FHI GENERAL TERMS AND CONDITIONS OF DELIVERY 2014

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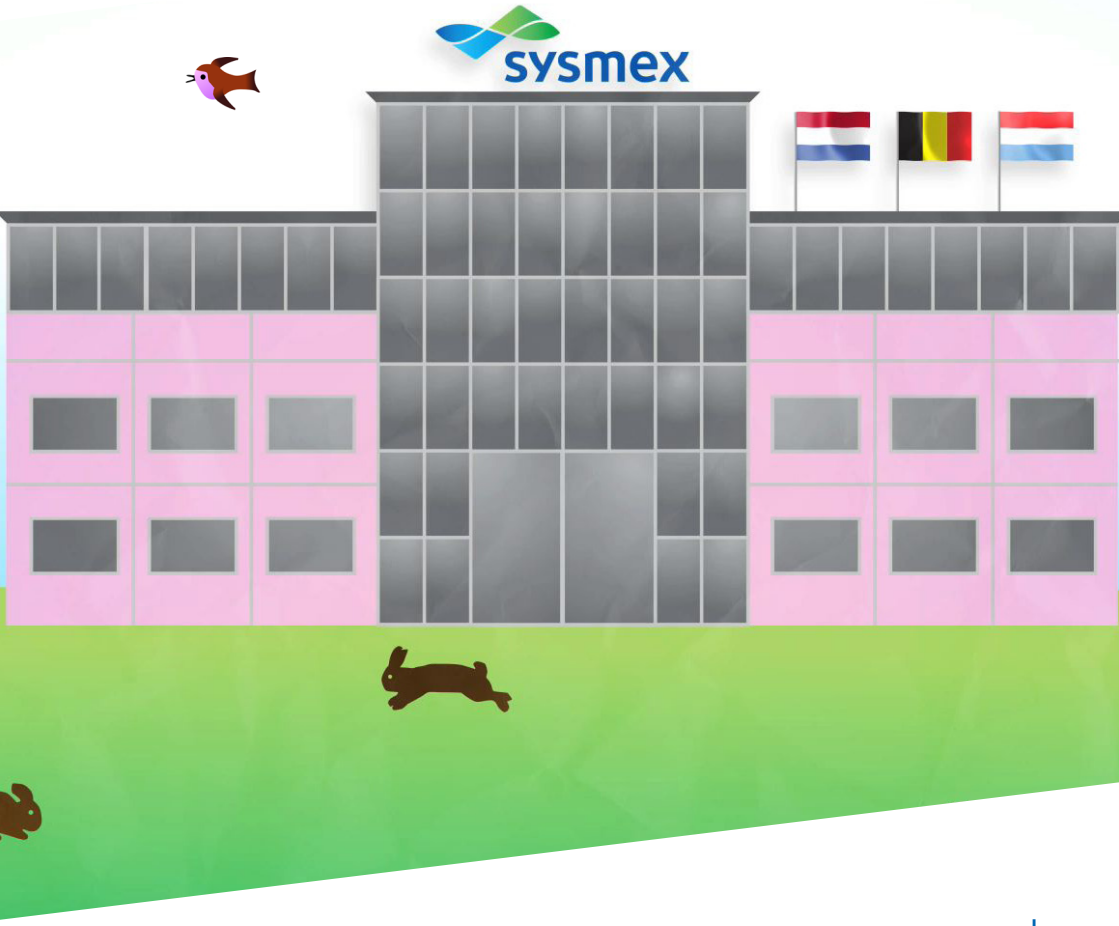

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These general terms and conditions of delivery have been drawn up by FHI, federation of technology branches, for the purpose of the members of a branch organisation affiliated with the Association (defined below). Parties other than the parties referred to above are not free to use these general terms and conditions.

Neither FHI, federation of technology branches, nor its management is responsible or liable for the acts or omissions of the members.

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PART A: General part

1 Definitions

1.1 **Offer**: Every Offer made by the Contractor to the Client.

1.2 **Advice:** Providing advice in a general sense, including in any event providing advice in the sphere of automation and/or organisation, carrying out feasibility studies, conducting system analysis, providing advice with respect to the equipments and/or software to be used by the Client, providing support in the development of software, providing and/or organising instruction, courses or workshops and instructing and supervising co-workers.

1.3 **GTCD2014:** These general terms and conditions of delivery, consisting of
- Part A with general provisions;
- Part B with supplementary provisions regarding the supplying of services, including R&D, Advice, service and training and furthermore including the contracting of work, with the exception of the development of Software;
- Part C with supplementary provisions regarding the development of and/or supplying of Software.

1.4 **Documentation:** Any pamphlets, product information, factory drawings, instructions, test certificates, catalogues, price lists and folders supplied by the Contractor, as well as all data supplied in or as part of an Offer and/or the compliance of the Agreement, such as for example but not limited to: designs, drawings/images, plans, descriptions, explanations, ideas, models, samples, tables, diagrams, databases, software, calculations and all other information of a confidential nature.

1.5 **Shortcoming:** There is a Shortcoming if, based on the Agreement, the item/service supplied by the Contractor to the Client is not complete and/or does not comply with the specifications and/or does not possess the feature(s) that the Contractor explicitly confirmed with the Client prior to or upon concluding the Agreement.

1.6 **Item/Service Supplied:** The Item/Service Supplied by the Contractor based on the Agreement, including the (part of the) Work and/or the Activities that the Contractor supplied to or provided respectively to the Client on the basis of the Agreement.

1.7 **Without delay:** As soon as reasonably possible yet no later than the next full two working days.

1.8 **Order:** The Activities agreed upon as well as the Work agreed upon and any other items/services to be supplied by the Contractor on the grounds of the Agreement.

1.9 **Confirmation of the Order:** The Written notification from the Contractor to the Client containing a summary of the content of the Agreement. As a rule, the Confirmation of the Order describes the scope of the delivery agreed upon and the prices and terms and conditions agreed upon.

1.10 **Client**: The Party for whom the Offer made by the Contractor is intended, to whom the Contractor has supplied and/or with whom the Contractor has entered into an Agreement.

1.11 **Contractor:** A member of a branch organisation that is affiliated with the Association (defined below) who uses the GTCD2014, refers to it, or by or on behalf of whom the GTCD2014 have been declared applicable, its representative(s), authorised representative(s) and legal successors and every other (legal) person who uses the GTCD2014 with the demonstrable approval of the Association.

1.12 **Agreement:** The Agreement between the Client and the Contractor, including any change(s) that came about after the conclusion of the agreement, and the contract extras and variations resulting in less work agreed upon.

1.13 **Parties:** Client and Contractor.

1.14 **Party:** One of the Parties.

1.15 **In Writing:** Correspondence per telefax, registered letters, bailiff's notification or regular post. This also includes correspondence per electronic medium (such as e-mail or a web-form, for example) insofar as neither Party has demonstrably objected to the use of the electronic medium concerned.

1.16 **Supplier:** The party from whom the Contractor purchases the goods that are offered.

1.17 **Association**: FHI, federation of technology branches, filed with the commercial register of the Chamber of Commerce of Gooi-, Eem- and Flevoland, Amersfoort office, under number 40507574.

1.18 **Work:** The item of a material nature or parts thereof that are to be realised by the Contractor for the Client in compliance with the Agreement, such as for example a piece of equipment, machine, semi-finished product, structure, installation or some other item.

1.19 **Activities:** The Activities that the Contractor conducts for the Client in realising the Agreement concerning the provision of services insofar as these do not concern the realisation of a Work for the Client. Consider in this respect for example research and development activities (R&D), conducting feasibility studies, providing Advice, developing, designing, building and supplying and/or adapting software, systems or control systems, designing of mechanical and electro-technical installations, conducting service and maintenance, assembly-, disassembly-, installing, un-installing, linking- and unlinking-, building-in, erecting, dismantling-, demolition-, synchronisation-, calibration-, validation-, configuration-, adjusting- and setting work activities, putting into operation, testing, gauging, inspection, inventory, schooling, workshops, supervision, etc. The services supplied are often generally passed on per hour on the basis of subsequent calculation whenever it purely concerns the obligation to perform to the best of one's ability.

2 Applicability of the GTCD2014, titles and language

2.1 **Applicability**
These terms and conditions apply to every Offer, to every delivery on the part of the Contractor, to every Agreement between the Contractor and the Client and to every other legal relationship between the Client and the Contractor. Any deviations to these GTCD2014 will only be considered to be in force insofar as these have been explicitly confirmed In Writing to the Client by the Contractor.

2.2 **Authorised Persons**
Only the employees in the employment of the Contractor who are appropriately authorised according to the commercial register of the Chamber of Commerce are authorised to carry out acts intended to have legal effect on behalf of the Contractor. Any juristic acts concluded by persons other than the authorised persons to do so according to the commercial register cannot be invoked against the party on behalf of which the juristic acts were carried out unless the Contractor has affirmed these juristic acts In Writing. Juristic acts are understood to mean, among other things, making an Offer, guaranteeing certain characteristics of a product, making promises with respect to the delivery dates, making changes to previously concluded arrangements, concluding an agreement, etc.

2.3 **Requirements digital communications**
In the course of the duration of the legal relationship, the Contractor may opt to set requirements for the communication between the Parties or regarding the performance of juristic acts via digital media.

2.4 **Titles of clauses**
The titles and the articles of the GTCD2014 serve solely to simplify their interpretation and comprehension and have no other significance. In particular, the titles are not to be used further to the interpretation of the GTCD2014.

2.5 **References**
In those cases in which the GTCD2014 refer to article numbers, the article numbers concerned refer to the articles in the GTCD2014, unless it is evident from the text that the reference refers to an article or articles from some other document or source.

2.6 **Proof of receipt**
In the event that the recipient disputes having received certain correspondence In Writing, then the burden of proof that the recipient has received the

correspondence concerned will lie with the sender. In the event that this concerns correspondence per electronic medium, then only the data concerning the sending and receiving as registered on the server(s) of the Contractor will serve as proof, except for convincing evidence to the contrary.

2.7 Mutual priority of clauses
Insofar as a clause in the parts B or C of the GTCD2014 applies to the Agreement concerned or to part of this Agreement, and a clause in part B or C is inconsistent with a clause in Part A, then the clause in part B or C will prevail over the clause in question in part A with which it is inconsistent.

2.8 Language
The GTCD2014 as drawn up in the Dutch language prevail over the GTCD2014 as drawn up in the English or any other language.

2.9 Leniency
In the event that the Contractor does not appeal to any of the provisions in these GTCD2014 at any time and for any reason, then the Contractor will not be considered to have rejected the right to appeal to the provision(s) concerned at a later time.

3 The Offer and the realisation of the Agreement

3.1 Free of obligation
All offers are free of obligation unless the Offer specifies a term of acceptance. Any Offer that is made free of obligation may be withdrawn Without Delay after having been accepted. No Agreement will be concluded in that case.

3.2 Offer and acceptance
The Agreement will be concluded further to an Offer In Writing and its approval subject to article 3.4. up to and including 3.7.

3.3 Sales via webshop
In deviation of the other provisions of this article, an Agreement further to an order via a webshop will not be concluded until the moment that the order is confirmed In Writing by the Client towards the Contractor by means of a Confirmation of the order.

3.4 Modified acceptance
Insofar as the acceptance on the part of the Client of an Offer made by the Contractor deviates in any respect from the Offer, then the Agreement will not be finalised until the Contractor confirms the conclusion and the content of the Agreement In Writing by means of a Confirmation of the Order unless the Client objects to this Without Delay In Writing.

3.5 Non-written acceptance
In the event that the Offer or its acceptance and/or the Offer *and* its acceptance did not take place In Writing, then the Agreement will not be concluded until the Contractor confirms the conclusion and the contents of the Agreement by means of a Confirmation of the Order, unless the Client objects to this Without Delay In Writing.

3.6 No Agreement further to an objection
In the cases in which the Agreement is concluded on the grounds of article 3.4 or 3.5 at the time that the Client receives the Confirmation of the Order and the Client objects to this In Writing Without Delay, then no Agreement will be concluded.

3.7 Agreement further to commencement of delivery
If the procedure as described in article 3.2, 3.4, or 3.5 is not observed for whatever reason, for example because the communications took place solely verbally, then the Agreement will be concluded anyway, however subject to the following. The Agreement will in such a case be concluded once the Contractor actually commences with the realisation of the Agreement or orders a third party or parties to do so. In a situation of that kind, the invoice will be deemed to specify the content of the Agreement completely and correctly, except in the event that proof to the contrary is provided by the Client.

3.8 Attached information
Documentation provided by or on behalf of the Contractor will only bind the Contractor insofar as the Offer explicitly refers to data in this Documentation.

3.9 Documentation in single copy
The Contractor will provide Documentation in single copy free of charge insofar as agreed upon or insofar as relevant in the opinion of the Contractor. The Client will owe the Contractor a reasonable reimbursement of the costs for any additional copies of Documentation of this kind.

3.10 Furnishing of security
The Client will provide the Contractor adequate securities at its own expense at the first request of the Contractor with respect to the timely compliance with its obligations further to the Agreement.

3.11 Engaging third parties
The Contractor is authorised to engage third parties for the purpose of the realisation of the Agreement as concluded between the Parties and to charge the costs involved to the Client in accordance with that Agreement.

4 Secrecy

4.1 Prohibition
The Client is prohibited to copy or reproduce Documentation or parts thereof in any shape or form, or to make such (or have others make such) known to third parties, to allow third parties the use of, to sell to third parties or to make available to third parties, without the permission In Writing of the Contractor.

4.2 Right of use Documentation
The Client is only allowed to make use of Documentation insofar as this is necessary further to the realisation or compliance with the Agreement. At the first request of the Contractor, as well as in the event that the Agreement is not concluded, ends prematurely or is cancelled, the Client is to immediately return all of the Documentation that it has received to the Contractor at its own expense.

4.3 Limited circle of readers
The Client will only share the Documentation with its own employees within its own organisation and only insofar as necessary further to the realisation of or the compliance with the Agreement. Upon taking delivery of the Documentation, the Client guarantees that it has taken and will timely take adequate measures in order to prevent that the Documentation or parts thereof are leaked to any persons other than the persons/third parties who may take cognizance of the Documentation on the grounds of this article.

5 Amendment to the Agreement

5.1 Only In Writing
Any amendments to the Agreement can only be agreed upon In Writing. In the event that the Parties have reached agreement on a certain amendment to the Agreement, then the Contractor will confirm the amendment with the Client In Writing. It will in any case be evident from this confirmation what will be the intrinsic, financial and time-related consequences of the amendment.

5.2 Content of the amended Agreement
Except for proof to the contrary In Writing to be provided by the Client, the amended Agreement will be deemed to have been concluded in accordance with the content of the confirmation In Writing referred to in the previous sentence, unless the Client objects to this Without Delay In Writing. The amendment to the Agreement will not be implemented if the Client timely objects to the amendment In Writing as referred to in the previous sentence.

5.3 Or amended implementation
If the Parties agree on the desired amendment to the Agreement in terms of content, yet the Requirement to Submit an Amendment In Writing as laid down in article 5.1 has not been met, and the Contractor is complying with the Agreement in its amended form with the knowledge of the Client, then the invoice or invoices received by the Client from the Contractor will be deemed to specify the correct content and scope of the amended Agreement, except with proof of the contrary to be provided by the Client.

5.4 Costs of Item/Service already Supplied
In the event that an amendment to the Agreement is agreed upon, then the Client will in any event be obligated to pay the Contractor the price as agreed upon for the Item/Service already supplied by the Contractor at the time of the amendment.

5.5 Costs of amendments
In the event that an amendment to the Agreement has been agreed upon, then the Client is to reimburse the Contractor for the costs involved further to this amendment, which costs will be determined in reasonableness by the Contractor. One may consider in this respect the cost price of materials or manpower already purchased, price changes on the part of suppliers or the cancellation costs as a result of the cancellation of deliveries that were initially necessary further to the compliance with the unaltered Agreement.

5.6 Delivery times change accordingly
If an amendment to the Agreement has been agreed upon then the Contractor will have the right to deviate from delivery times and completion times previously agreed upon insofar as such is necessary in the opinion of the Contractor in order to comply with the Agreement in its altered form.

6 Premature termination

6.1 Mutual consent
Parties may mutually consent to the possible premature termination of the Agreement and under which terms and conditions the termination will take place.

6.2 Terms and conditions premature termination
The termination will not take place before:
- The consensus to terminate the Agreement has been confirmed by the Contractor to the Client In Writing,

stating all of the terms and conditions relating to the termination as agreed upon;
- The Client has not submitted an objection Without Delay to the confirmation as referred to in the previous section;
- All of the terms and conditions as agreed upon between the Parties further to the premature termination of the Agreement and as included by the Contractor in the confirmation In Writing have been met in full.

6.3 Fee
In the Parties have agreed upon a fee within the scope of the premature termination that the Client is to pay to the Contractor, then the Agreement will not be terminated before the fee referred to above has been received by the Contractor supplementary to that stated in article 6.2.

7 Prices

7.1 Euros
Unless the Offer specifies otherwise, all of the prices are in Euros and exclusive of VAT, exclusive of import duties and other levies, taxes or excise duties, exclusive of the packaging costs, exclusive of the costs of insurance and exclusive of the removal charge(s).

7.2 Costs of transport and insurance the Netherlands
Unless otherwise agreed upon, the costs of transport and insurance within the Netherlands are at the expense of the Client.

7.3 Costs of transport and insurance abroad
Deliveries outside the Netherlands will take place *ex-works* manufacturer in accordance with the most recent version of the Incoterms that apply at the time that the offer is made, unless otherwise agreed upon.

7.4 Other costs
The costs of assembly, installation, building in, erecting, building on, linking or unlinking, construction, connecting, adjusting, synchronising, calibration, validation, gauging, instruction, tests, inspection and putting into operation are only included in the price, or at least make up part of the delivery, insofar as the Parties have agreed upon this In Writing.

7.5 Exchange rate fluctuations > +/- 2%
In the event of an Offer without obligation and also if this proviso is included in a binding Offer, the Contractor will be entitled to adjust the prices if the official currency rate on the date of the delivery differs more than 2% from the currency rate on the date upon which the Offer was made, in which the latter currency rate is set at 100.

8 Risk

8.1 Risk transport within the Netherlands
For shipments within the Netherlands, the risk of theft, damage, destruction or deterioration is transferred to the Client upon the delivery of the goods concerned, taking into account the other provisions in this article.

8.2 Risk transport Abroad
For shipments outside the Netherlands, the risk relating to the transport is provided for in accordance with the provisions of the Inco-terms as agreed upon by the Parties (see article 7.3).

8.3 Transport risk within the gates
The risk during transport on the premises of the Client is at all times at the expense of the Client, unless the Client can prove that the damage was brought about due to intent or gross negligence on the part of the management of the Contractor.

8.4 Risk of transporting abroad
In the event of transport outside the Netherlands, the risk of theft, damage or deterioration shall in any case pass to the Client at the point at which the Contractor has fulfilled all its obligations under the agreed provisions of the Incoterms.

8.5 Risk actions
Except in cases of intent or gross negligence by the Contractor's management and unless agreed otherwise, without prejudice to article 18, the Client shall bear the consequences of the following risks:

The risk of theft, damage, perishing or deterioration of Item/Service Supplied by the Contractor, the property of the Client or that of third parties in connection with the Contractor's carrying out of activities for the purpose of, among other things but not limited to, assembly, installation, fitting, extending, adding, connecting or disconnecting, constructing, joining, adjusting, setting, calibration, validation, gauging, instruction, tests, control and commissioning.

8.6 At-risk items held by the Contractor
If the Contractor has separated items from its other stock items for the Client but has not yet delivered these for whatever reason or if the Contractor is holding items for the Client, for example, for repair, inspection, calibration, validation, training, tests, or other reasons, the Client shall bear the risk of loss, theft, damage, perishing or deterioration unless the conscious risk was realized as a result of intent or gross negligence on the part of the Contractor's management.

8.7 Risk of returning the Client's items
If the Contractor has items from the Client in its possession, for example, for repairs, inspection, etc., and these items are to be forwarded or transported for any reason, the Client shall bear the risk of loss, theft, damage, perishing or deterioration during transport.

9 Delivery

9.1 Administrative costs
The Contractor can, for orders not exceeding an amount to be determined by the Contractor, charge a fee to be determined by it as a contribution to the administrative and logistic costs.

9.2 Point of delivery
The point of delivery in the case of delivery within the Netherlands shall be the point at which the goods to be delivered are offloaded at the agreed location. The point of delivery shall, in the case of delivery outside the Netherlands be the point at which the Contractor has fulfilled all obligations under the Incoterms as agreed by the Parties (see article 7.3). For the point at which the risk passes, see article 8, for the point at which ownership passes, see article 16.

9.3 Reporting transport damage, etc.
The Client shall report any shortages, shortcomings and damage In Writing directly to the Contractor within 24 hours of the delivery failing which the Client shall be considered as having received the goods in good order, complete and free of damage or shortcomings.

9.4 Partial deliveries
The Contractor shall be entitled to deliver the goods in parts and to invoice these separately.

9.5 Acceptance
If and as far as a test, a sample or an inspection has been agreed for a delivery ("Acceptance Test") and a Shortcoming is noted here, this Shortcoming shall be reported immediately in accordance with article 17.4. If no Shortcoming is reported Without Delay after the Acceptance Test in accordance with article 17.4, the delivery shall be considered to correspond to the Client's justified expectations.

9.6 Returns
Returns to the Contractor of goods supplied by the Contractor or any part of these, shall, for whatever reason, take place only following prior confirmation In Writing and subject to any forwarding instructions from the Contractor to the Client.

9.7 Unaccepted goods
If the Client rejects a delivery from the Contractor or informs it that it shall not accept a delivery, the Contractor shall nevertheless be entitled to invoice the Client for the respective goods and to store or arrange for the storage of such goods at its own discretion at the Client's expense and risk if it deems this to be appropriate without prejudice to all other rights afforded to it under the law in connection with the Client's failure to comply.

9.8 Permits
The Client shall, at its expense, take care of all permits, concessions, licences, approvals, etc., that the Contractor shall require in order to fulfil all its obligations under this Agreement.

10 On demand orders

10.1 Definition
The Parties may agree that the Client shall purchase a certain quantity within a certain period and that the Client shall purchase this quantity in more than one separate delivery in accordance with a fixed demand schedule. This arrangement shall be referred to below as an "On Demand Order". The Contractor shall in such case be entitled to invoice separately for such special deliveries.

10.2 On demand deliveries
If an On Demand Order has been agreed, the Contractor shall offer the separate part deliveries on the agreed delivery dates without the Client being required to negotiate these.

10.3 Deviations from the on demand schedule
Once an On Demand Order has been agreed, the Parties may agree that a certain delivery time in the delivery schedule may be deviated from subject to the following paragraphs of this article.

10.4 Written confirmation
A change to the on demand schedule shall not take effect until the Contractor has confirmed the changed delivery dates for the respective part deliveries to the Client In Writing.

10.5 Extended storage
If due to an agreed change to the on demand schedule, the Contractor is required to keep goods in storage for longer than would be the case if the original on demand schedule had been adhered to, the Contractor shall hold these at the Client's expense and risk.

10.6 Changes to on demand schedule and end date
If the Parties agree on a new delivery date for a specific part delivery with respect to an On Demand Order, the other agreed delivery dates for part deliveries shall remain unchanged and so shall not also automatically be postponed. A new agreed delivery date for a part delivery shall not be later than the originally agreed delivery date for the last part delivery of the On Demand Order. If the Client wishes to change the last date of the On Demand Order, this Agreement shall be amended in accordance with article 5.

10.7 Interruption of On Demand Order
An On Demand Order may only be terminated on the approval of both Parties in accordance with article 6. If the agreed price was based on the purchase of a certain volume and if on the final purchase of a lower volume, a higher price is charged, the Client shall in any case be obliged to pay the additional amount without prejudice to article 6.

11 Spare parts

11.1 After the warranty period
The Contractor cannot be obliged to deliver spare parts with respect to the goods supplied after expiry of the agreed warranty period.

11.2 Warranty on spare parts
If the Contractor supplies or fits spare parts for rectifying a Shortcoming, the warranty period shall not recommence with respect to these spare parts. The warranty period for the original delivery shall remain unchanged.

11.3 Parts that are no longer available
As far as the Contractor shall be obliged under the law or this Agreement to deliver spare parts for goods or parts thereof supplied previously to the Client, this obligation shall lapse at the point at with the Contractor ceases to stock these spare parts and when they cease becoming available on the market at reasonable conditions via regular channels.

11.4 Similar goods/parts
If the Contractor shall be obliged to replace goods or parts thereof that were supplied to the Client, it shall be free to supply similar goods or parts if it believes that these are suitable for normal use for which the replaced goods or parts thereof were suitable.

11.5 Consumer goods (consumables)
As far as the Parties have reached no agreement In Writing as to the deliverability of consumables, the Contractor shall no longer be obliged to be able to deliver such goods on expiry of the agreed warranty period.

12 Delivery times

12.1 Overseas Deliveries
It is possible that goods such as parts, semi-finished products or raw materials required for their production ("Overseas Deliveries") shall be delivered directly or indirectly from various continents and countries and/or drawn from different suppliers. The Contractor cannot rule out that these Overseas Deliveries in exceptional cases can only be obtained with great difficulty or cannot be obtained at all over a certain period due for example, to the scarcity of raw materials on the world market, environmental catastrophes and significant fluctuations on the supply market. The Contractor cannot therefore always foresee exactly when it shall be able to deliver when the order is placed. In order to inform the Client as accurately as possible, the Contractor shall act as stipulated in the following paragraphs of this article.

12.2 Non-binding deadlines
The Contractor shall state the estimated delivery times in its Offer. The Contractor can verify and confirm these estimated delivery times to the Client once this Agreement has been concluded. The verified delivery times may deviate from the estimated delivery times in the offer. Neither estimated delivery times nor verified delivery times shall be binding.

12.3 Extended delivery times
Due to the fact that the purchase, production, assembly and transport of the ordered goods and the substances, raw materials and semi-finished products used in their manufacture can be prone to unexpected situations over which the Contractor in all reasonableness has no influence in its assessment, the Contractor shall be entitled at all times to extend the verified delivery times by a maximum of four weeks. The Contractor shall to this effect send confirmation of the new verified delivery period(s) prior to expiry of the verified delivery deadline.

12.4 Termination after fourth extension
The Client shall be entitled to terminate all or part of this Agreement if the expected delivery time has been extended more than four times. If the Client terminates this Agreement based on this condition, this shall not lead to any obligation by either Party to compensate for any damage suffered by the other Party as a result of this termination.

12.5 Binding deadlines
If the Parties on request from the Client have agreed that deliveries shall take place on a specific day and that it shall be stipulated in writing before or on concluding this Agreement that later delivery shall not be acceptable, the Contractor shall, with respect to the exceeding of these agreed delivery times, not enter into default until it has been placed in default In Writing and has been provided with a reasonable period for delivery. For determining such reasonable period, account shall be taken in any case but not exclusively, of the actually current delivery periods and the production times, the duration of any transport and the availability of raw materials and building materials.

13 Force majeure (no-fault failure)

13.1 No obligation in the case of force majeure
Neither of the Parties shall be obliged to fulfil any obligations, including any warranty obligations agreed between the Parties if it is prevented from doing so as a result of force majeure.

13.2 Scope
Force majeure shall be deemed to include: (I) force majeure on the part of the Contractor's Suppliers, (II) failure to properly fulfil obligations by Suppliers that the Client requires the Contractor to use, (III) deficiency of items, equipment, software or materials from third parties that the Client requires the Contractor to use, (IV) governmental actions, (V) electricity failure, (VI) failure of the Internet, service providers, computer network or telecommunication facilities, (VII) war, (VIII) occupation, (IX) strike, (X) general transport problems and (XI) the unavailability of one or more members of staff whose personal efforts are essential in carrying out this Agreement, (XII) terrorist attacks or occupation, (XIII), epidemics and pandemics, (XIV) financial crisis, (XV) the non-functioning of the payment network of the banks concerned.

13.3 Dissolution
Each party shall be entitled to dissolve this Agreement in writing if force majeure lasts for longer than ninety days. Any work already carried out on the basis of this Agreement shall in that case be settled on a pro rata basis without the Parties having any further liabilities to one another. The Parties shall immediately make payment in connection with this settlement.

13.4 Reporting force majeure
If the Contractor wishes to claim force majeure, it shall inform the Client of this as soon as practically possible. The consequences of force majeure shall come into effect from the moment that the circumstance leading to this, the cause or incident has occurred.

13.5 Suspension
If the Contractor is prevented by force majeure from fulfilling any due obligation towards the Client and the Contractor believes that the force majeure shall be of a temporary or transitory nature, the Contractor shall be entitled to suspend the carrying out of this Agreement until the situation that caused or is causing the force majeure has ceased.

13.6 Priority
If the Contractor is prevented from fulfilling its obligations towards one or more but not all of its customers or Clients due to force majeure, the Contractor shall be entitled at its own discretion to decide which obligations it shall fulfil, towards which customers and Clients and in which order.

14 Warranty

14.1 Product warranty
With due consideration for the other provisions of these terms and conditions, the Contractor shall only guarantee that the Item/Service Supplied with the exception of consumables at the point of delivery shall comply with the product specifications and that they possess the properties confirmed by the Contractor to the Client In Writing before or on conclusion of this Agreement.

14.2 Further warranty/Working Life Warranty
The Parties may agree that the Contractor shall provide a warranty exceeding that of the product warranty pursuant to article 14.1 in accordance with this paragraph. The Contractor shall only guarantee that Item/Service Supplied shall function and/or perform in a certain manner in combination with items supplied by third parties and/or in combination with items from the Client (for example, in a process, in a machine or in an installation of the Client) ("Working Life Warranty") if and as far as the Contractor has expressly confirmed this In Writing to the Client before or on concluding this Agreement in accordance with article 2.2. The conditions on which an obligation to produce results shall be based relating to Work in accordance with article 28.4 shall also apply to a Working Life Warranty. A Working Life Warranty shall lapse at the point after delivery when circumstances transpire that the Contractor believes negatively affect the functioning of the Item/Service Supplied and that the Client had not already informed the Contractor of before or on concluding this Agreement and that the Contractor had confirmed to the Client In Writing. A Working Life Warranty shall lapse 12 months after delivery unless agreed otherwise.

14.3 Warranty period
Unless the Offer provides for other warranty periods, the warranty period stated in article 14.1 for new items shall be 12 months from the point of delivery. No warranty shall be provided for used items that the Contractor supplies unless the Offer states otherwise.

14.4 Reporting Shortcomings during the warranty period
If the Client has become aware of a Shortcoming and wishes to make a claim under the warranty regarding the defective delivery, the Client shall report this Shortcoming in accordance with article 17.4 failing which this right shall lapse.

14.5 Repair or replacement
If the Contractor believes there is indeed a Shortcoming that is attributable to it and the Client due to this shortcoming has rights under the warranty in accordance with article 14.1, the Contractor shall at its discretion either arrange for the repair of this Shortcoming or replacement of the respective item unless such repair or replacement cannot reasonably be expected of it.

14.6 Method of repair
The Contractor shall be free to carry out repairs itself, to outsource this or to engage third parties.

14.7 Returns to the Contractor
The Client shall send any goods under warranty to the Contractor at its own expense. The Client shall bear all costs arising due to this such as but not limited to, costs associated with fitting and extending, installation, calibration, verification, starting up, loss of production, waiting time, downtime, packaging, insurance and transport.

14.8 Reimbursement of costs
If the Contractor believes that the goods sent to it under warranty following inspection do not show any Shortcomings or if the Client has no rights under the warranty, the Client shall be obliged to reimburse the Contractor for all costs of inspection, storage and dispatch.

14.9 What is not covered by the warranty
Without prejudice to the other provisions of this article, the Client shall in no case be entitled under the warranty:
- If the Item/Service Supplied has not been used for the purpose and under the circumstances for which they were delivered;
- If the Item/Service Supplied was used contrary to the instructions and regulations, etc.;
- With regard to items provided by the Client for processing;
- If the assumed shortcoming is the result of wear following normal use;
- On Activities carried out with the character of an obligation to perform;
- With respect to items required by the Client or drawn by the Contractor from third parties designated by the Client.

14.10 Lapse of warranty
All claims under the warranty shall lapse immediately at the point at which, without the Contractor's confirmation In Writing:
- Changes, adjustments and/or repairs are carried out on the Item/Service Supplied;
- The Item/Service Supplied is not or has not been used or handled carefully in accordance with the provided and/or applicable (factory) regulations or operating instructions;
- The Item/Service Supplied is otherwise not or has not been used or handled properly;
- The software has been adjusted or upgraded with respect to the Item/Service Supplied and this was not carried out by the Contractor itself or any third party designated by the Contractor;
- The Item/Service Supplied is or has been used or applied for other purposes than originally intended;
- The Item/Service Supplied is or has been used in a manner not reasonably envisaged by the Contractor based on the details with which the Client provided the Contractor before or on concluding this Agreement.

14.11 Release from warranty obligations
As long as the Client fails to comply or comply fully with one or more of its contractual obligations towards the Contractor, the Contractor shall be released from its warranty obligations from the point at which the Client fails to properly fulfil its obligations up to the point at which the Client has once more fulfilled all its obligations towards the Contractor. The warranty period shall continue during the period that the Contractor has been released from its warranty obligations.

14.12 Damage during the warranty period
As far as the Contractor shall be obliged during the warranty period to compensate for damage or costs incurred by the Client due to a shortcoming, the Contractor's fulfilling the warranty obligation shall be considered the only and full compensation.

15 Security rights

15.1 Right of retention
The Contractor shall have a right of retention over all goods from or on behalf of the Client in the Contractor's possession for any reason as far as the Client fails to fulfil any of its obligations towards the Contractor.

15.2 Creation of new items
If the Client creates (or helps create) a new item from items provided by the Contractor, the Client shall be considered as having created the new item for the Contractor until the Client has fulfilled all its obligations towards the Contractor under this Agreement. The Contractor shall in that case retain all the rights as the owner of the newly created item until the Client has fulfilled all its obligations. By entering into this Agreement with the Contractor, the Client grants it permission to enter its premises and buildings in order to seize its property.

15.3 Right of lien
The Client shall on first request from the Contractor and at the Client's expense, provide its assistance in fixing an unpropertied right of lien to newly formed items as provided for under article 15.2 that incorporate items supplied by the Contractor as far as the Client has not yet fulfilled all its obligations towards the Contractor.

16 Reservation of ownership

16.1 Extended reservation
Without prejudice to article 8 on the risk and its transfer, all goods supplied by or on behalf of the Contractor shall remain the Contractor's property up to the point at which the Client has fulfilled all due obligations towards the Contractor.

16.2 Proper care
The Client shall be obliged – as long as under article 16.1, the goods supplied by or on behalf of the Contractor are still the Contractor's property – such goods shall be kept separately from other goods in such a way as to be easily and clearly identifiable as the Contractor's property.

16.3 Claims
In case of non-payment of any amount owed and due by the Client to the Contractor and in the event that this Agreement ends other than by way of completion, the Contractor shall be entitled to demand the return, as its property of the goods to which the reservation of ownership relates and to take (or arrange for the taking of) measures, subject to the offsetting of any monies already paid for these goods without prejudice to the Contractor's rights to claim compensation for any loss or damages. In case of such non-payment or termination of this Agreement, any demand by the Contractor against the Client shall be immediately due in full.

16.4 Reclaiming goods
The Client shall on first request from the Contractor, issue authorization for the immediate return of the goods not yet paid in full wherever these may be. The Client shall be obliged on first request from the Contractor, to provide its assistance in order to enable the Contractor to exercise its reservation of ownership including any disassembly, extension, shutting off, disconnection, etc.

16.5 Consequences of sale
The Client shall be entitled to sell or use the goods that are subject to reservation of ownership by the Contractor in its normal business activities; no security rights may however be attached to these goods and the Client may not carry out (or have carried out) any transactions with respect to these goods whereby these would become part or component of one or more other goods. If goods are delivered that are still subject to reservation of ownership by the Contractor, the Client shall be obliged to reserve ownership itself and on first request from the Contractor to transfer to the Contractor all demands against the Client's debtor up to the amount owed.

17 Prevention of damage, reporting Shortcomings

17.1 Due care by the Contractor
The Contractor shall exercise the appropriate care in carrying out this Agreement as may in all reasonableness be expected of it. It cannot however be ruled out that the Item/Service Supplied by the Contractor shall not reach the Client free of Shortcomings due to events during transport or unforeseen circumstances or that they shall show Shortcomings resulting from the way the Client uses these.

17.2 Preventing damage
It may be possible to use the Item/Service Supplied by the Contractor for the Client's processes or installations. The Contractor shall not generally be aware of the manner in which the Item/Service Supplied is installed or used, the circumstances under which the goods delivered are used or the specific demands placed on the Item/Service Supplied. The Item/Service Supplied unexpectedly showing a Shortcoming may represent damage for the Client. The amount of this damage depends largely on how the Client's processes and installations are set up and the purpose of such processes and installations. What is important for example, is the manner and speed of monitoring, whether this is carried out redundantly, frequency and level of inspections, types and method

of alarm in the event of malfunction, whether or not there is permanent supervision, troubleshooting procedures and related business processes, quality of maintenance, etc. Because all these parameters are within the Client's domain, the Client shall be responsible for taking sufficient measures to prevent unnecessary or an unnecessarily high level of damage if an item/service supplied by the Contractor should develop a shortcoming.

17.3 Warning
Use of items that are not functioning properly can have serious consequences for the functioning of processes or installations of which the Item/Service Supplied are part or for persons involved in this. The Contractor therefore strongly advises against this.

17.4 Report shortcomings
The Client shall report any Shortcomings to the Contractor In Writing immediately on gaining knowledge of this or reasonably being expected to have gained such knowledge when it would have taken sufficient measures provided for under article 17.2. The report of the Shortcoming shall be of such a concrete nature that it shall be clear to the Contractor without having to make any further enquiry as to what is the nature of the Shortcoming and what actions can be reasonably expected of it. The report on the Shortcoming shall describe all relevant circumstances that are or could be of importance for assessing what led to the Shortcoming.

18 Liability

18.1 Conditions of damage compensation
Except in the case of intent or gross negligence by the Contractor's management and with consideration for the other provisions of GTCD2014 and in particular, the other paragraphs of this article, the Contractor shall only be obliged to compensate the Client for the damage that it has suffered due to a Shortcoming. The obligation to compensate for damage shall not arise before all the following conditions have been fulfilled:
- The Client shall have informed the Contractor of the Shortcoming as described in article 17.4.
- There must be a situation of default as provided for under articles 18.2 and 18.3.
- The damage shall be attributable to the Contractor.
- The Client shall have made it sufficiently clear that it has taken enough safety precautions to prevent or limit damage as stated for example, in articles 17.2 and 17.3.

18.2 Duration of default
The Contractor shall be in default during the period in which the performance is not forthcoming after this has become due and the conditions of article 18.3 have been fulfilled except in cases where this delay cannot be attributed to it or if the Contractor believes that compliance is already permanently impossible.

18.3 Notice of default
The default provided for in article 18.2 shall only apply once the Client has placed the Contractor in default In Writing whereby it is set a reasonable period in which to comply and it fails to comply within this period. For determining such reasonable period, account shall be taken in any case but not exclusively, of the actually current delivery periods and the production times, the duration of any transport and the availability of raw materials and building materials.

18.4 Liability insurance
The Contractor may but need not insure itself against damage that may occur as a result of a shortcoming attributed to it in fulfilling its obligations towards the Client. If the Contractor has concluded liability insurance, this may affect the amount for which it may be held liable in case of such a shortcoming. By way of entering into a contract, the Contractor shall accept it shall be responsible for checking beforehand as to whether in its opinion the cover offered by the liability insurance concluded by the Contractor is sufficient for the respective order. The Contractor shall send the Client a copy of the respective insurance policy on first request from the Client.

18.5 Limit of liability
If the Contractor based on a culpable shortcoming in carrying out this Agreement or based on a legal provision is also liable towards the Client and is obliged to compensate for its damage, this obligation to compensate for damage shall be limited to the compensation for direct damage up to the maximum of the contract amount under this Agreement (excl. VAT). If this is a continuing performance agreement for a period exceeding one year, the contract amount under this Agreement shall be based on the total fees (excl. VAT) agreed for one year. The compensation shall in each case be limited to EUR 500, 000.00 (five hundred thousand euros).

In the event that the insurer makes a payment in connection with the Contractor's liability as stipulated above, the obligation to compensate for damage shall also be limited to the amount that the insurer pays for the respective case or that which is covered under the insurance.

18.6 Exemption of liability for indirect damage
The Contractor's liability shall in any case be excluded for indirect or consequential damage including in any case:
- Other damage than the damage for the Contractor for rectifying the direct consequences of the failure to comply;
- Damage due to loss of profit, downtime, perishing or deterioration of goods as a result of downtime, loss of savings, stagnation or reduced goodwill;
- Damage resulting from third party claims including the Client's customers;
- Damage in connection with the use of items by the Contractor stipulated by the Client such as but not limited to: installations, tools, machines, materials or data, information or software from third parties;
- Damage in connection with the Contractor's engaging of suppliers, programmers, advisers or controllers stipulated by the Client;
- Damage to mutilation, destruction or loss of data, digital equipment settings, software, information, details or documents.

The exclusions and limitations in this article shall lapse if and as far as the damage is the result of intent or gross negligence by the Contractor's management.

18.7 Other exceptions
The Contractor's liability shall also be excluded in the event of:
- Direct and indirect consequences of the Client's failing to adhere strictly to the use or operating instructions.
- Normal wear and damage and/or wear due to improper use and as a result of overloading or any other form of abnormal use.
- Abnormal or unforeseen circumstances or at least circumstances with which the Contractor in all reasonableness need not have taken into account based on the details with which it was provided on concluding this Agreement.
- Damage against which the Client could have insured itself.

18.8 Cumulation
The exceptions and limitations of the Contractor's liability as provided for under article 18 shall not affect the other provisions and exceptions as provided for under GTCD2014.

18.9 Limitation
Any claim that the Client shall have against the Contractor shall lapse after twelve months after such claim arises and in any case after three years following delivery by the Contractor irrespective of the grounds on which this claim is based.

18.10 Release
The Client shall release and indemnify the Contractor from all third party claims for compensation due to damage suffered by such third parties including claims due to product liability and the violation of intellectual property rights as a result of goods, including goods from the Contractor supplied by the Client to such third parties.

18.11 Claim against GTCD2014 by others
The provisions in this article and all other restrictions and exclusions of liability provided for in the GTCD2014 shall also apply in favour of the Contractor's employees and all (legal) persons of which the Contractor uses in carrying out this Agreement and for the benefit of the group of companies of which it is a part.

18.12 General conditions of third parties
With respect to goods and services that the Contractor has obtained from a third party, the conditions relating to the respective agreement as regards the warranty, spare parts and liability shall also apply to this Agreement between the Contractor and the Client if and as far as the Contractor claims this. The Client shall give the Contractor the authority to accept a limitation of liability on the part of these third parties by entering into an Agreement.

19 Intellectual property rights

19.1 Property
All intellectual property ("IP") rights to the Item/Service Supplied, developed or provided by the Contractor to or for the Client – including Documentation, inventions, ideas, software, ICs, databases, diagrams, equipment, samples, connections, methods, drafts, installations, solutions, analyses, designs, reports, quotations, etc., - shall remain exclusively with the Contractor or its licensor(s) or Supplier(s).

19.2 Rights of use of deliveries
Unless otherwise agreed In Writing, the Client shall in connection with the agreed deliveries, as far as applicable, acquire only the perpetual, non-exclusive and non-transferrable rights of use for the specific application for which the delivery was entitled and only for use in the country where the delivery was to take place according to the Agreement.

19.3 Transfer of user rights
The user rights provided for in article 19.1 shall only pass to the Client at the point at which the respective deliveries shall be complete and have been carried out correctly and the Client has fulfilled all its obligations towards the Client under this Agreement.

19.4 Registration of IP rights
As far as the rights provided for in 19.1 shall be subject

to registration, before such rights shall arise, the Client shall be prohibited from performing the respective registration acts (or having this arranged) without the Contractor's permission in Writing.

19.5 Violation
If any goods sold by the Contractor to the Client in the Netherlands should unexpectedly violate any third party property rights for which the Client is held liable, the Client shall be obliged to inform the Contractor of this immediately In Writing. The Contractor shall in such case be entitled to rectify this violation by:
- Granting the Client the right to use these goods or
- Changing the goods in such a way that this shall no longer constitute a violation or
- Delivering replacement goods that do not constitute a violation or
- Refunding the Client for the purchase price once the Contractor has received the goods minus a reasonable fee for the period that the Client had the use of these goods.

With respect to the violation of IP rights outside the Netherlands, the Client shall have no claim or demand against the Contractor.

19.6 Exclusion of IP liability
The Contractor shall not be liable for the violation of any intellectual property rights or any other exclusive rights resulting from:
- Any change of or to goods sold or delivered by or on behalf of the Contractor;
- Any use or application of such goods other than that prescribed by the Contractor or of which the Contractor may assume based on this Agreement;
- Integration, use or application with goods not sold and delivered by or on behalf of the Contractor including (parts of) systems and networks;
- A software application that was not created by or on behalf of the Contractor.

20 Payment

20.1 Conditions of payment
The Client shall pay the invoices in accordance with the conditions stated on the invoice. If no specific conditions are stated on the invoice, the Client shall pay within thirty days of the invoice date. The Client shall not be entitled to offset or suspend payment. The date indicated on the Contractor's bank statements on which a payment is received shall be considered the date on which the payment was made.

20.2 Order of payment
Any payment made by the Client shall – if applicable – first of all be made against the interest owed by it as well as collection and administration costs and then with against any outstanding demands starting with the oldest.

20.3 Late payment
If the Client fails to make payment to the Contractor on time, the Client shall be liable for the statutory rate of interest on commercial transactions with respect to the outstanding amount calculated cumulatively per month without this requiring any demand or notice of default. The Client shall be in default as of right if it still fails to fulfil its payment obligations within a reasonable period following a reminder, a demand or notice of default. As well as statutory costs, the Client shall from this point be liable for the legal and extra-legal fees actually incurred by the Contractor including those fees charged by the parties and/or legal experts.

20.4 Claims invoices
Claims regarding invoices shall be submitted to the Contractor in writing within eight days of the date of these invoices.

20.5 Continuation of obligation to pay
The reporting of a Shortcoming as provided for in article 14.4 and/or article 17.4 shall not release the Client from its payment obligations towards the Contractor.

21 Termination of this Agreement

21.1 Dissolution or fulfilment
If one of the Parties is in default, this shall entitle the other Party to dissolve all or part of this Agreement without prejudice to the right to demand fulfilment.

21.2 Compensation for damage
The Contractor shall not be liable for compensation to the Client in the event of dissolution by the Client.

21.3 Immediate termination
The Contractor may without notice of default dissolve this Agreement with immediate effect in the event the other party is declared bankrupt, cedes property, is granted a (temporary or definitive) suspension of payment, in the event that all or part of the other Party's assets are seized or in the event that the other Party's enterprise is liquidated or wound up.

21.4 Consequences of dissolution
If either Party dissolves an Agreement in accordance with the provisions of this article, the amount that the Client shall owe to the Contractor at the point of termination or dissolution shall remain payable in full and the Client shall also be liable for interest and costs with respect to these amounts in accordance with GTCD2014 without prejudice to the Contractor's right to demand compensation as well as the entitlement to use the rights flowing from the reservation of ownership, to take other (legal) measures as well as claim other rights due to the Contractor.

22 Cancellation at the Client's request

22.1 Mutual agreement
The Client can request that the Contractor agree to the annulling (cancelling) of an Agreement that has already been placed but not carried out. An Agreement may not be cancelled before the Parties have reached an agreement In Writing on the conditions of such cancellation including the amount of the cancellation costs and once the Contractor is of the opinion that all agreed cancellation conditions have been fulfilled.

22.2 Point of cancellation
As long as the Parties have not reached an agreement as to the cancellation conditions or as long as the Contractor is of the opinion that the cancellation conditions have not been fulfilled, the Agreement shall continue and the parties shall remain mutually obliged to fulfil their obligations to one another under this Agreement.

22.3 Cancellation fee
The Contractor shall determine the amount of the cancellation fee on a case-by-case basis. The following factors among others are of importance in determining the amount of the cancellation fee:
- The amount stated in the Agreement;
- The extent to which the Agreement has already been carried out;
- The type of Agreement (delivery of goods, development contract, delivery of a piece of work, a service contract, training/instruction, etc.);
- The expenses that the Contactor has already incurred up to the point of cancellation and the obligations that the Contractor has entered into in connection with the carrying out of the Agreement;
- The actions to be carried out by the Contractor in connection with the cancellation;
- The profit that the Contractor looses as a result of the cancellation.

22.4 Damage due to cancellation
If an Agreement is cancelled, the Contractor shall in no case be liable to the Client for any damages that it incurs or might incur following this cancellation.

23 Applicable law and disputes

23.1 Dutch law
Dutch law shall apply to all Offers from the Contractor, any Agreement entered into by or on behalf of the Contractor and any other legal relations between the parties. The United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention 1980) shall not apply.

23.2 Choice of court
Disputes arising from a contract concluded between the Contractor and the Client shall be adjudicated by the competent court of the district in which the Contractor is located as the court in the first instance with the proviso that if a particular court is mandatorily appointed as competent court then the dispute shall be decided in the first instance by the court so appointed without prejudice to the Contractor's right to seizure or to take other provisional measures at the place(s) and before the legal bodies that the Contractor wishes.

23.3 Miscellaneous
The provisions of article 23.2 shall not affect the Contractor's right to submit a dispute before the court competent under normal rules of competence or to have this settled by arbitration or binding advice.

24 Validity

If any provision in these GTCD2014 is not completely valid or only partially valid and/or not enforceable as a result of any legal directive, judicial judgement or any directive, decision, recommendation or measure from any local, regional, national or supranational authority or body or otherwise then this shall have no effect on the validity of the other provisions in these GTCD2014. If a provision in these GTCD2014 might not be valid for one or other reason indicated in the previous sentence but would be valid if it had a more limited range or scope then this provision shall be automatically valid with the most far-reaching or extensive range or scope with which or within which it is valid.

25 Deposit

These General Terms and Conditions have been deposited at the Chamber of Commerce for Gooi-, Eem- and Flevoland under number 40507574.

PART B. Regarding Agreements for carrying out Activities and contracting for Work

26 Applicability

26.1 Activities and Work
The conditions in Part B of the GTCD2014 shall apply to all legal relations between the Client and the Contractor regarding the carrying out of Activities and the contracting for Work without prejudice to the applicability of the provisions of Part A of the GTCD2014, which, as far as applicable, shall also apply to the carrying out of Activities and the contracting for Work.

26.2 Part B > Part A
The provisions of Part B of the GTCD2014 therefore complement the provisions of Part A of the GTCD2014. In the event that a provision from Part B of the GTCD2014 shall also apply and is in conflict in whole or in part with a provision from Part A of the GTCD2014, the provision under part B of the GTCD2014 shall prevail as long as the dispute persists.

27 Definitions

27.1 **Contracting for Work:** Creating (making, building or delivering) an item of a material nature on the Client's behalf. This could include for example, making an installation, a test set-up, a system, machine, equipment, circuit board, control box, etc. Before completing the Work, the Parties shall normally agree a recommended price, establish specifications and agreements on additional or less work and the method of administering tests.

27.2 **Design Data:** All details and circumstances including information, data, specifications, demands, method of use and environmental conditions based on which the Contractor is to carry out Activities or deliver Work or that it should otherwise take into account in carrying out this Agreement as far as the Client provided these before or on concluding this Agreement and the Contractor has confirmed these to the Client. As far as during the carrying out of this Agreement, additional relevant details and/or circumstances are known to the Contractor, these shall only form part of the Design Data if the Contractor has expressly confirmed this In Writing to the Client.

27.3 **Order:** The order for carrying out of Activities and/or delivering Work as specified in this Agreement, the GTCD2014 and the Design Data.

28 The Order

28.1 Conclusion
The Agreement for the delivery of Activities and/or Work shall only be concluded taking into consideration article 3. The application of article 3.7 shall be excluded for the delivery of Activities or Work or pieces of work.

28.2 Scope
The scope of the order and the specifications to which the Item/Service Supplied shall correspond, shall only be determined based on what the Parties have agreed on In Writing.

28.3 Obligation to perform
The Activities to be carried out by the Contractor shall be in the form of an obligation to perform unless expressly agreed that this shall have the character of an obligation to produce results and the envisaged result is described with sufficient positiveness with due consideration for the following paragraph.

28.4 Obligation to produce results
The Parties may agree In Writing that the Contractor is to achieve a concrete result in carrying out the order. In this case, an obligation to produce results shall not exist unless the following conditions are also fulfilled:
- The Client shall notify the Contractor of and confirm to it all the Design Data required by the Contractor that are important for achieving the agreed result before or during the conclusion of this Agreement.
- Following the conclusion of this Agreement, nothing has been changed in a negative sense in the Contractor's opinion regarding the information, details and circumstances stated in the previous point.
- The criteria based on which and the circumstances in which it shall be assessed as to whether the agreed result has been achieved shall be measurable in crystal-clear and objective manner as agreed.
- The Contractor shall confirm to the Client In Writing the method in which the Parties establish whether the agreed result has been achieved before or on concluding this Agreement.

28.5 Partial obligation to produce results
As far as the Parties have indeed agreed an obligation to produce results but not all the conditions for this have been fulfilled, this Agreement shall assume the character of an obligation to perform as far as the Contractor believes that the guaranteed result could not be achieved as a result of the failure to comply with the conditions for this.

29 Scope

29.1 Basis for the Activities and the Work
The Contractor shall carry out the agreed Activities and the agreed Work based on the Design Data.

29.2 Format of Design Data
The Client shall as far as possible deliver the Design Data digitally, in the agreed format. The Design Data shall be delivered digitally in the format stipulated by the Contractor unless agreed otherwise. The Client shall carry out the necessary adjustments, arrangements, conversions and sorting of the Design Data on first request from the Contractor.

29.3 Access to systems
As far as the Contractor considers it important that it has access to the Client's installations, networks or systems for carrying out the Activities, the Client shall provide the Contractor with its assistance Without Delay. The Contractor shall not be responsible for damage or costs as a result of using the Client's networks, systems or installations unless the Client can show that the damage or costs are the result of intent or gross negligence by the Contractor's management.

29.4 Accuracy of Design Data
The Client shall ensure the correctness and completeness of the Design Data. If the Contractor believes that the Design Data contain errors, it shall be entitled to suspend its Activities until the Client has rectified such errors. The Client shall in any case be liable to the Contractor for the applicable fee with respect to the part of this Agreement already carried out while the Contractor shall then be entitled to charge extra fees in accordance with its normal rates and without prejudice to its right to claim compensation. The Client may not derive any right to any fees from the Contractor's suspending work irrespective of the grounds for this.

29.5 Client's obligation to inform
The Client shall remain obliged to inform the Contractor in good time of all relevant details and circumstances within its domain and that may be important for carrying out this Agreement.

30 Delivery period

30.1 Start of delivery period
If the Parties have agreed a certain delivery period, this period shall begin on the day following the day on which, as far as applicable, each of the following conditions has been fulfilled:
- The Agreement regarding the order has been concluded.
- The Client has provided all the Design Data in the correct format that the Contractor considers necessary for carrying out the order.
- The Contractor has received the advance sum if such an advance has been agreed.
- The day on which all the formalities that the Contractor considers necessary in connection with the carrying out of the order are fulfilled, including the obtaining of permits.
- If an order has be to carried out on premises or an installation, network or system designated by the Client in connection with the carrying out of this order, the Contractor is of the opinion that this/these has/have been prepared and the Contractor has or shall be granted unhindered access to this/these.

30.2 Delivery date instead of delivery period
If a delivery date instead of a delivery period has been agreed, the delivery period shall be the same as the number of days between the point at which this Agreement is concluded and the agreed delivery date. This period shall not begin before the point at which all conditions provided for under article 30.1 have been complied with. The point of delivery shall in this case be the point at which the delivery point stated has lapsed with consideration to the other provisions of article 30.

30.3 Delay
If a delay occurs in carrying out the order that is not completely attributed to the Contractor, the delivery period shall be extended by the duration of the delay.

30.4 Extending the delivery period
If when carrying out the order, the conditions for commencement of the delivery period as described in article 30.1 are no longer fulfilled and the Contractor believes that this is impeding the progress of the agreed Activities and/or Work, the delivery period shall be extended by the number of days on which the conditions have no longer been fulfilled.

30.5 Non-binding delivery period
The agreed delivery period shall be an estimate based on delivery times from suppliers, information and circumstances of which the Contractor is aware at the point at which the Offer is made. If during the delivery period, circumstances occur outside the responsibility of the Contractor whereby the agreed delivery period is no longer feasible, the delivery period shall be extended as far as necessary in the opinion of the Contractor.

30.6 Delay > 16 weeks
In the event that the total delay as stated in article 30.5 amounts to more than 16 weeks, the Client shall be entitled to terminate this Agreement. The Contractor shall in such case not be obliged to compensate the Client for any damage or costs incurred due to later delivery and/or termination.

31 Facilitation by the Client

31.1 Obligations of the Client
Only if and as far as expressly agreed otherwise shall the Client itself, at the Contractor's discretion, ensure sufficiently and on time for:
- Ground, paving, pile-driving, demolition, foundation, concrete laying, carpentry and upholstering work or other additional work of whatever nature;
- Good and concrete accessibility of the place(s) and accompaniment to/at the place(s) where the Contractor is required to have access in connection with the carrying out of the order;
- Drawings, Documentation, maps, diagrams and explanations by the Client required by the Contractor with respect to the grounds and the items on this;
- Any help required for the placement or replacement of items, which in all reasonableness cannot be handled by two people as well as any necessary hoisting and/or lifting tackle or similar equipment to be operated;
- The provision, setting up and removal of staging, scaffolding and ladders after completion of the Contractor's Activities;
- The supply of fuels, energy and resources such as compressed air, gas, water, electricity, diesel oil and petrol, supply and drainage cables and the necessary connections required for carrying out the order and any testing and commissioning;
- The provision of connection and safety equipment and cabling for the electric motors to be supplied or used and/or other electrical equipment with the exception of starting and control resistors that form a part of the electrical equipment;
- For the duration of the order and near the place(s) where the order is to be carried out, the provision of a dry, heated, adequately lighted and separate lockable space of sufficient size to be used as a shelter for the workforce involved and for the storage of the materials and tools to be processed/used and for the workforce's personal possessions;
- Activities required to restore to a good and usable state any parts that become dirty or damaged or which are out of order or which no longer function unless the contamination or damage was caused by the Contractor's subordinates;
- The starting up and/or maintaining in service and/or shutting down of installations under the Contractor's control as far as desirable or necessary in carrying out the order;
- Providing sufficient lighting and, where necessary, providing and maintaining the required or desired temperature and humidity for the place(s) where the order to be carried out in such a way that the Activities or Work can be carried out without difficulty;
- Requesting and the timely compliance with the necessary requirements for the supply lines, connections, sufferance dues, permits under the Nuisance Act, permits under the Environmental Protection Act and other environmental legislation, building or renovation permits and other statutory requirements.

31.2 Surplus materials
Replaced, residual or removed materials shall be the property of the Contractor unless it chooses not to avail itself of this right.

32 Additional/less work

32.1 Changes/extensions/limitations
The Parties may agree on a change or additional or less work with respect to the agreed Activities or Work. If this Agreement involves a fixed price, the Contractor shall inform the Client as to the financial, time and other consequence of any change that may be desired.

32.2 Additional/less work equals amendment
If the Parties agree on a change or additional or less work, this shall be considered an amendment to this Agreement as provided for under article 5.

32.3 Postponement of delivery times
If the Parties agree on an amendment to this Agreement, the agreed delivery time or delivery date shall be extended or postponed by the number of days required to complete the change to this Agreement.

32.4 Necessary amendment
If the Contractor in connection with the carrying out of the Activities or the Work believes that an amendment and/or extension of this is necessary or in all reasonableness, desirable, it shall inform the Client accordingly. If the Client then fails to agree In Writing within 14 days to the proposed amendment(s) and/or extension(s) and the associated price change, the Contractor shall be entitled to suspend the carrying out of its obligations towards the Client. The Client shall in this case be obliged to pay the Contractor a fee for the Activities already carried out and the Item/Service already Supplied based on the Contractor's applicable rates without prejudice to the Contractor's right to claim compensation for the damage it suffers.

32.5 Payment for additional work
The Contractor may invoice separately for any additional work once the Contractor has completed this additional work unless agreed otherwise.

33 Delivery and acceptance

33.1 Milestones
If it has been agreed that the Order will be executed in stages, the Contractor will be entitled to postpone or suspend the Activities and deliveries regarding a next step or stage or any part of those Activities or deliveries until the Client has approved of the results of the previous step(s) or stage(s) In Writing in accordance with the agreed test criteria.

33.2 Test period
Unless otherwise agreed, the Client will test the Item/Service Supplied in relation to the agreed test criteria within the test period of 8 (eight) working days, counting from the moment that the Contractor has made known that the Item/Service Supplied is ready for acceptance.

33.3 Extension of test period
If it appears during the performance of the test(s) that the progress of the test(s) is impeded by a Shortcoming in the Item/Service Supplied, the Client will notify the Contractor thereof In Writing as detailed as possible; in such a case, the test period will be interrupted until the Item/Service Supplied is offered for testing again.

33.4 Notification of Shortcomings in the Item/Service Supplied during tests
The Client will report to the Contractor any Shortcoming that is detected during the tests or during the guarantee period, appropriately substantiated and documented. The Contractor is not obliged to rectify a Shortcoming before it has received all information from the Client that is available and required to rectify the Shortcoming.

33.5 Costs of rectification of Shortcomings
Any Shortcoming established during the tests will be rectified free of charge when a fixed price has been agreed. If no fixed price has been agreed, the Contractor will be entitled to a reasonable fee in accordance with the agreed prices and rates for the efforts involved in rectifying the Shortcoming.

33.6 Test criteria
The test criteria should preferably be agreed by the Parties In Writing before or on entering into the Agreement. Subjective criteria do not form part of the test criteria. Criteria agreed at a later stage will only apply insofar as they have been confirmed by the Contractor in Writing to the Client. The Client is not entitled to invoke that the Item/Service Supplied does not comply with certain requirements when these requirements do not form part of the agreed test criteria. When the test criteria are not fulfilled, it is considered a Shortcoming as referred to in Article 1.5.

33.7 Moment of Delivery Item/Service Supplied
The Item/Service Supplied is duly delivered and accepted on the earliest of the following:
- The moment at which the Client has inspected the Item/Service Supplied after testing it in accordance with the agreed test criteria, and has not detected any essential Shortcomings as referred to in Article 33.9;
- The moment at which the test period has expired, counting from the day following the day on which the Contractor notified the Client In Writing that the Item/Service Supplied is ready for acceptance and the Client has failed to test the Items/Service Supplied within the test period;
- The moment at which the test period has expired, counting from the day following the day on which the Contractor notified the Client that the Item/Service Supplied is ready for acceptance and the Client has not informed the Contractor of an essential Shortcoming in the Item/Service Supplied in Writing (as described in Article 33.9);
- The moment that the Client has in fact put into use the Item/Service Supplied or the equipment which it forms part of or has started to form part of after it was installed;
- The moment at which the Client has paid the invoices for the Item/Service Supplied.

33.8 Activities after delivery
Insofar as the delivery of a Work has been agreed and the Contractor still has to carry out Activities (for example calibration or giving instructions) in relation to that Work, the Work will nevertheless be considered as delivered and accepted when the Work itself is considered as delivered and accepted pursuant to Article 33.7.

33.9 Essential Shortcoming
An essential Shortcoming means: a failure that significantly impedes the normal operations or the normal use of the Item/Service Supplied in the opinion of the Contractor.

33.10 Rectification of non-essential Shortcoming
If in relation to the acceptance, in the context of tests, only one or more non-essential Shortcomings are established, the Item/Service Supplied will be

considered as delivered. The Contractor is obliged to rectify this (these) non-essential Shortcoming(s) as soon as possible. A non-essential Shortcoming will not give the Client the right to not accept the Item/Service Supplied, to terminate the Agreement in full or in part or to suspend payment.

33.11 Advices
Advices, information provided, details and/or suggestions given by the Contractor regarding the use, placement, starting-up, assembly, extension, etc. of the Item/Service Supplied only have the character of a guarantee of i.e. return, accuracy, compatibility with other items, effect in a certain environment, or installation, etc. when explicitly agreed and subject to the provisions of Article 14.2.

34 Guarantee

34.1 Mutatis mutandis provision
The guarantee provisions of Article 14 of GTCD2014 apply mutatis mutandis to the delivery of Work and Activities, insofar as they can be considered to apply as regards the specific character of the Item/Service Supplied.

34.2 In accordance with agreed specifications
The Contractor guarantees that it will carry out the Activities and the Work with due observance of the Design Data, and that it will carry these out in such a way that they will comply with the agreed specification and the requirements reasonably set for this with due observance of Article 28.2.

34.3 Guarantee period on normal use
Unless otherwise agreed, the guarantee period applies for use during working days of eight (8) hours per day. If the Item/Service Supplied is used during working days of more than eight (8) hours per day, the actual guarantee period will be shorter accordingly.

34.4 Exclusion
The Contractor will not give a guarantee on items that have been assembled, installed, fine-tuned, calibrated, validated, tested, inspected, adjusted and/or started up, etc. by or on behalf of the Contractor, but that have not been supplied by or on behalf of the Contractor itself.

35 Liability

Notwithstanding the provisions in Article 18 the following provisions will apply.

35.1 Exclusions in connection with Activities
The Contractor is not liable for any damage or costs incurred as a result of:
- Activities undertaken on or in connection with goods supplied by third parties;
- Incorrect, late or incomplete delivery of Design Data by the Client;
- Use, testing, commissioning or decommissioning of a Work, which goods supplied by third parties form part of or in which such items are assembled or installed, or Activities undertaken in order to do so;
- The carrying out of Activities on a Work that has become part of an item of the Client (for example by assembling it) in the period before the moment that the Item/Service Supplied has been delivered and accepted.
- Items used during the carrying out of the Activities on request, recommendation or instruction of the Client;
- Activities carried out by individuals recommended or appointed by the Client.

35.2 Exclusions in connection with Work
Furthermore, the Contractor is not liable for any damage or costs incurred as a result of:
- The design or parts of the design of the Work insofar as this design/these parts of the design has/have not been fully created by the Contractor;
- The malfunctioning of the Client's machines, installations or processes, of which the Item/Service Supplied has started to form part of in the period before the moment at which the Item/Service Supplied was properly delivered and accepted;
- The use of certain parts in the Work insofar as those parts have been used at the request, recommendation or instruction of the Client or have been obtained from a Supplier appointed or recommended by the Client.

PART C: regarding the development and supply of Software

36 Applicability

36.1 Supply of Software
The provisions in Part C of the GTCD2014 apply to all legal relationships between the Client and the Contractor regarding the development and/or supply of Software or the adjustments thereto, subject to the applicability of the provisions of Part A and Part B of the GTCD2014.

36.2 Part C will prevail
The provisions of Part C of the GTCD2014 are a supplement to the provisions of Part A and Part B of the GTCD2014. When a provision of Part C also applies and is in full or partial contravention of a provision of Part A or Part B of the GTCD2014, the provision of Part C of the GTCD2014 will prevail insofar as there is a conflict.

36.3 Explanation on Software
The designing, creation or writing of Software and activities related thereto are regarded as the provision of services. The creation of Software under Activities (see Article 1.19 among others) falls within the GTCD2014.

37 Definitions

37.1 Customised Software: Software, websites, protocols or operating systems developed by order of the Client, or adjustments to already existing software, websites, protocols or operating systems developed by order of the Client.

37.2 Standard Package: The Software that is or was offered on the market by the Contractor as standard software in the general sense of the word, whether or not adjusted, fine-tuned, configured, changed or extended for the benefit of the Client.

37.3 Software: Standard Package and/or Customised Software.

38 General

38.1 Licence Agreement
If Software is supplied by the Contractor and the modalities of the use thereof have not been provided for in a separate licence agreement, the provisions of Part C of the GTCD2014 will apply to the delivery and the use of that Software insofar as applicable. If the use regarding the Software supplied by the Contractor is provided for in a separate licence agreement, the provisions in that licence agreement shall prevail over those in Part C of the GTCD2014.

38.2 Service/Maintenance Agreement
If a service or maintenance agreement has been entered into by the Parties in respect of the Software supplied by the Contractor, the provisions contained therein regarding the notification and rectifying of Shortcomings, maintenance on old releases and costs will prevail over the relevant provisions of Part C of the GTCD2014.

38.3 Scope of user rights
On delivery of the Software, the Client will obtain

the non-transferable, non-exclusive right of use for own use regarding the Software, for the application for which the Software was sold, for the location for which the Software was sold. Unless otherwise agreed, the above-mentioned rights of use will take effect from the moment that the Client has fulfilled all its obligations towards the Contractor. The right of use does not comprise the right to change or adjust the Software and it is not transferable.

38.4 Further rights
The Parties can conclude additional arrangements on further rights.

38.5 Duration
If no duration has been agreed for the duration of the rights of use of a Standard Package, the right provided for in Article 38.3 will be valid for an indefinite period of time.

38.6 Own use and further developments
The Client will at all times be entitled to use, apply, further develop (have developed), or sell to third parties, the Software developed by, on behalf of or by order of it.

38.7 Guarantee
Unless otherwise agreed, the guarantee period in respect of the Software will, contrary to the period mentioned in Article 14.3 be 3 (three) months from the date of delivery. Unless agreed otherwise, subject to the provisions of Article 2.2 and Article 28.4 , the Contractor cannot guarantee that the Software supplied by it is suitable for the aimed and/or actual use by the Client.

38.8 Reporting of Shortcoming
The Client will report a Shortcoming to the Contractor without delay after he has detected it. Furthermore, Article 33.4 also applies in respect of the reporting of a Shortcoming.

38.9 Rectification of Shortcomings
Insofar as the Contractor is obliged to take care of rectifying a Shortcoming, it will do so to its best ability.

38.10 Costs of rectification after improper use
If, in the opinion of the Contractor, a Shortcoming was fully or partially caused by or related to improper use or other causes that cannot be attributed to the Contractor or if the Shortcoming could already have been established when performing the tests as referred to in Article 33.2, all costs of rectification will be at the expense of the Client.

38.11 Guarantee restrictions after changes
The Contractor will be discharged from its guarantee obligations if the Software has been adjusted or changed by other parties than the Contractor.

38.12 Software is not flawless
The Contractor does not guarantee that the Software is flawless, or will function without interruption or without Failures, or that all Failures will be rectified or improved.

38.13 New releases
When a maintenance agreement has been made with regard to a Standard Package developed by the Contractor and when an improved version of the Standard Package becomes available for the market, the Contractor will make such a version available to the Client.

38.14 Old releases
The Contractor is, after three (3) months of expiry of the release of a new version of a Standard Package, no longer obliged to rectify any Shortcomings in an older version. If a new version of the Standard Package offers more possibilities and/or functionality than older versions then the Contractor is entitled to charge a fee for making the new version available.

38.15 Package of third parties
When the Contractor provides the right to use a Standard Package from a third party in accordance with the conditions of use or licensing agreement of or with the third party or if maintenance with regard to a Standard Package is performed on the basis of the conditions of an agreement between the Supplier and a third party, then the provisions of Articles 38.1 to 38.14 of the GTCD2014 do not apply and they are replaced by the provisions of the relevant agreement(s) that the Contractor has with the third party or parties. By entering into the Agreement, the Client authorises the Contractor to purchase the software required for the performance of the Order and to agree to the accompanying licence terms. The Contractor will inform the Client at its request on the relevant applicable provisions.

38.16 Personal Data Protection Act
The Client indemnifies the Contractor against claims from third parties of whom personal data is registered or is being processed insofar as those claims are related to data and Software supplied by the Contractor to the Client or data processed by the Contractor on behalf of the Client.

38.17 Licences of Client
The Client guarantees by entering into the Agreement that if the Contractor has to make use of software, systems, platforms, data and accounts that are in the possession of the Client, for the performance of the Activities, the Client will dispose of the sufficient rights, such as licences, access rights and authorities. The Client indemnifies the Contractor against any claims from third parties insofar as the Client should not dispose of the above-mentioned rights.

39 Customised Software

39.1 Costs of rectification during the guarantee
The Contractor will not charge any costs for the rectification of the Shortcoming if a fixed price has been agreed for the development of Customised Software. If no fixed price has been agreed, the Customised Party will be entitled to charge the costs incurred for the rectification to the Client.

39.2 Source code of customised work
Unless otherwise agreed, the source code will not form part of the Customised Software to be supplied. If the Parties have agreed that the source code forms part of the delivery, the user rights as referred to in Article 38.3 will also comprise the right to adapt or change the Software supplied by the Contractor. If the Contractor is obliged by law to provide the source code to the Client, the Client must pay a reasonable remuneration for this.

40 Standard Package

40.1 Right of use comprises one installation
The Standard Package may be used by the Client exclusively on one processing unit, with the understanding that the Software of the Standard Package may be used on a second processing unit if there is a temporary failure of this processing unit and only for so long as the failures lasts.

40.2 Copies
If and insofar as no other conditions have been set by the Contractor, the Client is entitled, for security reasons, to make a maximum of two back-up copies of the Standard Package; these copies may only be used for the replacement of original material which has been rendered unusable. The copies must have the same labels and markings as the original material.

40.3 Source code of Standard Package
The source code of a Standard Package will not be made available to the Client.

40.4 Ownership
The ownership of the Standard Package and the rights of IP in respect of the Standard Package will not be delivered to the Client by the Contractor. The Client will fully respect the ownership rights and rights of IE regarding the Standard Software. Markings relating to rights of intellectual ownership such as author's rights markings will not be removed or made unreadable or unrecognisable by the Client.

40.5 Confidentiality
By entering into an agreement concerning or relating to a Standard Package developed by the Contractor, the Client declares that it knows that the Standard Package contains confidential information and business secrets of the Contractor. The Client is obliged to keep the Standard Package secret and not to make it known to third parties.