose. The Customer is authorized to use any Products that are subject to reservation of ownership in connection with its normal business operations. The Customer is not authorized to pledge the Products or to encumber them with any other limited rights. If the Customer creates a new item out of or together with the Products delivered by Fujitsu, the Customer will be deemed to have created and to keep this item solely for Fujitsu until the Customer has fulfilled all its payment obligations arising from the Agreement in question.

B3.2 Rights

Rights shall be granted to Customer or, as the case may be, transferred to Customer unless (resolutive condition) that Customer has not paid the agreed charges in time and in full.

B4 Specifications

B4.1 Replacement and modification

Fujitsu is entitled to deliver a replacement or modified version of the Equipment, Software or Service instead of the Equipment, Software or Service ordered by the Customer, provided their operation and capacity are not essentially different from the specifications of those originally ordered.

B5 Care for and use of Equipment and Software

The Customer will use the Equipment and the Software in the manner described in the Product Specification. The Customer will ensure that the Equipment and Software, including any routine maintenance to be carried out by the Customer and extensions or modifications carried out by the Customer with Fujitsu's permission, are used correctly in accordance with the instructions

reasonably given or to be given by Fujitsu. The Customer will inform Fujitsu immediately of any incorrect use. The Customer will furthermore arrange for back-up provisions, restart procedures, accuracy checks, data security and any other necessary procedures, etc. that may be expected from a regular user.

Limitation of liability

B6.1 Fujitsu's liability due to attributable shortcoming in the fulfilment of the Agreement, per event or series of related events, is limited to compensation for direct loss, not exceeding an amount equivalent to the price (excluding VAT) stipulated in that Agreement. In case of a continuing performance contract with a term exceeding one year, the price stipulated in the Agreement will be fixed at the total amount of the compensation (excluding VAT) demanded for one year. Any liability on the part of Fujitsu pursuant to this article will never exceed an amount of € 500,000 per annum. Any entitlement to compensation for loss will lapse if it is not claimed in writing within fourteen days of the discovery of the loss. Direct loss will not be eligible for compensation if it comes to light later than twelve months after delivery of the relevant Product.

'Direct loss' exclusively means:

- a) the reasonable costs that would be incurred by Customer to ensure that Fujitsu's performance complies with the Agreement. However, such loss shall not be reimbursed if Customer has terminated the Agreement;
- b) the costs incurred by Customer in unavoidably keeping hardware, software and/or Services and any related facilities operational for a longer period of time, because Fujitsu failed to deliver on a delivery date by which it was bound, minus any savings resulting from the late delivery;
- c) Reasonable costs incurred in determining the cause and extent of the loss, in so far as the findings relate to direct loss.
- d) Reasonable costs incurred to prevent or reduce the damage or loss, in so far as the Customer proves that these costs have resulted in a reduction of direct loss within the meaning of these General Terms and Conditions.

B6.2 Fujitsu accepts no responsibility or liability for any Products, including semi-finished products, parts, etc., not delivered by it, nor for any modifications to any Product carried out by third parties. The Customer indemnifies Fujitsu against any claims of third parties on account of product liability resulting from a defect in a product or system which was delivered by the Customer to a third party and which included Equipment, Software and/or other materials delivered by Fujitsu.

B6.3 Fujitsu shall in no event be liable for consequential loss or any other indirect loss, including loss caused by loss of operational time, loss of data, loss of profit, loss of savings and loss caused by stagnation.

B6.4 Except for the cases specified in this Article, Fujitsu shall be under no liability for damages whatsoever, regardless of the grounds on which a claim for damages may be based. The maximum amount specified in Article B6.1 will lapse if and insofar as the loss is a result of wilfulness or gross negligence on the part of Fujitsu.

B6.5 There shall be no breach of the Agreement by Fujitsu and no liability towards Customer on the grounds of breach by Fujitsu in the fulfilment of its obligations under the Agreement insofar as such breach is a consequence of non-fulfilment by Customer of its obligations under the Agreement.

B7 Intellectual property rights

B7.1 Fujitsu's Intellectual property rights

All intellectual property rights, in particular copyrights that can or will be exercised in respect of the Products, regardless of the place and time, shall vest in Fujitsu or in Fujitsu's licensors. In the event of modification or improvement of the Products, the intellectual property rights in respect of the modified or improved Products shall vest in Fujitsu or in Fujitsu's licensors. Fujitsu indemnifies Customer against any third-party claims concerning any infringement of intellectual property rights of such third parties. Any copyrights, patents and other ownership rights arising from the performance of the Agreement will vest in Fujitsu.

B7.2 User licence

With due observance of the provisions in this respect elsewhere in these Terms, Fujitsu grants Customer, under Fujitsu's copyright, patent and other intellectual property rights in the Netherlands, a non-exclusive, non-transferable licence to use the Hardware, Software and Service in the form and for the purpose for which it was provided.

B7.3 Modifications

In the event of modification without the explicit permission of Fujitsu made to the Hardware or part thereof (including but not limited to providing access to installed latent capacity without the explicit permission of Fujitsu) or to the Software, Fujitsu shall have the right to terminate forthwith the licence for the relevant Software used on such Hardware, or for such modified Software, and any continued use by Customer of such Software shall not be allowed.

An unauthorised modification made by or on behalf of Customer that results in the increased capacity of the Hardware or part thereof shall impose upon Customer an obligation to pay the licence fees for all Software used on such Hardware, in accordance with the prevailing fees for use of such Software with Hardware with such increased capacity.

B7.4 Confidential information

The parties agree to keep confidential all information exchanged or working methods disclosed by the other party in connection with the Agreement, which are indicated by the other party as confidential or which are to be considered confidential by their nature.

The parties have no duty of confidentiality under this Agreement with respect to information that has already been made available in the public domain by the entitled party; that has been lawfully acquired by the receiving party from a third party without any duty of confidentiality; or that was already known to the receiving party, unless this information was provided in confidence or was obtained by the receiving party independently of the disclosing party. Confidential information includes in any case: software, documentation, diagnostic material or working methods disclosed by Fujitsu in the performance of its Services, as well as the provisions of the Agreement, not including the existence of the Agreement itself.

B7.5 Instructions

The Customer is obliged to comply with all regulations Fujitsu has issued or will issue with regard to the use of trademarks, copyright and other proprietary rights of Fujitsu and/or its licensors.

In particular, but without limitation of the foregoing provisions, Customer shall provide Fujitsu at its first request with information concerning the location and identification of all Hardware on which certain programs have been installed to allow Fujitsu to verify licence fees payable by Fujitsu to third parties.

B7.6 Diagnostic material

If it considers such action necessary, Fujitsu may provide Customer with diagnostic materials that may consist of and/or form part of diagnostic and test routines, programs, manuals and documentation. Customer shall not require a

licence for its use of such diagnostic materials, on the understanding that Customer shall keep the facilities for Fujitsu as an aid for the provision of Service by Fujitsu. Customer shall use the diagnostic materials solely in the way and for the purpose designated by Fujitsu. At reasonable times Customer shall allow Fujitsu to check the use of the diagnostic materials and shall allow Fujitsu to remove the diagnostic materials if Fujitsu considers such action necessary. Fujitsu shall have the right to take back the diagnostic materials at any time and in any way immediately after the end of a Fujitsu Service for which they were used.

B8 Indemnification

B8.1 If legal proceedings are brought against the Customer based on a claim that the Products or any part of the Products infringes a valid patent or copyright or a legally registered model, and Fujitsu shall pay all the costs and damages that Customer may ultimately be ordered to pay in such legal proceedings that relate to the aforesaid claim, provided that:

- a. the Customer informs Fujitsu as soon as possible after a third party has made a claim against it, whether in or out of court; and
- b. the Customer conducts the defence and settles the arrangement relating to such claim with Fujitsu and in accordance with Fujitsu's instructions; and
- c. Customer provides Fujitsu in such a defence with all the cooperation that Fujitsu may reasonably require; and
- d. the Customer has obtained Fujitsu's written permission prior to incurring any costs as referred to in this article.

B8.2 With the exception of the above provisions, Fujitsu accepts no liability whatsoever towards the Customer and/or third parties engaged by the Customer with regard to patents, copyright, registered models or other intellectual property rights and, without limiting the generality of the foregoing, in particular accepts no liability towards the Customer for any infringements resulting from the circumstance that the Customer has used the Products in a manner other than in accordance with the General Terms and Conditions, or from the use of the Products in combination with products not delivered by Fujitsu, such as equipment, software or services.

B8.3 In the event of any claim relating to an infringement of copyright or any other intellectual property right with regard to the Products, or an impending infringement in the opinion of Fujitsu, Fujitsu will be entitled, at its discretion and at its own expense, to obtain for the Customer the right to continuing use, to modify or replace the infringing Product in order to avoid infringement, or to agree to the return of such a Product while repaying the price paid less the depreciation referred to below in this article. The depreciation of a Product that has been returned by virtue of the provisions of the preceding sentence will be 2% of the price paid for the Product by the Customer for each month that has passed between the original date of delivery to the Customer and the date of return.

B9 Suspension and termination

B9.1 With the exception of what has been agreed elsewhere in the Agreement:

- a) each party will have the right to terminate the Agreement out of court by means of a registered letter, or to suspend its performance, if the other party, also after a written reminder in which a reasonable period in set, fails to fulfil its obligations under the Agreement;

b) each party will have the right, without any reminder or notice of default being required, to terminate the Agreement out of court by means of a registered letter if the other party applies for or is granted a suspension or provisional suspension of payments; if the other party files a petition in its own bankruptcy; if the other party is declared bankrupt; if the other party's business is liquidated; if the other party ceases its current business; if an attachment is levied on a significant part of the other party's capital or on the Hardware and/or Software; or if the other party must otherwise be deemed no longer able to fulfil its obligations under the Agreement;

c) a change of prices and/or chargeable amounts does not give the Customer any ground for termination, dissolution or suspension of the Agreement.

B9.2 Obligations which, by their nature, are intended to continue even after termination of the Agreement will continue to exist after termination of the Agreement.

B9.3 Termination of the Agreement will not discharge the parties from their commitment to fulfil any obligations arisen prior to the termination, including the making of payments of which the due date has passed, or from their commitment to pay any amount due and payable as a result of the termination.

B9.4 In case of termination, for whatever reason, the Customer will return to Fujitsu all of Fujitsu's property to which the Customer is no longer entitled under the Agreement. If the situation arises, the Customer will allow Fujitsu to access its premises in order to repossess and remove the property referred to above.

B10 Resale and export

B10.1 Only if an agreement provides for resale and/or export of any Product by Customer, Customer is entitled to resell or export the Products in question mentioned in the Agreement. The Customer itself must ensure that the necessary permission and/or permits have been obtained from the competent bodies in the Netherlands and/or any other country, including, but not limited to, the Export Administration Regulations of the United States, that may apply to or influence such resale or export.

B10.2 Equipment or Software may never be exported or sold on if the Customer has reason to suspect that such Equipment or Software is intended to be used for purposes relating to nuclear, chemical or biological weapons or rocket technology.

B10.3 The Customer will indemnify Fujitsu against any claims by third parties in connection with a violation of export regulations.

B11 Employees

B11.1 The Customer and Fujitsu agree that during the time that Fujitsu delivers Products to the Customer and during a period of twelve months thereafter, either party will refrain from recruiting and/or hiring employees of the other party who are or have been involved in the delivery of the Products, and they will not hire these employees through third parties.

In case of violation of this stipulation by the Customer, the Customer will owe Fujitsu an immediately payable penalty of € 50,000, without prejudice to Fujitsu's right to claim compensation.

B11.2 In the event that Fujitsu employees need to carry out work on the Customer's premises, the Customer will provide workspace that meets all the statutory requirements.

B12 General

B12.1 Transfer of rights

The parties will not have the right to transfer the rights and obligations arising from the Agreement to any third party without the other party's written

permission. This permission will not be withheld without reasonable grounds; the party granting permission has the right, however, to attach conditions to this permission.

B12.2 Representation and notifications

Each party will appoint an employee to act as a contact for the other party with regard to the work to be carried out under the Agreement. Unless explicitly agreed otherwise, these employees are authorized to represent the party in question in all matters concerning the performance of the Agreement.

Unless stated otherwise in the Agreement, all required notifications must be made in writing (by email, post or fax) to the contact person referred to in this article at the address stated in the Agreement

B12.3 Change management

Changes to the General Terms and Conditions and/or the Agreement will only be valid if they are made in writing, are explicitly considered as changes to these General Terms and Conditions and/or the Agreement and are signed by an authorized representative of each party. Any costs involved in the implementation of such changes will be agreed by the parties and paid in such proportions as decided by the parties.

B12.4 Force Majeure

Neither party can be held liable for any non-performance or delay in the compliance with its obligations under the Agreement due to circumstances beyond its reasonable control, including, but not limited to, not providing the necessary data, information or specifications in time (if and to the extent that the other party has undertaken to provide such data, information or specifications); changes to such provided data, information or specifications; bad weather conditions; fire; explosion; flood; strike; selective strikes; go-slow or other industrial disputes; accidents; riots or disturbances of public order; illness of employees; government acts and regulations; the impossibility of obtaining the necessary licence or permission; delays caused by suppliers or shortage of materials. If a situation of force majeure has lasted for more than 75 calendar days, both parties will be entitled to terminate the Agreement. The services already performed pursuant to the Agreement will in that case be paid proportionately, without the parties having any further claims on one another. If in performing the Agreement Fujitsu incurs any extra costs due to circumstances beyond its control, it will be authorized to pass these costs on – within reason – to the Customer.

B12.5 Expiry period

A claim of the Customer against Fujitsu must be brought before the competent body in accordance with Article B12.7 within no more than one (1) year of the date on which the Customer became or reasonably could have become aware of the claim, failing which the Customer will forfeit all its rights under the claim.

B12.6 Continuation of obligations

Obligations which, by their nature, are intended to continue even after termination of the Agreement, will remain in full force after termination, cancellation or expiry of the Agreement.

B12.7 Applicable law and disputes

Any disputes between the parties arising from the Agreement will be submitted to the competent court in the district of Utrecht. This agreement is governed by Dutch law. The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Sales Convention, adopted on 11 April 1980) is not applicable.

C. Conditions of sale regarding Equipment

If Fujitsu sells Equipment to the Customer, the provisions of this Article, 'Conditions of sale regarding Equipment', will apply in addition to the General Conditions of these General Terms and Conditions. In so far as the General Conditions conflict with the Conditions of sale regarding Equipment, the Conditions of sale regarding Equipment will take precedence.

C1 Purchase and sale

C1.1 Customer shall purchase from Fujitsu and Fujitsu shall sell to Customer the Hardware specified in the Order Confirmation in return for payment by Customer of the prices and charges stated therein and subject to the provisions made in these conditions.

C1.2 The Equipment is described in further detail in the relevant Product specification(s). No other specification, description, publication or written or verbal undertaking forms part of the Agreement, or is deemed to be referred to in the Agreement, unless parties have explicitly agreed otherwise in writing. If the Equipment contains Software, the Conditions of sale regarding Software set out below under D will also apply to such Software and those conditions shall prevail in respect of the Software in the event of irreconcilability with the Conditions of Sale for Hardware.

C2 Costs and payments

The prices and costs will be paid as set out in the Order Confirmation and in accordance with the aforementioned General Conditions.

If the Equipment, due to reasons other than a delay on the part of Fujitsu, is delivered later than three months after the date on which Fujitsu accepted the delivery order for the Equipment, Fujitsu reserves the right to adapt the prices and costs to those applicable on the date of delivery.

C3 Delivery and installation

C3.1 Delivery and risk

The delivery to the Customer will be made to the address specified in the Agreement. The risk of loss of and damage to the Equipment will pass to the Customer on delivery. Fujitsu is authorized to make partial deliveries; the Customer is obliged to purchase. With the exception of defects in material and workmanship in the Equipment and damage and/or loss caused by Fujitsu employees, the Customer will be liable to Fujitsu for any damage to or loss of the Equipment, irrespective of the cause, including wilful damage, during the period from delivery to the moment of payment in full of all outstanding invoices (i.e. during the period to which the reservation of ownership applies). The Customer must arrange for adequate insurance in this respect.

If Fujitsu uses Incoterms, then the version to be used will be the version in force on the date the offer was submitted.

C3.2 Delivery and installation dates

Fujitsu will endeavour to deliver and/or install the Equipment on or around the agreed date but will not be liable for any delays in delivery or installation.

C3.3 Arrangements to be made by the Customer

If required, Fujitsu will provide the Customer with the information necessary to enable the Customer to make the necessary arrangements in its building for the delivery and/or installation of the Equipment.

The Customer will, at its expense and prior to the installation of the Equipment, arrange for the installation of all necessary connection points and cabling, carry out refurbishment work, if necessary, and obtain any required permits for the installation of the Equipment and its connection to the telecommunications

system. If the Customer fails to meet these obligations, Fujitsu will be entitled to suspend its obligations under the Agreement without further notice of default being required.

C3.4 Delivery and installation

Unless otherwise agreed, Fujitsu shall install the Hardware at the premises of Customer in return for payment by Customer of the prevailing installation charges of Fujitsu, as specified in the Order Confirmation. Unless agreed otherwise, the installation will be carried out during Fujitsu's normal working hours, which are from 8.30 a.m. to 5 p.m. on Monday to Friday, public holidays excepted. The date on which the Equipment has satisfactorily run the Fujitsu standard test will be considered to be the installation date.

If the installation is not carried out by Fujitsu, the Equipment will be deemed to be installed on the date of delivery of the Equipment to the Customer. If both parties are of the opinion that the delivery and/or installation have been completed, Fujitsu will draw up a written confirmation within 5 working days, to be signed by both parties. This confirmation does not affect the provisions of the Agreement with respect to acceptance and guarantee. If and to the extent that the parties do not sign a confirmation as referred to above, the delivery and/or installation will be deemed to have been completed in accordance with the relevant provisions in the Agreement when the Products have been taken into operational use or delivery and/or installation has taken place.

C3.5 Delivery to parties abroad

Delivery to parties abroad might be charged by Fujitsu against a 'Zero-percent' VAT-tariff (in conformance with Dutch Tax Department directives) provided Fujitsu has received a signed transport declaration that has been fully and correctly completed prior to the transport of Products by or on behalf of Customer up to the Dutch border. If this declaration has not been filled in at all or if it has not been filled in completely or on time, Fujitsu has the right to suspend or not carry out the relevant delivery, without being liable for it. In case of not filling in at all, on time or completely, Fujitsu has also the right to carry out the delivery charging the general Dutch VAT-tariff. The mentioned Zero-percent regulation is without prejudice to the provisions about risk and loss as mentioned in Article C3.1.

C4 Equipment guarantee

C4.1 Fujitsu guarantees that the Equipment complies in all material respects with the provisions of the Product Specification.

4.2 Unless otherwise specified in the relevant Product Specification or in the Order Confirmation, Fujitsu guarantees that if any defect in the material or manufacturing defect of any part of the Equipment is discovered within a period of three months of the delivery of such Equipment, Fujitsu will, at its expense, take care of such defect by repairing, replacing or adjusting the Equipment or part thereof, at its discretion, provided that no modifications have been made to the Equipment other than by Fujitsu and that the Equipment has been maintained and operated in accordance with Fujitsu's regulations.

For the purposes of this article the term 'part of the Equipment' will not include any Software contained in the Equipment (other than physical components to which these elements are inextricably linked). Such Software will be subject to the guarantee provisions as laid down in the Conditions of sale regarding Software set out below.

C4.3 Any guarantees relating to non-Fujitsu Equipment are exclusively determined by the guarantee provisions of Fujitsu's supplier. In so far as these guarantee provisions are not included in

the delivery of the Equipment, they will be provided by Fujitsu immediately on demand.

C4.4 Fujitsu does not guarantee an error-free and uninterrupted operation of the Equipment.

C4.5 The above guarantees replace all other explicit or implicit guarantees, including the guarantee that the Equipment is suitable for a certain purpose.

C4.6 The guarantee period for any upgrades, modifications or replacement part for the Equipment will commence on the date of delivery of the Equipment concerned.

C4.7 Unless the Customer and Fujitsu have agreed that the work under guarantee will be carried out at the Customer's location, this work will be carried out at an address to be specified by Fujitsu. The Equipment must be returned by the Customer, at the Customer's risk and expense, in appropriate packaging and with a detailed description of the alleged defect. Fujitsu will return the Equipment to the Customer at the expense and risk of the Customer. Any parts replaced during repair work will become Fujitsu's property.

C4.8 If the Customer concluded a full maintenance contract when purchasing the Equipment, which enters into force on the date of installation, the repair of defects as described above under C4.2 that occurred during the guarantee period will be carried out in accordance with the provisions of the Service Agreement concluded, without any additional costs.

C4.9 Fujitsu's liability for defects in the Equipment delivered is limited to the compliance with the guarantee obligations set out in this article (C4).

D. Conditions of sale regarding Software

If Fujitsu sells Software to the Customer and issues a licence for it, the provisions of this article, 'Conditions of sale regarding Software', will apply in addition to the General Conditions of these General Terms and Conditions. In so far as the General Conditions conflict with the Conditions of sale regarding Software, the Conditions of sale regarding Software will take precedence.

D1 Granting of licence

D1.1 Subject to payment by the Customer of any applicable licence fees as set out in the Order Confirmation and with due observance of the provisions in these Terms, Fujitsu grants the Customer, exclusively for its own use, a non-exclusive, non-transferable licence to use the Software specified in the Order Confirmation for the purposes and number of users as specified in the Order Confirmation and/or in the relevant Product Specification, with due observance of any restrictions stated. The only Equipment to be used for the Software is the Equipment as specified by Fujitsu. Any other use is not permitted, unless with the prior written consent of Fujitsu. Fujitsu may attach further conditions to such consent.

D1.2 The Software is described in further detail in the relevant Product specification. Unless explicitly agreed otherwise in writing, no other specification, description, publication, promise – whether made in writing or orally – forms part of the Agreement or is deemed to be referred to in the Agreement.

D2 Delivery and installation of Software

D2.1 Fujitsu will deliver the Software to the Customer on the agreed data carrier in terms of type and format and install the Software at the Customer's premises in so far as installation by Fujitsu has been agreed in writing. Fujitsu will endeavour to bring about the delivery of the Software and any applicable documentation at the agreed time, but accepts no liability for any delay in the

delivery. With the exception of defects in material and workmanship in the Software and damage and/or loss caused by Fujitsu employees, the Customer will be liable to Fujitsu for any damage to or loss of the Software, irrespective of the cause, including wilful damage, during the period from delivery to the moment of payment in full of all outstanding invoices (i.e. during the period to which the reservation of ownership applies). The Customer must arrange for adequate insurance in this respect.

D2.2 The Customer is permitted to create safety copies of the Software only. The Customer will include the Fujitsu copyright and any other proprietary notices in all copies of the Software.

D2.3 If an acceptance test of the installation of the Software has been agreed by the parties, the provisions of Article F3 will apply by analogy.

D2.4 If no acceptance test has been agreed by the parties, the Customer will accept the Software in the condition it is in at the time of delivery, without prejudice to Fujitsu's obligations arising from the guarantee provisions under D5.

D3 Licence fee

D3.1 The Software licence fee as set out in the Order Confirmation will be payable by the Customer from the commencement date as referred to in Article D9.1 and must be paid in advance.

D3.2 Fujitsu shall have the right to increase the periodic licence fees from time to time. If Fujitsu wishes to exercise this right, it shall inform Customer by notification in writing of the increase in good time before the starting date of the new licence fee.

D4 Documentation

With the Software Fujitsu will provide a copy of the standard user documentation. This documentation serves as a support tool for the use of the Software and may not be copied by the Customer without Fujitsu's written consent.

D5 Software guarantee

D5.1 Fujitsu guarantees that the Software complies in all material respects with the provisions of the Product Specifications.

D5.2 Unless agreed otherwise in writing, Fujitsu guarantees, if within three months of delivery or installation of the Software it becomes evident that the Software contains a reproducible intrinsic defect and the Software has been used with the Designated Equipment and in the correct manner, unless stated otherwise, that it will do everything it can reasonably be required to do in order to resolve the defect by means of error correction or preventive action. Fujitsu does not guarantee an uninterrupted and error-free operation of the Software, nor does it guarantee that all defects can be resolved by means of error correction or preventive action. Restoration of corrupted or lost data is not included in the guarantee. If the Software is modified by or on behalf of the Customer without Fujitsu's written permission, Fujitsu's guarantee obligation will cease to apply.

D5.3 The above guarantees replace all other explicit or implicit guarantees, including the guarantee that the Software is suitable for a certain purpose.

D5.4 Fujitsu's liability for defects in the Software is limited to the compliance with the guarantee obligations set out in this article (D5).

D6 Program support

D6.1 In addition to the provisions in this respect included in Article D5, Fujitsu will provide service for the Software in so far as the Customer has concluded a service contract to that effect and provided that the Customer accepts and implements all maintenance releases or new releases as instructed by Fujitsu, unless otherwise agreed in writing.

D6.2 In the event that the Customer does not enter into a service contract with Fujitsu as referred to in Article D6.1 or if such contract is terminated, Fujitsu will provide the Customer, at its written request, with program support, in so far as Fujitsu will have the required knowledge at the time, at the applicable rates based on the number of hours of labour and materials used.

D6.3 Should a modification or addition to the Software carried out by Fujitsu result in an increase of Fujitsu's support obligation, Fujitsu will be entitled to terminate a previously agreed service contract taking effect from the end of any calendar year with due observance of a notice period of six (6) months, while offering another form of service provision at the same time.

D7 Third-party software

Certain Software licensed by Fujitsu may be licensed to Fujitsu by third parties. Such Software is either subject to the licence conditions delivered with the Software or to the conditions of a third-party end user licence. The conditions referred to in the previous sentence will take precedence over the Fujitsu conditions and will apply to the use of the Software by the Customer, including the guarantee provisions and limitations of liability included in these conditions.

D8 Confidentiality

The Customer guarantees that the Software will only be used in accordance with the licence conditions and he will not provide any information relating to the Software to third parties or make the Software or any part thereof available to third parties, unless this is done under the assurance of confidentiality and exclusively for the use with the Designated Equipment and after Fujitsu's prior written consent. In the event of unauthorized use of the Software by the Customer, the Customer will owe Fujitsu, without prejudice to any other rights and remedies available to Fujitsu, an immediately payable amount equal to the fee such unauthorized user would have owed Fujitsu in the case of authorized use.

D9 Commencement date; termination

D9.1 The date on which the parties have agreed on this, failing which, the date of delivery, will be considered to be the commencement date of each Software Licence granted.

D9.2 Customer may terminate a Software licence for the Software subject to notice of at least three months. Termination shall be made known by registered letter. Termination shall not impose on Fujitsu any obligation to refund any licence fees paid in advance.

D9.3 Only if the Customer does not comply with one or more licence conditions may Fujitsu terminate the licence relating to the Software. Termination of a licence due to an attributable shortcoming on the part of the Customer will take place without prejudice to all of Fujitsu's rights to compensation as well as any other rights and remedies available to Fujitsu.

D9.4 Within five days of the termination of a Software Licence the Customer will destroy or return the Software concerned, including any copies, documentation and parts, modified and combined software included, and subsequently notify Fujitsu in writing that these steps have been taken.

Termination will not discharge the Customer from its commitment to fulfil any obligations arisen prior to the date of termination.

D10 Reporting on the use of the licence

In certain cases, at Fujitsu's request, the Customer will confirm in writing that the use of the Software is in accordance with the conditions of the Software Licence. After having received a request by Fujitsu to that effect in good time, the Customer will grant Fujitsu permission to perform an audit, to which end the Customer will inform Fujitsu of the location(s) where the Software is used.

E. Service conditions

If Fujitsu provides services to the Customer, the provisions of this Article, 'Service conditions', will apply in addition to the General Conditions of these General Terms and Conditions. In so far as the General Conditions conflict with the Service conditions, the Service conditions will take precedence.

E1 Service

E1.1 Fujitsu shall provide Service to Customer and Customer shall accept such Service in return for payment by Customer of the Service charges stated in the Order Confirmation.

E1.2 The Service is specified in the relevant Product Specification(s). Unless explicitly agreed otherwise in writing, no other specification, description, publication, promise – whether made in writing or orally – forms part of the Agreement or is deemed to be referred to in the Agreement.

E1.3 The Service does not include the performance of the work required for the correction of any form of design flaws.

E1.4 Unless agreed otherwise between the parties in writing, the service will be provided by Fujitsu during Fujitsu's normal working hours, which are from 8.30 a.m. to 5 p.m. on Monday to Friday, public holidays excepted. Service provided outside of normal working hours will be charged in accordance with the special rates applied by Fujitsu at that time.

E2 Scope of the Service

E2.1 Unless agreed otherwise in writing with Fujitsu, the Service does not include repairs, replacements, modifications, error corrections or more working hours than normally required as a result of:

- a. incorrect installation, unless the installation was carried out by Fujitsu;
- b. non-compliance by the Customer with the regulations specified by Fujitsu relating to the use, operation and location;
- c. improper and/or careless use;
- d. misuse; negligence; accidents;
- e. modifications, changes or additions carried out by parties other than Fujitsu;
- f. the use of equipment, software, consumables or accessories not delivered by Fujitsu and in the opinion of Fujitsu not suitable for use with the Products concerned;
- g. a lightning strike or other external contingencies;
- h. failure of electricity supply;
- i. telecommunications network failures;
- j. service not provided by Fujitsu or third parties on behalf of Fujitsu;
- k. a change in the Service or in the scope of the Service.

E2.2 Fujitsu will supply the replacement parts required within the scope of the Service; these may be new or reconditioned parts or reassembled parts that are functionally equivalent to new parts. Unless otherwise agreed, any parts replaced during repair work will become Fujitsu's property.

E2.3 If replacement or repair is normally carried out by removal of the relevant Equipment or part thereof from the Customer's premises by Fujitsu and the Customer refuses this, Fujitsu will be entitled to pass on any additional costs to the Customer and Fujitsu will not accept any liability for any resulting delays or for remaining in default with regard to the service provision.

E2.4 In the event that the Order Confirmation states that 'return for repair' or 'carry in' are applicable to Service concerning the Equipment, the Service will be provided in Fujitsu's workshops and the Customer will, at its expense, deliver the Equipment or have it delivered, properly packaged and with a description of the alleged defect, at Fujitsu's workshop. Fujitsu will return the Equipment at the expense of the Customer. The risk of loss of and damage to the Equipment during transport will be borne by the Customer.

E3 Specialist service

E3.1 If the Service comprises implementation, training, support, advice and other specialist services:

- a. Fujitsu will appoint employees with the required expertise and experience to provide such Service;
- b. the Customer will assign employees with expert knowledge of the matter and make any required resources available to Fujitsu together with any information and facilities Fujitsu may reasonably require to support its Service provision;
- c. the Customer will perform the necessary preparations and duties as described in the Order Confirmation or the relevant Product Specification(s);
- d. Fujitsu will be entitled to charge extra costs in case of expansion or modification of or delay in the service provision other than as a result of negligence on the part of Fujitsu or non-compliance by Fujitsu with any obligation arising from the Agreement;
- e. any extra costs incurred by Fujitsu employees, including, but not limited to, travel, accommodation and meal expenses, will be charged to the Customer as additional costs;
- f. Fujitsu will be deemed to have provided the Service concerned as soon as the criteria for completion as stated in the Order Confirmation or, if applicable, in the Product Specification(s) have been met or, if the Service is provided on the basis of man hours spent and/or materials delivered, the agreed number of man hours have been spent and/or materials delivered.

E3.2 A licence for the use of any program or material delivered by Fujitsu based on the Service in question in accordance with the provisions above in Article D1 will be deemed to have been granted to the Customer.

E4 Performance

In the provision of the Service Fujitsu will exercise the care and skill reasonably to be expected of it.

E5 Commencement and termination

E5.1 The commencement date of the Service relating to the Equipment is the date of installation or, in the case of previously installed Equipment, the commencement date stated in the Order Confirmation. If the parties have agreed that the Service will be provided for an indefinite period of time, either party will have the right to terminate the service provision with due observance of a notice period of at least six (6) months. If a minimum term or a fixed term of service provision has been agreed, the service provision may be terminated taking effect from the end of such minimum

term or fixed term or at any time thereafter, also with due observance of a notice period of at least six (6) months.

E5.2 The commencement date of the Service relating to the Software is the date of delivery or, if applicable, the date of acceptance or, in the case of previously delivered Software, the commencement date stated in the Order Confirmation. The Service will be provided for an indefinite period of time. The service provision may be terminated by either party exclusively taking effect from the end of any calendar year with due observance of a notice period of at least six (6) months.

E5.3 The commencement date of the service provision, other than the Service relating to the Equipment and Software as referred to under E5.1 and E5.2, is the commencement date stated in the Agreement. If the parties have agreed that this service will be provided for an indefinite period of time, either party will have the right to terminate this service provision with due observance of a notice period of at least six (6) months.

If a minimum term or a fixed term of service provision has been agreed, the service provision may be terminated taking effect from the end of such minimum term or fixed term or at any time thereafter, also with due observance of a notice period of at least six (6) months.

E5.4 Notice of any termination must be given in writing. This does not affect the right to terminate granted to the parties elsewhere in the General Terms and Conditions.

E6 Service costs

E6.1 Fujitsu is entitled to adjust the fee for the provision of the Services with effect from 1 January of each calendar year based on the monthly negotiated wage index figure, excluding special remuneration (70-74 services industry), as published by Centraal Bureau voor de Statistiek (CBS).

In case of any maintenance costs relating to the Equipment and/or the Software of third parties, Fujitsu will be entitled to increase the prices in accordance with the increase charged to Fujitsu by the supplier concerned. If Fujitsu wishes to exercise this right, it must inform the Customer of such increase in writing and in good time before the commencement date of the increased price.

E6.2 If Fujitsu carries out maintenance to the Equipment at a time more than five years after the installation date of the Equipment, Fujitsu reserves the right to increase the relevant service costs as from the time referred to above.

E6.3 If Fujitsu carries out maintenance to Equipment of which the useful life has expired in Fujitsu's reasonable opinion, the costs relating to this maintenance will be payable by the Customer, provided that Fujitsu informs the Customer of this in advance and the Customer does not object to these charges. The useful life will in any case be deemed to have expired if as a result of the age of the Equipment or parts thereof the costs incurred by Fujitsu in all reasonableness no longer justify the provision of maintenance. If Fujitsu proves that the useful life of the Equipment has expired, either party will be entitled to terminate the Agreement early, with due observance of a notice period of one (1) month.

E6.4 The costs of parts, components, media, consumables and other deliveries and any travel and accommodation expenses must be paid separately by the Customer, if and to the extent that they have not been explicitly included in the service costs.

E7 Customer's obligations

In the context of the Services to be provided by Fujitsu under the Agreement, the Customer will:

- a. grant Fujitsu full and free access to all relevant information, Equipment and Software;
- b. ensure that Fujitsu employees are assisted by expert employees of the Customer who are familiar with the Customer's Products;
- c. provide Fujitsu with suitable workspace and facilities, and with safe storage space for the service equipment, spare parts and manuals;
- d. keep the most recent versions of the Software as used by the Customer available for Fujitsu;
- e. agree to and/or take care of temporary disconnection of any equipment and/or software not delivered by Fujitsu and/or not maintained by Fujitsu, should this be necessary in the reasonable opinion of Fujitsu to make a diagnosis;
- f. if requested by Fujitsu, set out clearly how the Equipment and Software are used and provide Fujitsu with this information when so requested by it;
- g. at its own expense provide Fujitsu with the telecommunications facilities and other facilities which Fujitsu may reasonably require for diagnostic and test purposes;
- h. at its own expense make facilities available to enable Fujitsu to work at a distance in the context of the provision of the Services;
- i. provide Fujitsu with the information and render the assistance Fujitsu may reasonably require and which it needs for the performance of its obligations under the Agreement;
- j. at its own expense take care of disposal of waste materials, including packaging materials.

F. Development of Customized Software

If Fujitsu develops Customized Software for the Customer, the provisions of this Article, 'Development of Customized Software', will apply in addition to the General Conditions of these General Terms and Conditions. In so far as the General Conditions conflict with the provisions of the Development of Customized Software, the provisions of the Development of Customized Software will take precedence.

F1 Development

The Software to be developed and the manner in which it will be developed will be specified in the Customized Software Order Confirmation. Fujitsu will develop the Customized Software with due care on the basis of the data provided by the Customer; the Customer will vouch for the accuracy, completeness and consistency of this data.

F2 Prices and costs

F2.1 With respect to the development of the Customized Software Fujitsu distinguishes the following types of prices:

- a. Fixed prices: these are prices that are not subject to change for the provision of the services as specified in the Order Confirmation, with the exception of the provisions of the General Conditions, and that are independent of the costs actually incurred by Fujitsu.
- b. Indicated prices: these are prices that may be reviewed as a result of the costs actually to be incurred by Fujitsu.
- c. Subsequent calculation: the Customer will pay Fujitsu for all man hours and computer time spent and materials delivered.

F2.2 The prices referred to under F2.1b and F2.1c are the current prices on the dates specified. Fujitsu is entitled to increase the prices from time to time, of which the Customer will be notified before the commencement date of the adjusted prices.

F2.3 Unless stated otherwise in the Order Confirmation, the prices apply to the development of the Customized Software at the Customer's office, at one of Fujitsu's offices or at another agreed place on working days during Fujitsu's normal working hours. The standard prices include travel time up to a maximum of 1.5 hours a day and a kilometre allowance up to a maximum of 150 km a day, based on full working days, without any interim moves during normal working hours. If, at the request of the Customer, work is to be performed at the Customer's office for a short period of time, the working hours and the travel time, with a minimum of four hours a day and a maximum of a full working day and with due observance of the provisions relating to travel time and travel distance, will be charged at the then current hourly rates.

If the parties agree that work is to be performed outside of Fujitsu's normal working hours, the Customer will owe Fujitsu a fee in accordance with the relevant Fujitsu rates applicable at that time.

F2.4 Additional travel time and travel expenses as well as any accommodation expenses reasonably incurred by Fujitsu for the performance of the Agreement will be paid by the Customer to Fujitsu in accordance with the then current hourly rates of Fujitsu, in so far as applicable.

F2.5 Unless agreed otherwise by the parties, the prices do not include any costs for data carriers, printing paper and other materials, or the costs for computer time, etc.

F2.6 The Customer will owe the agreed price(s) as stated in the provisions of Article B2. If no payment dates are stated, Fujitsu will charge the Customer at the end of each month such part of the price(s) as relevant to the services provided in that month.

F3 Acceptance

F3.1 Each specification or other document produced by Fujitsu as part of the Service that requires the Customer's approval, will be approved by the Customer in writing or returned with the Customer's comments within fourteen days of receipt. Written detailed questions that require an answer in connection with the progress of the work will be answered by the Customer in writing within three working days.

If the Customer fails to comply with this requirement, the scheduled delivery date(s) for any part of the Customized Software will be postponed for a period at least equal to the duration of the delay or, in case of final acceptance, the Customized Software will be deemed to have been accepted in its entirety.

F3.2 The delivery of the Software will immediately be followed by an acceptance test, to be designed and carried out in accordance with a project plan to be agreed by the parties. The purpose of the acceptance test is to determine whether the Software operates in accordance with the specifications. During the acceptance test a detailed report will be drawn up (test report), describing the tests performed and the corresponding results.

F3.3 Immediately after the successful completion of the acceptance test, the parties will draw up a declaration of acceptance, which must be signed, to lay down any imperfections in the Software with reference to the relevant specifications and to record whether the Software or parts thereof have been accepted by the Customer.

F3.4 Minor imperfections, including imperfections which by their nature and/or number do not reasonably form an obstacle to putting the Software into operational use, will not constitute a reason to

withhold acceptance or interrupt the acceptance test, without prejudice to Fujitsu's obligation to remedy such imperfections free of charge.

F3.5 Within three (3) working days of receipt of the declaration of acceptance referred to under F3.3, Fujitsu will provide a time schedule within which the imperfections laid down in the declaration of acceptance will be resolved. Fujitsu will notify the Customer in writing as soon as the imperfections have been resolved. If Fujitsu is unable to resolve an imperfection within the stipulated period, but is able to provide a provisional solution for the problem caused by the imperfection, it will be entitled to provide such a solution, which will not constitute a reason to withhold acceptance. If an imperfection cannot be resolved within the stipulated period or temporarily resolved by means of a provisional solution, Fujitsu will provide a planning stating the term and the manner in which the imperfection can be resolved.

F3.6 In the event that the Customer has not accepted the Software when the first acceptance test as referred to under F3.2 was carried out, the acceptance test will be repeated within a period of time equal to the number of working days stated in the project plan. It will be laid down in a second declaration of acceptance whether the defects stated in the first declaration of acceptance have been resolved and, in case of rejection as referred to under F3.2, whether the Software has now been accepted. In respect of imperfections that have not been resolved the provisions under F3.3, F3.4 and F3.5 apply equally.

F3.7 The procedure referred to under F3.2 to F3.6 will be repeated until the Software has been accepted.

F3.8 If Fujitsu has not received notice of acceptance or of interruption of the acceptance test three calendar days after the acceptance period has passed, the Customized Software will be deemed to have been accepted by the Customer. The Customized Software will in any case be deemed to have been accepted if the Customer has taken the Customized Software into operational use. The above applies without prejudice to Fujitsu's obligation to resolve any imperfections detected.

F4 Modifications and contract extras

F4.1 Modifications to the technical or functional specifications of the Customized Software, including additions to the Customized Software, may be requested by the Customer and/or recommended by Fujitsu at all times.

F4.2 As soon as possible, but in any case within four weeks of receipt of a request or recommendation for modification of the technical or functional specifications of the Customized Software, the parties will respond in writing to such a request or recommendation. If Fujitsu has already started the development activities, it will be entitled to attend to the modification requests after acceptance of the Customized Software concerned. Unless agreed otherwise in writing, requests for modification will not result in suspension of the parties' obligations.

F4.3 Fujitsu will notify the Customer in writing of the expected consequences of any requested or recommended modifications for the price and the delivery date(s) of the Software.

F4.4 Modifications will only be carried out after they have been laid down in an appendix to the Agreement, signed by the parties.

F5 Guarantee

F5.1 Fujitsu will resolve any defects that become evident in the accepted Customized Software within a period of three months of the date on which the acceptance referred to under F3.2 has been completed, without any extra costs for the Customer, provided Fujitsu has been notified of these defects in writing and the defects relate to the agreed specifications of the Customized Software.

F5.2 The guarantee referred to under F5.1 will not apply:

- a. if modifications have been made to the Software by employees other than Fujitsu employees;
- b. if the defects that become evident could reasonably have been detected during the acceptance test.

F5.3 In order to verify whether the defects referred to under F5.1 have indeed been resolved, the Customer will repeat the test run during which the defects in question were detected within three working days. The delivery will be deemed completed on approval, after which the responsibility for the Product delivered will pass to the Customer.

F5.4 Fujitsu's liability for any defect in the accepted Customized Software is limited to the compliance with the guarantee obligations arising from the provisions of Article F5.

F6 Performance

F6.1 For the performance of the Agreement Fujitsu will assign employees with expert knowledge of the matter.

F6.2 At Fujitsu's request, the Customer will, at its own expense, make any information and facilities available to Fujitsu that may reasonably be required for the performance of the Agreement.

F6.3 Prior to the commencement of the work by Fujitsu, the Customer will assign an employee with expert knowledge of the matter as a contact, who is authorized to undertake commitments towards Fujitsu on behalf of the Customer concerning the progress of the Agreement.

F7 Exclusive rights and confidentiality

F7.1 Fujitsu is entitled to the copyrights, patents and other intellectual property rights arising from the Agreement. Fujitsu is authorized to keep a copy of the products it delivers under the Agreement.

G. Special provisions regarding the automatic processing of data by Fujitsu

G1. Duration

If the Agreement relates to the periodical or regular processing of data by means of Equipment managed by Fujitsu, the period agreed between the parties will apply; if no specific period has been agreed, the Agreement will be for one year. The duration of the Agreement will each time be automatically extended by the original term, unless the Customer or Fujitsu terminates the agreement in writing, with due observance of a notice period of three (3) months before the expiry of the relevant term.

G2. Performance of the work

Fujitsu will perform this service only on the instructions of the Customer. If Fujitsu performs this service with regard to data of the Customer or its employees pursuant to an authorized order by a government body, any associated costs will be charged to the Customer. Fujitsu will perform this service with due care, in accordance with the procedures and arrangements agreed with the Customer in writing. All data to be processed by Fujitsu will be prepared and supplied by the Customer in accordance with the conditions set by

Fujitsu. The Customer will take the data to be processed to and fetch the results of the processing from the location where Fujitsu performs the computer service. Transport and transmission, in any manner whatsoever, will be at the expense and risk of the Customer, even if Fujitsu executes this or is in charge of this. The Customer guarantees that all materials, data, software, procedures and instructions it makes available to Fujitsu for the purposes of this service will at all times be correct and complete and that all data carriers furnished to Fujitsu will meet Fujitsu's specifications. All Equipment, Software and other items used by Fujitsu for this service will remain the property of Fujitsu and Fujitsu will retain its intellectual and industrial property rights to them, even if the Customer has paid for their development or purchase by Fujitsu.

Fujitsu may keep the products and data received from the Customer and the results generated by processing the data in its possession until the Customer has paid Fujitsu all amounts owed to Fujitsu.

Fujitsu may make alterations to the content or scope of this service. If these alterations lead to a change in the procedures applied by the Customer, Fujitsu will notify the Customer of this as promptly as possible, and the costs of this change will be payable by the Customer. In this event the Customer may terminate the Agreement in writing, taking effect from the date on which the alteration takes effect, unless this alteration is connected with amendments to relevant legislation or other provisions laid down by competent bodies, or Fujitsu bears the costs of the alteration. Fujitsu will make every effort to ensure that the software it uses to perform this service is promptly adapted to changes in the Dutch legislation and regulations which affect its services. On request, Fujitsu will advise the Customer at Fujitsu's usual rates on the consequences for the Customer of these alterations.

G3. Security, privacy and retention periods

Fujitsu will fulfil any obligations it may have as a processing party in connection with legislation regarding the processing of personal data. Fujitsu will ensure that appropriate technical and organizational measures are taken to protect personal and other data against loss or any form of unlawful processing. The Customer guarantees that all statutory provisions relating to the processing of personal data, including the provisions of or pursuant to the Personal Data Protection Act, will be strictly observed, and that all prescribed notifications have been submitted and all required consents for the processing of personal data have been obtained. The Customer will promptly provide Fujitsu in writing with all the relevant information it may request. The Customer indemnifies Fujitsu against any claims third parties may lodge against Fujitsu with regard to a breach of the Personal Data Protection Act and/or other legislation relating to the processing of personal data which cannot be attributed to Fujitsu. The Customer indemnifies Fujitsu against any claims lodged by third parties, including government institutions, against Fujitsu with respect to a breach of legislation concerning the statutory retention periods.

G4. Guarantee

Fujitsu will not be not responsible for verifying the accuracy and completeness of the results of this service. After receiving the results, the Customer itself will check them. Fujitsu cannot guarantee that this service will be performed without error or interruption. If defects in the results of this service are directly due to Products, data carriers, procedures or operational actions for which Fujitsu is expressly responsible pursuant to the Agreement, Fujitsu will repeat this service in order to resolve these defects to the best of its ability, provided the Customer notifies Fujitsu in writing and in detail of the defects as soon as possible, but at the latest one week after receiving the results of this service. The service will only be repeated free of charge if defects in the service are attributable to Fujitsu. If the defects cannot be attributed to Fujitsu and/or the defects are the result of errors or imperfections on the part of the Customer, such as supplying incorrect or incomplete information, Fujitsu will charge the costs of any repeated service to the Customer at its usual rates.

If the repair of defects attributable to Fujitsu is technically or reasonably impossible, Fujitsu will credit the amount owed by the Customer for the service in question, without being liable in any other way to the Customer.

The Customer will have no other rights based on defects in this service than those specified in this guarantee scheme.