

UNIT4

General Terms and Conditions of Delivery

Filed with the Registry of the District Court of Utrecht, the
Netherlands, on 1 February 2016, under number 16/17

Table of Contents

Chapter 1 General Provisions	4
1. Definitions	4
2. Applicability of the General Terms and Conditions of Delivery to offers/Agreements	4
3. Price and Payment	5
4. Confidentiality/Secrecy and Takeover of Personnel	6
5. Privacy, Data Processing and Security	6
6. Retention of Title and Rights, Specification and Suspension	7
7. Risk and Claims	7
8. Intellectual Property	8
9. Obligations to Cooperate	9
10. Delivery Periods	10
11. Termination and Cancellation of the Agreement	10
12. Liability	11
13. Force Majeure	12
14. Modification and Additional Work	12
15. Service Level Agreement	12
16. Transfer of Rights and Obligations	13
17. Term of the Agreement	13
18. Applicable Law and Disputes	13
Chapter 2 Software User Rights	13
19. Definitions	13
20. User Right	14
21. Restrictions for Use	14
22. Delivery and Installation	15
23. Acceptance Test and Acceptance	15
24. Remuneration	16
25. Software Modification	17
26. Guarantee	17
27. Termination of the Agreement	17
28. Third Party Software	18
Chapter 3 Software Maintenance	18
29. Maintenance Contract	18
30. Maintenance	18
31. Maintenance Performance	19
32. New Software Versions	20
33. User support	20
34. Termination of the Agreement	20
35. Payment	20
36. Third Party Maintenance	20
Chapter 4 Customised Software Development	21
37. Customised Software Specifications	21
38. Customised Software Development	21

39.	Delivery and Installation	22
40.	Acceptance Test and Acceptance	22
41.	User Right	23
42.	Restrictions for Use	23
43.	Termination of the Agreement	24
44.	Remuneration for Development Work	25
45.	Customised Software Modification	25
46.	Guarantee	25
Chapter 5 Cloud Services		25
47.	Definitions	25
48.	Cloud Services	26
49.	Implementation of Cloud Services	27
50.	Payment	28
51.	Guarantee	38
52.	Access to the Cloud Service	29
53.	Use of the Cloud Service	29
54.	Third Party Applications	30
55.	Suspension	30
56.	Consequences of Termination	30
57.	Personal Data Processing	31
Chapter 6 Training		31
58.	Definitions	31
59.	Enrolment and Cancellation	31
60.	Implementation of Training	32
61.	Prices and Payment	33
62.	Intellectual Property	33
Chapter 7 Management and/or Other Services		33
63.	Definition	33
64.	Management and/or Other Services	33
65.	ICT Systems Management	34
66.	Reporting	35
67.	Payment	35
Chapter 8 Sale of Equipment		36
68.	Purchase and Sale	36
69.	Delivery	36
70.	Test Configuration	37
71.	Export	37
72.	Return Consignments	37
73.	Cooperation by the Client	37
74.	Guarantee	38
75.	Third party Equipment	38

Chapter 1 General Provisions

1. Definitions

- 1.1. **U4:**
Unit4 N.V. and/or one of its subsidiaries, to the extent that it/they declare(s) these General Terms and Conditions of Delivery applicable to an offer and/or Agreement.
 - 1.2. **Client:**
any party who, by signing a document or otherwise, accepts the applicability of these General Terms and Conditions of Delivery.
 - 1.3. **Party:**
the Client or U4.
 - 1.4. **Parties:**
the Client and U4.
 - 1.5. **General Terms and Conditions of Delivery:**
these terms and conditions.
 - 1.6. **Agreement:**
an agreement for the delivery or availability of goods and/or services, of whatever nature and however named, by U4 to the Client.
 - 1.7. **Products/Product:**
tangible objects, such as but not restricted to data carriers, supplies and consumables.
 - 1.8. **Equipment:**
computer, telecommunications and office equipment and/or other equipment and/or other Products.
 - 1.9. **Documentation:**
any user information in paper or digital form made available to the Client by U4 in the language designated by U4 and with the contents designated by U4.
 - 1.10. **Software:**
any (Customised)software, websites and/or computer programs made available to the Client by U4, including third party computer programs forming a part thereof, explicitly limited to the executable version (the so-called "object code), .
 - 1.11. **Customised Software:**
software developed at the request of the Client or modified on the basis of existing Software to meet specific requirements of the Client.
 - 1.12. **Error(s) (in the Software):**
the substantial noncompliance with functional or technical written Software specifications issued by U4 and, in the case of Customised Software, the functional and/or technical specifications explicitly agreed on between the Parties in writing. An Error can only exist if demonstrable by the Client and if reproducible. A Minor Error can only exist if the Error does not reasonably impede the operational or productive use of the Software.
 - 1.13. **Service Level Agreement:**
a written agreement or a corresponding elaboration subject to the conditions of U4, in which the provided service is described in detail.
 - 1.14. **Standby Services:**
the explicit and written agreed availability of one or more employees for the Client during the relevant periods and times specified in an Agreement.
 - 1.15. **Intellectual Property:**
copyrights (including personality rights), neighbouring rights, database rights, patent rights (patents), drawings and model rights, trade name rights, trademark rights, rights relating to semi-conductor product topography, user model rights in the broadest sense and all other intellectual property rights and corresponding rights.
 - 1.16. **Associated Companies and Institutions:**
any legal entity in respect of whom the Client can directly or indirectly, whether or not under an agreement with other voting right holders, alone or jointly, exercise more than half of the voting rights at the general meeting, thereby determining the business policy of that legal entity.
- ### 2. Applicability of these General Terms and Conditions of Delivery to Offers and/or Agreements
- 2.1. These General Terms and Conditions of Delivery shall apply to all offers and Agreements under which U4 delivers goods and/or services, of whatever nature and however named, such as Products and Software, to the Client.
 - 2.2. Unless confirmed otherwise by the other Party in writing, oral notifications, commitments or agreements shall have no legal force whatsoever. Amendments and supplements to an Agreement shall only be valid if and to the extent agreed between the parties in writing. This provision does not apply to the General Terms and Conditions of Delivery which U4 is entitled to amend under article 2.8.
 - 2.3. The provisions of these General Terms and Conditions of Delivery must always be

considered in their interrelationship. In the event of a contradiction, the specific provisions shall prevail over the general provisions.

- 2.4. The applicability of conditions applied by the Client is explicitly excluded.
- 2.5. If any provision of these General Terms and Conditions of Delivery is rendered void or rescinded, the remaining provisions shall continue to apply in full force. U4 and the Client shall in that case consult each other to reach agreement on new provisions to replace the void or rescinded provisions, in which the object and essence of the void or rescinded provisions shall to every extent possible be maintained.
- 2.6. Unless stated otherwise by U4 in writing, all offers and other forms of communication issued by U4 shall be free of obligations.
- 2.7. The Client guarantees the correctness and completeness of all data he provides U4 and on which U4 bases its offer. The Client shall to every possible extent ensure the correctness and completeness of all specifications issued by him. Unless explicitly stated otherwise by U4, the measurements and data specified in drawings, illustrations, catalogues, websites, offers, advertising material, standard sheets etc. shall not be binding for U4.
- 2.8. During the entire term of an Agreement, U4 shall be entitled to amend the General Terms and Conditions of Delivery applicable to that Agreement. U4 shall notify the Client accordingly in writing.

3. **Price and Payment**

- 3.1 All prices are excluding turnover tax (VAT) and other government duties and levies. Unless agreed otherwise, prices shall always be specified in euros, and all payments shall be made by the Client in euros.
- 3.2 All cost estimates and budgets issued by U4 are indicative, unless stated otherwise by U4 in writing. No rights or expectations can ever be derived by the Client from cost estimates or budgets issued by U4. An available budget of which U4 is notified by the Client shall never constitute a (fixed) price agreed between the Parties for performance on the part of U4. Only if so agreed between the Parties in writing shall U4 be obliged to notify the Client of a imminent exceeding of a cost estimate or budget issued by U4.

- 3.3. If the Client represents more than one natural person and/or legal entities, each of those natural persons or legal entities shall be severally liable for payment of the amounts payable under the Agreement.
- 3.4. In respect of performances rendered by U4 and the corresponding amount owed by the Client, the relevant documents and data from the administration or systems of U4 shall constitute full proof, notwithstanding the right of the Client to provide proof to the contrary.
- 3.5. U4 shall be entitled to adjust prices and rates as from 1 January of each calendar year, unless a period of three months has not passed since the formation of the Agreement. The adjustment of prices and rates shall be announced in a timely manner, and the Client explicitly agrees to those adjustments if they (maximally) maintain pace with the consumer price index published by Statistics Netherlands (CPB) (2006 =100), plus a maximum of 2%.
- 3.6. U4 shall be entitled to charge interim price increases introduced by its suppliers, to the Client. In addition, all possible costs of (run time) supplier licences shall be charged to the Client.
- 3.7. The Parties shall specify in the Agreement the date or dates on which U4 charges the fee for agreed performances to the Client. The amounts owed shall be paid by the Client in accordance with the agreed terms of payment or the terms of payment specified on the invoice. In the absence of a specific arrangement, the Client shall pay within a period of 30 days after the invoice date. Payments must be made into a bank or giro account designated by U4. If the Client disagrees with the amount specified on an invoice, he shall notify U4 of his substantiated disagreement in writing within a period of 8 days after the invoice date. Upon expiry of the aforesaid period, the Client shall be considered to have approved the invoice. The Client shall not be entitled to suspend payment or set off any amounts owed by him.
- 3.8. If the Client fails to pay the amounts owed by him or does not pay them on time, the Client shall, without further notice being required, be obliged to pay a monthly interest of 1.5% on the amount due or, if higher than that interest, the statutory commercial interest. If the Client still does not pay the amounts due after being given warning or notice, U4 may refer the debt

for collection, in which case the Client shall, in addition to the then total amount due, be obliged to pay all corresponding judicial and non-judicial costs, including all costs charged by external experts.

- 3.9. By entering into the Agreement, the Client irrevocably and unconditionally grants U4 permission to collect all debts owed by the Client by direct debit. The Client shall at all times maintain sufficient balance and furthermore extend every possible cooperation for direct debit payments.
- 3.10. If the Client fails to fulfil any of the obligations under the Agreement or fails to do so in a proper or timely manner, or if a delay on the part of the Client occurs due to which the configuration is not in working order, or if the Client otherwise fails to extend any cooperation necessary to implement the Agreement or fails to do so in a proper or timely manner, U4 shall be entitled to suspend its activities and services and charge the subsequent costs to the Client in accordance with its customary fees, without U4 being liable for compensation of any kind and without prejudice to any other right vested in U4. The Client shall never be entitled to suspend his obligations.

4. Confidentiality/Secrecy and Takeover of Personnel

- 4.1. The Client and U4 shall see to it that all data received from the other Party (including but not restricted to data relating to Software, Documentation, codes and passwords) of which they know or may reasonably be assumed to know its confidential nature, remain secret. The Party receiving confidential data shall only use that data for the purpose for which it was provided. Data shall at any rate be considered confidential if so designated by one of the Parties.
The Client acknowledges that Software, Documentation, codes, passwords etc. are confidential in nature and that Software and Documentation contain company secrets of U4, its suppliers and/or the Software manufacturer.
- 4.2. For the term of the Agreement as well as for a period of one (1) year following its termination, each of the Parties shall only be allowed to employ or, whether directly or indirectly, otherwise engage employees of the other Party who are or have been involved in

the implementation of the Agreement, with prior written approval from the other Party. No conditions can be attached to such approval.

5. Privacy, Data Processing and Security

- 5.1. If the Client requires U4 to process personal data on his behalf, then he shall be obliged to notify U4 to that effect in writing, in which case the Parties shall enter into a U4 processor's agreement.
- 5.2. If deemed of interest by U4 for the implementation of the Agreement, the Client shall, if so requested by U4, immediately inform U4 about the manner in which the Client fulfils his obligations within the framework of legislation in the area of personal data protection.
- 5.3. The Client indemnifies U4 against all claims from persons of whom personal data have been or are being processed within the framework of a procedure that is being performed by the Client or for which the Client is otherwise responsible by law, unless the Client is able to prove that the facts on which the claim is based can only be attributed to U4.
- 5.4. The responsibility for data processed by way of a service provided by U4 lies exclusively with the Client. The Client guarantees U4 that the contents, the use and/or the processing of the data are not unlawful and do not in any way infringe any right of a third party. The Client indemnifies U4 against all legal claims by third parties, of whatever nature, relating to those data or the implementation of the Agreement.
- 5.5. If U4 is obliged to provide a form of data protection under the Agreement, that protection shall comply with the specifications for protection as agreed between the Parties in writing. U4 can never guarantee the effectiveness of data protection under all circumstances. If the Agreement does not contain an explicitly described means of protection, then the protection shall comply with a level which, in view of the state of technology, the sensitivity of the data and the costs involved in providing protection, is not unreasonable.
- 5.6. If, in implementing the Agreement or otherwise, use is made of computer, data or telecommunications facilities, then U4 shall be entitled to designate access and identification

codes to the Client. U4 shall be entitled to change any designated access or identification codes. The Client shall handle the access and identification codes confidentially and prudently, and shall only disclose them to authorised employees. U4 shall never be liable for damages or losses resulting from the use or misuse of access or identification codes, unless that misuse occurred as a direct result of culpable conduct or neglect on the part of U4.

6. Retention of Title and Rights, Specification and Suspension

- 6.1. All Products delivered to the Client shall remain the property of U4 until all amounts payable by the Client to U4 under the Agreement or otherwise owed have been paid in full.
A Client acting as a retailer and with whom U4 has as such entered into a separate Agreement shall, insofar as consistent with his normal business operations, be allowed to sell and distribute Products which are subject to the retention of title of U4. If the Client (partly) develops a new product from Products supplied by U4, then that Product is developed exclusively for U4, and the Client shall keep the newly developed Product in custody for U4 until the Client has paid all amounts due under the Agreement or otherwise owed by him. U4 shall retain ownership of the newly developed Product until the moment when payment has been made by the Client in full.
- 6.2. The consequences under property law of the retention of title on a Product designated for export shall be governed by Dutch law.
- 6.3. All rights, including user rights, shall be granted to the Client subject to the condition that the Client has paid all amounts owed by him under the Agreement in full. If the parties have agreed a periodical payment obligation for the Client for the granting of a user right, then the Client shall be entitled to that user right to the extent that he fulfils his periodical payment obligation.
- 6.4. Within the framework of the Agreement, U4 may, regardless of any existing surrender or transfer obligation, hold in custody any received or developed Products, products, property rights, data, documents, Software, databases and (interim) results of the services of U4 until all amounts owed by the Client have been paid to U4 in full.

7. Risk and Claims

- 7.1. The risk of loss, theft, misappropriation, destruction or damage of Products, products, data, documents, Documentation, Equipment, Software, databases or data (codes, passwords, etc.) developed or used within the framework of implementation of the Agreement shall be transferred to the Client as from the moment when they pass to the Client or a servant or agent of the Client as soon as he comes into actual possession of them. To the extent that those objects are in the actual possession of U4 or servants or agents of U4, U4 shall bear the risk of loss, theft, misappropriation or damage.
- 7.2. If U4 takes out insurances at the request and expense of the Client within the framework of one or more Agreements, then the Client can never invoke any rights other than if the Client would have entered into the insurance agreement himself.
- 7.3. Claims must be submitted to U4 together with a detailed description of the grounds on which the claim is based in writing within a period of 8 days, failing which the Client shall be considered to have approved the implementation of the Agreement. The handling of a claim does not constitute an acknowledgement on the part of U4 of the timeliness or justification of that claim. Minor deviations in colour, measurements, finishing, quantity and quality which are customary in the business or technically unavoidable, can never constitute a ground for a claim.
- 7.4. The Client shall at all times be responsible for producing and providing legible copies of all files, data and data carriers. The Client is advised to take out all necessary insurances, such as a reconstruction insurance. The Client shall be responsible for the correct application within his organisation of Products, Equipment, Software, Documentation, other documents and services of U4 or its licensors and suppliers, as well as for the applicable administration and calculation methods and the protection of data.
- 7.5. The Client shall bear the risk of selection, use, application, installation, assembly, commissioning, configuration and management of Equipment, Software, databases and other products and materials within his organisation.

8. Intellectual Property

- 8.1. All intellectual property rights on Software, databases, Equipment, services or other materials, such as analyses, architecture and design, Documentation, reports, offers and relevant preparation materials developed or made available to the Client under the Agreement, shall be vested exclusively in U4, its licensors or its suppliers. The Client shall only be entitled to the user rights explicitly designated to him under the Agreement and these General Terms and Conditions of Delivery. Any right to which the Client is entitled is non-exclusive, non-perpetual, non-transferrable to third parties and non-sublicensable.
- 8.2. If U4 is willing to commit to the transfer of an Intellectual Property right, then such a commitment can only be effected explicitly in writing.
If the Parties agree to the transfer to the Client of an Intellectual Property right on Software, databases, Equipment or other materials developed specifically for the Client, then this shall not, whether or not for itself or for third parties, affect the entitlement of U4 to use and/or exploit the components, general principles, ideas, architecture and design, algorithms, Documentation, documents, works, programming languages, protocols, standards and the like on which that development is based for other purposes. The transfer of an Intellectual Property right shall not affect the right of U4 to create, whether for its own benefit or for third parties, developments similar to or deriving from those that have been or are being developed for the Client.
- 8.3. The Client shall be prohibited from removing or modifying any manifestation of the confidential nature of, or any Intellectual Property right on, Software, Documentation, databases, Equipment or materials.
- 8.4. Even if an Agreement does not provide an explicit authorisation to that effect, U4 shall be entitled to implement technical modifications for the protection of Software, Equipment, databases and the like in connection with an agreed limitation of the contents or duration of the right to use those objects. The Client shall never be permitted to remove or circumvent or arrange for the removal or circumvention of such technical provisions.

- 8.5. U4 indemnifies the Client against all claims from third parties based on the allegation that Software, databases, Equipment or other materials developed by U4 infringe the right of that third party, subject to the condition that the Client immediately notifies U4 of the existence and substance of the claim and leaves the case to be handled by U4, including reaching possible settlements, in which the Client shall grant U4 the necessary powers of attorney and information and extend every possible cooperation in conducting a defence against that claim, if necessary on behalf of the Client. This obligation to indemnify expires if the alleged infringement relates to (i) materials made available to U4 by the Client for use, processing, modification or incorporation, or (ii) modifications made to Software, databases, Equipment or other materials by the Client or by a third party on behalf of the Client without written permission from U4. If it is legally established that Software, databases, Equipment or other materials developed by U4 infringe any Intellectual Property right vested in a third party, or if U4 believes that there is a good chance that such an infringement will occur, then U4 shall, if possible, see to it that the Client is able to continue the use of the supplied or functionally similar other Software, databases, Equipment or materials. Any other or farther-reaching obligation to indemnify on the part of U4 is excluded.
- 8.6. The Client guarantees that no rights vested in third parties shall oppose the availability to U4 of Equipment, software, website-related materials (imagery, text, music, domain names, logos, hyperlinks, etc.), databases or other materials, including design material, for the purpose of use, processing, installation or incorporation (for example in a website). The Client indemnifies U4 against all claims by third parties based on the allegation that such availability, use, processing, installation or incorporation constitutes an infringement of any right vested in that third party.

9. Obligation to Cooperate

- 9.1. The Parties acknowledge that the success of work performed in the field of data and communications technology as a rule depends on proper and timely mutual cooperation. In order to enable the adequate implementation of the Agreement by U4, the

Client shall always provide U4 with all required data or information and extend to U4 all cooperation deemed useful, necessary and desirable.

If the Client, within the framework of extending cooperation in the implementation of the Agreement, engages his own personnel and/or servants or agents, then that personnel and those servants or agents shall possess all knowledge, expertise and experience necessary.

9.2. If the Client fails to provide U4 with the data, documents, Equipment, software, materials or employees deemed useful, necessary or desirable by U4, or fails to do so in time or in accordance with any agreement between them, or if the Client otherwise fails to fulfil any of his obligations, then U4 shall be entitled to fully or partially suspend implementation of the Agreement and also be entitled to charge all corresponding costs in accordance with its customary fees, all without prejudice to the right of U4 to exercise any of its other legal and/or agreed rights.

9.3. In the event that the employees of U4 are engaged in activities at the location of the Client, the Client shall, without charge, provide those employees with the facilities they reasonably require, such as a workspace with computer, data and telecommunications facilities. The workspace and facilities shall comply with all legal and other applicable working condition requirements. The Client indemnifies U4 against all claims from third parties, including employees of U4, who, in relation to the implementation of the Agreement, sustain damages resulting from acts or omissions on the part of the Client or resulting from unsafe situations within its organisation. The Client shall inform the employees assigned by U4 about the house rules and safety regulations of his organisation prior to commencement of the work.

9.4. If use is made of computer, data or telecommunications facilities within the framework of implementing the Agreement, then the Client shall be responsible for making the appropriate selection of required means and the timely availability of those means, with the exception of facilities falling under the direct use and management of U4. U4 shall never be liable for damages sustained or costs incurred due to transmission failures, breakdowns or the non-availability of

facilities, unless the Client is able to prove that those damages or costs are the result of deliberate intent or intentional recklessness on the part of the management of U4.

9.5. The Client shall be obliged to immediately notify U4 of any Software Errors discovered by him.

10. Delivery Periods

10.1. All (delivery)periods and (completion)dates specified or agreed by U4 shall be established to the best of knowledge on the basis of information known to it while entering into the Agreement. The (delivery)periods and (completion)dates specified or agreed between the Parties shall always serve as target dates, never be binding for U4 and always be indicative. If the Parties agree to a final (delivery)period or (completion)date in writing, then U4 shall not be bound to that agreement if the period or date in question cannot be met due to circumstances beyond the control of U4 which occur after the formation of the Agreement.

U4 shall not be bound to a (delivery)period or (completion)date, whether or not final, if the parties agree to an amendment of the substance or scope of the Agreement (additional work, change of specifications, etc.) or a change in the implementation of the Agreement. If any period threatens to be exceeded, U4 and the Client shall consult each other to discuss the relevant consequences in terms of planning. No exceeding shall ever give rise to liability for compensation on the part of U4.

10.2. The mere exceeding of a (delivery)period or (completion)date specified by U4 or agreed between the Parties, whether or not final, shall not give rise to default on the part of U4. In all cases, therefore also in the event that the Parties explicitly agree to a final (delivery)period or (completion)date, U4 shall only first be considered to be in default after the Client has given U4 written notice of default containing a reasonable term within which the shortcoming can be corrected, and U4 continues to be in default of compliance with its obligations after expiry of that term. Such a notice of default must to every possible extent contain a comprehensive and detailed description of the shortcoming, thereby enabling U4 to respond adequately.

11. Termination and Cancellation of the Agreement

11.1. Each Party shall be entitled to terminate the Agreement on account of an attributable shortcoming in the implementation of the Agreement if the other Party fails attributable in the fulfilment of essential obligations under the Agreement.

Termination shall only be possible following an as detailed notice of default as possible, containing a reasonable term within which the shortcoming can be corrected.

Payment obligations of the Client and all other obligations to cooperate on the part of the Client or a third party engaged by the Client shall always be considered essential obligations under the Agreement.

11.2. If the Client has already been rendered performance in the implementation of the Agreement at the moment of the termination referred to in article 11.1, that performance and the corresponding payment obligations can never be the subject of undoing, unless the Client is able to prove that U4 is in default in respect of an essential part of that performance. Amounts already invoiced by U4 prior to termination in connection with what it has already performed or delivered in the implementation of the Agreement, shall, with due regard for the provisions of the previous sentence, remain payable and fall due immediately as at the moment of termination.

11.3. If an Agreement, which due its nature and substance does not end by completion, is effected for an unspecified period of time, then each of the parties may cancel that agreement subject to mutual consultation and a statement of reasons. If no notice period has been agreed between the Parties, then a reasonable period for termination of the Agreement shall be allowed. The Parties shall never be liable for any form of compensation on account of termination.

11.4. The Client shall never be entitled to early termination of an Agreement which has been effected for a specified period of time, such as but not restricted to a service contract or an agreement for services.

11.5. Each of the Parties shall be entitled to immediately fully or partially terminate the Agreement without prior notice if the other Party, whether or not provisionally, is granted a moratorium, if a petition is filed for the bankruptcy of the other Party, if the other

Party is declared bankrupt, or if the business of the other party is liquidated or discontinued other than for the purpose of reconstructing or merging companies. U4 shall never be bound to the reimbursement of already received payments, nor to any compensation for damages as a result of termination. The right of the Client to use Software and the like made available to him by U4 shall expire by operation of law in the event of bankruptcy of the Client.

11.6. If the Agreement is nullified by a court on account of noncompliance with the provisions of the 'Netherlands Improving the Effectiveness of Review Procedures concerning the Award of Public Contracts Directive (Implementation) Act' (*WIRA*), then the Client shall, as a consequence of that nullification, be obliged to compensate U4 for the amount of the price agreed under that Agreement, unless U4 would benefit unfairly from that compensation.

12. Liability

12.1. The full extent of liability on the part of U4 on account of an attributable shortcoming in compliance with the Agreement or otherwise, explicitly also including each shortcoming in compliance with any of the warrantee obligations agreed with the Client, shall be limited to compensation for direct damages to a maximum of the price agreed for that Agreement (excluding VAT). This limitation of liability shall equally apply to the obligation to indemnify on the part of U4 referred to in article 8.5 of these General Terms and Conditions of Delivery.

If the Agreement principally constitutes a continuing performance contract with a term of more than one year, then the agreed price shall be set at the total of remunerations (excluding VAT) agreed for 1 year, being the year in which the damages occurred. The full extent of liability on the part of U4 for direct damages, caused for whatever reason, shall never amount to more than €500,000.00.

Direct damages are considered to be:

- a. all reasonable costs incurred by the Client to ensure that the performance by U4 complies with the Agreement; such damages shall not be compensated if the Agreement is terminated by or at the request of the Client;
- b. all reasonable costs incurred by the Client for being forced to maintain his old system(s) and the corresponding provisions

- he must make due to the fact that U4 has not delivered by a due date to which it is bound, less possible savings ensuing from such a delay;
- c. all reasonable costs incurred in ascertaining the cause and extent of the damages, to the extent that such an ascertainment relates to direct damages within the meaning of these General Terms and Conditions of Delivery;
- d. all reasonable costs incurred for the prevention or limitation of damages, to the extent that the Client is able to prove that those costs have led to the prevention or limitation of direct damages within the meaning of these General Terms and Conditions of Delivery.
- 12.2. The full extent of liability on the part of U4 for damages due to death or personal injury shall never amount to more than € 1,250,000.00 per incident, in which a series of connected incidents shall count as one incident.
- 12.3. Any liability on the part of U4 for indirect damages, consequential damages, loss of profit, loss of savings, reduced goodwill, losses due to business interruption, losses due to claims from customers of the Client, losses relating to the use by the Client of Products, materials and/or third party software prescribed by the Client to U4, and losses relating to the engagement by the Client of suppliers prescribed by the Client to U4, is explicitly excluded. Equally excluded is any liability on the part of U4 due to mutilation, destruction or loss of files, data, documents, other data carriers or data of the Client.
- 12.4. The exclusions and limitations of liability on the part of U4 set out in the foregoing paragraphs of article 12 do not in any way affect the other exclusions and limitations of liability on the part of U4 under these General Terms and Conditions of Delivery.
- 12.5. Unless compliance by U4 is rendered permanently impossible, any liability on the part of U4 due to attributable shortcoming in compliance with an Agreement can only arise if the Client immediately gives U4 notice of default, containing a reasonable term within which the shortcoming can be corrected, and if U4 continues to be in default of complying with its obligations after expiry of that term. The notice of default must to every possible extent contain a full and detailed description of the shortcoming, so that U4 is given the opportunity to respond adequately.
- 12.6. The establishment of any right to compensation for damages shall always be subject to the condition that the Client notifies U4 of those damages as soon as possible after they occur. Each claim for compensation for damages against U4 shall lapse by the mere passage of 24 months following inception of the claim.
- 12.7. The Client indemnifies U4 against all claims by third parties on account of product liability due to a defect in a product or system delivered to a third party by the Client and consisting of Equipment, Software or other materials supplied by U4, unless and to the extent that the Client proves that the damage was caused by that Equipment or Software or those other materials.
- 12.8. The provisions of this article 12, as well as all other exclusions and limitations of liability referred to in these General Terms and Conditions of delivery also apply in favour of all (legal) persons engaged by U4 for the implementation of the Agreement.
- 13. Force Majeure**
- 13.1. None of the Parties shall be bound to compliance with any obligation, including any guarantee obligation agreed between the Parties, if prevented from doing so due to a situation of force majeure. Force majeure is considered to include: (i) force majeure on the part of suppliers of U4, (ii) failure to correctly comply with obligations on the part of suppliers prescribed to the Client by U4, (iii) defective third party Products, Equipment, Software or materials, the use of which is prescribed to U4 by the Client, (iv) government measures, (v) power disruptions, (vi) Internet, computer network or communications facility disruptions, (vii) war, (viii) staffing establishment, (ix) strikes, (x) general transport problems, (xi) terrorism and (xii) unavailability of one or more employees.
- 13.2. If a situation of force majeure exceeds a period of 90 days, each of the Parties shall be entitled to terminate the Agreement in writing. Each performance already rendered under the Agreement shall in that case be settled proportionally, without any of the Parties being otherwise liable towards the other.

14. Modification and Additional Work

14.1. If U4 has performed work or rendered performance beyond the contents or scope of the agreed work and/or performance at the request of, or with prior permission from, the Client, then that work or that performance shall be compensated by the Client in accordance with the agreed fees and, in the absence of such an agreement, in accordance with the customary fees charged by U4. U4 shall never be bound to comply with such a request and may demand that a separate agreement be effected for the work or performance in question.

14.2. The Client accepts that the activities and performance referred to in this article 14 may affect the agreed or expected time of completion of services and the mutual responsibilities of the Client and U4. The fact that additional work is required for the implementation of the Agreement shall never constitute a ground for the Client on which to cancel or terminate the Agreement.

14.3. To the extent that a fixed price has been agreed for the services, U4 shall, if so requested, inform the Client about the financial consequences of the additional work or performance referred to in this article.

15. Service Level Agreement

15.1. A Service Level Agreement can only be established in writing. The Client shall always inform U4 about any circumstances that might affect the services and their availability. If such agreements are made, then the availability shall be measured without consideration for priorly announced decommissioning on account of maintenance or for circumstances beyond the sphere of control of U4, and with due consideration for the services as a whole during the term of the Agreement. Save for proof to the contrary, the availability as established by U4 shall serve as full proof.

16. Transfer of Rights and Obligations

16.1. U4 shall at all times, without prior notice or permission from the Client being required, be entitled to transfer all rights and obligations under any Agreement to a third party. Insofar that such permission or cooperation is required, it is granted in advance by the Client, and the Client hereby commits himself to extend every other cooperation necessary. The Client may only transfer his rights and

obligations under an Agreement subject to prior written approval from U4, the approval of which shall not be withheld on unreasonable grounds.

17. Term of the Agreement

17.1. Unless agreed otherwise between the Parties, the Agreement shall have a minimum term, effective as from its effective date up to and including the 31st of December of the 3rd year following its effective date. The term of the Agreement shall each time be tacitly extended for a period of one year, unless the Client or U4 terminate the Agreement in writing by registered post with due consideration for a notice period of 3 months prior to the end of the extension period in question.

18. Applicable Law and Disputes

18.1. The Agreements between U4 and the Client shall be governed by Dutch law. The applicability of the 1980 Vienna Sales Convention is explicitly excluded.

18.2. All disputes between the Parties shall be submitted to the competent court in Utrecht, the Netherlands. The Parties may jointly decide to submit a dispute to the Netherlands Foundation for the Settlement of Automation Disputes (*SGOA*) in The Hague (see www.sgoa.org) for judgment by arbitration.

18.3. In order to attempt an amicable solution to an existing or possible future dispute, each of the Parties shall be entitled to each time institute an ICT mediation in accordance with the ICT mediation rules of the Netherlands Foundation for the Settlement of Automation Disputes in The Hague. An ICT mediation under these rules is directed towards mediation by one or more mediators. This procedure shall not lead to any binding judgment for the Parties. Participation in this procedure is voluntary.

18.4. The Parties acknowledge that active and constructive participation in an ICT mediation constitutes a reasonable and fitting measure by which to prevent or limit imminent damages, in particular if the Client argues that the imminent damages in question relate to non-compliance, untimely compliance or improper compliance with any contractual obligation on the part of U4. The Client therefore commits himself to actively, immediately and unconditionally participate in an ICT mediation at the first written request of U4, in accordance with the ICT mediation rules of

the Netherlands Foundation for the Settlement of Automation Disputes (SGOA).

Chapter 2 Software User Rights

The provisions set out in this Chapter, Software User Rights, shall, in addition to the General Provisions of Chapter 1 of these General Terms and Conditions of Delivery, apply in the event that U4 allows the Client to use Software and provides corresponding services (whether or not described in any other Chapter of these General Terms and Conditions of Delivery) to the Client.

19. Definitions

- 19.1. **Object Code:** Software in an executable version intended for use.
- 19.2. **PIN Code:** a unique code issued by U4 for access to and the use of Software.

20. User Right

- 20.1. U4 grants the Client a user right on the Software and Documentation specified in the Agreement. Notwithstanding the provisions of Chapter 1, General Provisions, a user right on Software shall always be non-perpetual, non-exclusive, non-transferrable and non-sublicensable.
- 20.2. Unless agreed otherwise in writing, the obligation of U4 to grant the Client a user right shall extend exclusively to the Software Object Code. A user right granted to the Client does not extend to the Software source code. The Software source code and the technical documents generated during the development of the Software shall never be made available to the Client, not even if the Client is willing to pay for such availability.
- 20.3. Unless agreed otherwise in writing, U4 shall not be obliged to provide any other than the agreed Software or program or data libraries, not even if required for the use and/or maintenance of the Software. U4 shall at all times be entitled to transfer the Client from the agreed Software to other, similar, Software. U4 shall notify the Client of such a transfer in a timely manner. If, contrary to the foregoing, any other than the agreed Software and/or program or data libraries are made available by U4, then U4 may require the Client to enter into a relevant separate agreement and pay a different fee for that availability.
- 20.4. Unless agreed otherwise in writing, the performance obligations of U4 shall not extend to Software maintenance and/or user support.

Those activities and services shall, where applicable, be charged separately in accordance with the customary fees of U4.

21. Restrictions for Use

- 21.1. The Client shall at all times comply with the restrictions on use of the Software agreed between the Parties. The Client is aware that noncompliance with the agreed restrictions on use constitutes an attributable breach of the Agreement with U4 and an infringement of the Intellectual Property rights attached to the Software. The agreed restrictions on use may extend to, among other things:
 - the type of Equipment for which the Software is designated;
 - the maximum number of processing units for which the Software is designated;
 - specific persons, whether or not referred to with a name or function, within the organisation of the Client who are entitled to use the Software;
 - the maximum number of users, whether or not simultaneously, within the organisation of the Client who are entitled to use the Software;
 - the location where the Software may be used;
 - specific forms and purposes of use (e.g. for business or private purposes);
 - any other quantitative or qualitative restriction.

A user right can only be granted to the Client on Software specified in the Agreement and shall be subject to license restrictions, restrictions for use and other applicable conditions.

- 21.2. If the Parties have agreed that the Software may be used exclusively in combination with specific Equipment or a specific type of Equipment, then the Client shall in the event of a defect of the Equipment in question be entitled to use the Software in

- other Equipment of a similar type and model for the duration of the defect.
- 21.3. U4 may require that the Client refrain from using the Software until the Client has requested and obtained from U4, its supplier or the manufacturer of the Software, one or more codes (passwords, identity codes, etc.) required for its use. U4 shall at all times be entitled to take technical measures to protect the Software against unlawful use and/or against use in any manner other than for the purposes agreed between the parties.
- 21.4. The Client shall never remove, arrange for the removal of, circumvent or arrange for the circumvention of, technical provisions which are intended to protect the Software.
- 21.5. Unless agreed otherwise in writing, the Client may only use Software within and for the benefit of his own business or organisation, and only for its intended purpose. The user right shall only be granted for use by personnel directly employed by the Client. Personnel directly employed by the Client are also considered to include the employees of companies and institutions associated with the Client. Unless agreed otherwise in writing, the Client shall refrain from using Software to process data for third parties, such as time-sharing, application service provision, software as a service and outsourcing.
- 21.6. The Client shall be prohibited from selling, renting out, disposing of, alienating, granting any rights on or in any way or for whatever purpose making the Software, the carriers on which the Software is filed or the certificates of authenticity issued by U4, available to a third party.
- 21.7. If so requested, the Client shall extend every possible cooperation in any investigation conducted by or on behalf of U4 into compliance by the Client with the agreed restrictions on use. The Client shall, at the first request of U4, grant U4 access to his premises and systems. U4 shall observe due confidentiality in respect of all company information which it obtains from or at the location of the Client within the framework of such an investigation and which should be considered confidential.
- 21.8. If the user right is terminated, then the Client shall, except for in the event of Cloud services, be obliged to remove all Software from his Equipment and, immediately upon termination of the user right, make all Software and Documentation, including all copies thereof, available to U4 at its place of business.
- 21.9. If the user right is terminated, then U4 shall, at the request of the Client, for a limited term and under (financial) conditions yet to be established by U4, be entitled but not obliged to grant the Client a viewing license for the Software.
- 21.10. In the event of noncompliance with any of the provisions of this article 21, the user right of the Client shall, if the Client continues to be in default after being given notice of default in which a reasonable term for compliance has been stated, be terminated with immediate effect, and the Client shall incur a penalty immediately due to U4 to the amount of €100,000,00, without prejudice to any other right of U4, including the right to demand compliance and/or full compensation from the Client.
- 22. Delivery and Installation**
- 22.1. U4 shall, whether or not by means of telecommunications facilities (online), deliver the Software to the Client in the agreed data carrier format or, in the absence of clear relevant arrangements, in a data carrier format designated by U4. The moment and method of delivery shall be determined by U4.
- 22.2. Only if explicitly so agreed between the Parties in writing shall U4 install the Software at the location of the Client. If so requested by U4, the Client shall be obliged to extend every possible cooperation towards installation by U4 in respect of licenses which are required for the installation of the Software supplied by U4. In the absence of relevant arrangements, the Client shall install, configure, parameterise and tune the Software himself, as well as, if necessary, modify the used Equipment and user environment and perform a data conversion.
- 23. Acceptance Test and Acceptance**
- 23.1. If the Parties have not agreed to run an acceptance test, then the Client shall accept the Software in the state in which it was found at the moment of delivery (as is), and therefore with all visible and hidden Errors and flaws.

- 23.2. If the Parties have agreed to run an acceptance test, then the provisions of articles 23.3 up to and including 23.10 shall be applied.
- 23.3. The Client shall be obliged to immediately notify U4 of any Error(s) found in the Software.
- 23.4. If an acceptance test has been agreed, then the testing period shall, unless agreed otherwise in writing, amount to 14 days as from the delivery date or, if an installation by U4 has been agreed in writing, as from the date of completion of the installation. During the testing period, the Client shall be prohibited from using Software for productive or operational purposes. The Client shall run the acceptance test on the Software with sufficient qualified personnel and with sufficient scope and depth, and subsequently clearly and comprehensively report the results to U4 in writing.
- 23.5. If an acceptance test has been agreed, then the Client shall, under his exclusive responsibility, verify whether the delivered Software complies with the functional and/or technical specifications issued by U4 and, if the Software in question is entirely of partially Customised Software, with the functional and technical specifications agreed between the Parties in writing. Unless agreed otherwise in writing, the support provided by U4 in running an acceptance test shall be entirely at the risk and expense of the Client. U4 shall be entitled to attach specific (financial) conditions to the provision of such support.
- 23.6. The Software shall be considered accepted by both Parties if:
- a. the Parties have not agreed to an acceptance test: upon delivery or, if an acceptance test has been agreed, upon completion of the installation, or;
 - b. the Parties have agreed to an acceptance test: on the first day following the testing period, or;
 - c. if U4 receives the test report referred to in article 23.7 prior to the end of the testing period: As from the moment when the Errors specified in the test report have been corrected, notwithstanding the presence of flaws which do not impede acceptance under article 23.8.
- Contrary to the foregoing, the Software shall, if used by the Client for productive or operational purposes prior to its explicit acceptance, be considered fully accepted as from the moment of that use.
- 23.7. If it is established during the agreed acceptance test that the Software contains Errors, then the Client shall notify U4 of those Errors by means of a detailed written test report by no later than the last day of the testing period. U4 shall make every possible effort to correct the Errors in question within a reasonable period of time, in which U4 shall be entitled to apply temporary solutions, program diversions or problem-avoiding limitations in the Software.
- 23.8. The acceptance of the Software may not be withheld on any ground which is not related to the specifications explicitly agreed between the Parties, nor on account of the existence of Minor Errors. Furthermore, acceptance may not be withheld on account of aspects of the Customised Software which can only be judged subjectively, such as aesthetic aspects and aspects relating to the architecture of user interfaces.
- 23.9. If the Software is delivered and tested in stages and/or components, then the non-acceptance of a specific stage and/or component shall not in any way affect the acceptance of an earlier stage and/or a different component.
- 23.10. The acceptance of Software in accordance with this article 23 shall constitute a discharge of U4 for compliance with its obligations regarding the availability and delivery of the Software and, if installation by U4 has been agreed in the case in question, with its obligations regarding the installation of the Software.
- 24. Remuneration**
- 24.1. A user right is obtained for the duration of the Agreement against payment of an initial price for that user right and, periodically, payment for that user right, maintenance and support. The Client shall also be obliged to pay a fee for the maintenance of all other services specified in the Agreement.
- 24.2. U4 shall only first make the Software and, if applicable, the corresponding (PIN)code and Documentation available to the Client upon receipt of payment of the initial price

of the user right and the periodical amounts owed.

If the Client fails to comply with any obligation under the Agreement, then U4 shall at all times be entitled to withhold and/or block the (PIN)code.

- 24.3. Unless agreed otherwise in writing, the initial price and the (user right) payments agreed between the Parties shall fall due on the dates agreed between the Parties or, in the absence of an agreed date:
- a. if the Parties have not agreed for U4 to install the Software: upon delivery of the Software or, in case of periodically owed (user right)payments, upon delivery of the Software and subsequently at the beginning of each new period for which the user right is granted;
 - b. if the Parties have agreed for U4 to install the Software: upon completion of the installation of the Software or, in case of periodically owed (user right)payments, upon completion of the installation of the Software and subsequently at the beginning of each new period for which the user right is granted;
- 24.4. Unless agreed otherwise in writing, U4 shall be under no obligation to install and modify the Software.
If, contrary to the foregoing, U4 also carries out the installation or activities relating to the modification of the Software, then U4 may require the Client to enter into a relevant separate agreement. These activities shall in in those cases be charged separately in accordance with the customary fees of U4.

25. Software Modification

- 25.1. Unless agreed otherwise in writing, the Client shall not be entitled to fully or partially modify Software without prior written approval from U4. U4 shall at all times be entitled to deny approval or to subject its approval to specific conditions, including conditions relating to the manner and quality of implementation of the modifications desired by the Client.
- 25.2. The Client shall bear full responsibility for all modifications made by or at the request of the Client, whether or not with the approval of U4.

26. Guarantee

- 26.1. U4 guarantees that the Software made available to the Client shall comply with the written specifications issued to the Client by U4 for the duration of the maximum guarantee period of 90 days. This guarantee applies solely to the initial delivery and shall therefore not be extended or renewed by the delivery of additional Software. U4 does not guarantee that the Software made available to the Client is suitable for the actual and/or intended use by the Client. U4 does not guarantee that the Software is without Errors or flaws or that all Errors will always be corrected.
- 26.2. U4 shall make every possible effort to correct Errors in the Software within a reasonable period of time in accordance with arrangements to be made with the Client.
- 26.3. The correction of Errors shall take place at a location designated by U4. U4 shall at all times be entitled to implement temporary solutions or introduce program diversions or problem-avoiding limitations in the Software.
- 26.4. U4 shall never be obliged to recover mutilated or lost data, unless the mutilation or loss is the result of deliberate intent or intentional recklessness on the part of U4.

27. Termination of the Agreement

- 27.1. Immediately upon expiry of the user right on the Software, the Client shall return to U4 all copies of the Software and all Documentation which it holds in its possession. If the Parties have agreed on the destruction of the copies in question by the Client prior to termination of the Agreement, then the Client shall immediately notify U4 of such destruction having taken place. Unless explicitly agreed otherwise in writing, U4 shall be under no obligation to support the Client in any data conversion desired by the Client after expiry of the user right.

28. Third Party Software

- 28.1. If and to the extent that third party Software is made available to the Client by U4, that Software shall, to the exclusion of any conditions to the contrary in these General Terms and Conditions of Delivery, be subject to the (licensing)conditions of those third parties. The Client accepts the

aforesaid conditions of third parties handed over by U4 or otherwise issued to the Client. Those conditions are also available for inspection by the Client at the offices of U4, a copy of which shall be made available to the Client without charge at his request. If and insofar that the third party conditions

in question are, for whatever reason, considered non-applicable or declared non-applicable to the relationship between the Client and U4, the provisions of these General Terms and Conditions of Delivery shall be applied in full.

Chapter 3 Software Maintenance

The provisions set out in this Chapter, Software Maintenance, shall, in addition to the General Provisions of Chapter 1 and, if relevant the provisions of Chapter 2 of these General Terms and Conditions of Delivery, be applied in the event that U4 provides services relating to Software maintenance and support for the use of Software.

29. Maintenance Contract

- 29.1. This Chapter contains provisions for the maintenance tasks specified in the Agreement entered into with the Client.
- 29.2. The Client guarantees that the Software shall be used for its intended purpose by expert personnel. If he calls on U4 for support, then the Client shall see to it that his employees follow the required product training.
- U4 shall be entitled to charge the Client the costs of activities ensuing from insufficient professionalism on the part of employees of the Client in accordance with its customary fees.

30. Maintenance

- 30.1. If so agreed, then U4 shall perform the maintenance of the Software agreed between the Parties in the Agreement. The maintenance obligation comprises the correction of Software Errors in accordance with article 31 and the provision of new Software versions in accordance with article 32, exclusively and to the extent that this has been agreed in writing and subject to the availability of such new versions. U4 reserves the right to have the correction of Errors coincide with the provision of a new Software version.
- 30.2. Unless agreed otherwise in writing, U4 shall be under no obligation to perform any data conversion.
- 30.3. If the maintenance performed by U4 also includes the provision of support to Software users under the Agreement, then U4 shall consult the users on the use and functioning of the Software specified in the Agreement by telephone or by e-mail.

U4 shall be entitled to set specific conditions for the qualifications and number of contact persons eligible for support. U4 shall handle all well-substantiated requests for support within a reasonable period of time in accordance with its customary procedures. U4 does not guarantee the correctness, completeness or timeliness of responses or support. Support shall exclusively be provided on working days during the normal office hours of U4 (from 9.00 a.m. to 05.00 p.m.).

- 30.4. If maintenance by U4 also includes the provision of Stand-by services under the Agreement, then U4 shall keep one or more employees available during the days and times specified in the Agreement, in which case the Client shall, in the event of an emergency or urgency, be entitled to call on the support of the available employees if a serious Software malfunction has occurred. U4 does not guarantee the timely remedy of all malfunctions.

31. Maintenance Performance

- 31.1. U4 shall perform all maintenance with due care and, where applicable, in accordance with specific written arrangements and procedures. All maintenance by U4 shall be performed on the basis of a best efforts obligation, unless and to the extent that a result has explicitly been guaranteed by U4 and that result is sufficiently determinable.
- 31.2. The Client shall report any Errors discovered in the Software in detail. Upon receipt of the report, U4 shall, in accordance with its customary procedures, make every effort to correct the Error(s) in question and/or improve subsequent new Software

versions. The results shall, depending on their urgency, be made available to the Client in a manner and within a period to be determined by U4. U4 shall be entitled to implement temporary solutions or introduce program diversions or problem-avoiding limitations in the Software. In the absence of explicit relevant arrangements, the Client shall install, configure, parameterise and tune the Software or the new version of the Software himself and, if necessary, modify the used Equipment and user environment. U4 does not guarantee that the Software will function without interruption, Errors or flaws or that all Errors can always be corrected.

- 31.3. If U4 performs maintenance online, then the Client shall see to the timely provision of an adequate infrastructure and telecommunications facilities. U4 shall be entitled to suspend or limit maintenance if the infrastructure and telecommunications facilities provided by the Client do not comply with the requirements specified by U4.
- 31.4. If so requested by U4, the Client shall extend every possible cooperation to enable the maintenance, including temporarily refraining from using Software if so required by U4. If the requested cooperation is not extended, then U4 shall be entitled to suspend or limit the maintenance. If U4 performs maintenance on the basis of data provided by the Client, then the data in question shall be prepared and submitted by the Client in accordance with the conditions set by U4 and at the risk and expense of the Client. The Client guarantees that all material, data, computer programs, procedures and instructions made available to U4 to enable the maintenance are always correct and complete, and that all data carriers made available to U4 comply with the specifications of U4.
- 31.5. If the Parties have explicitly agreed that the maintenance is intended for software which was not delivered to the Client by U4, the Client shall, if considered useful, necessary or desirable by U4 in view of that maintenance, make the source code and the technical (development)documents of that software (including data models, architecture and design, change logs, etc.) available to U4. The Client guarantees that

he is authorised to make the foregoing data available to U4 and that this is not incompatible with any right vested in a third party. The Client grants U4 the right to use and modify the Software, including the source code and technical (development)documents within the framework of the agreed maintenance. The Client indemnifies U4 against all claims from third parties relating to anything made available to or used by U4 within the framework of maintenance.

- 31.6. Maintenance performed by U4 shall not in any way affect the responsibility of the Client for managing the Software, including the inspection of settings, the use of the Software and the manner in which the results from the use of the Software are implemented. The Client shall also be responsible for the instructions given to and the use by users, regardless of whether those users are involved a relationship of authority with the Client. In the absence of relevant arrangements, the Client shall install, configure, parameterise and tune the Software and auxiliary computer programs himself, as well as, if necessary, modify the used Equipment, other Software and user environment and accomplish the interoperability desired by the Client.

32. New Software Versions

- 32.1. The maintenance shall comprise the provision of new Software versions, exclusively and to the extent agreed on in writing and subject to availability. If the maintenance includes the provision of new Software versions, then those versions shall be made available at the discretion of U4.
- 32.2. Unless agreed otherwise in writing, U4 shall only provide support and/or maintenance for a previous version of newly released Software versions.
- 32.3. U4 may require the Client to pay a new fee for the availability of an new version featuring similar options and functions. U4 shall be entitled to take over the functionality of a previous Software version without changes, but does not guarantee that each new version offers the same functionality as the previous version. U4 shall not be obliged to maintain, adjust or add Software properties or functionalities especially for the Client.

- 32.4. U4 may require the Client to modify his system (Equipment, software, etc.) if considered necessary for the proper functioning of a new Software version.
- 33. User support**
- 33.1. If so agreed between the Parties, then the Client shall be entitled to support in the use of Software.
- 33.2. U4 shall in that case be obliged to answer questions relating to the use of that Software. U4 cannot guarantee that it will always be able to immediately provide user support or answer questions.
- 33.3. U4 shall be entitled to charge the Client its customary prices and fees for the provision of services which exceed the answering of questions relating to the use of Software.
- 33.4. If U4 considers the knowledge of the Client insufficient for the provision of user support, then U4 shall be entitled to discontinue or suspend the provision of user support.

34. Termination of the Agreement

- 34.1. If, for whatever reason, the user right expires, then the maintenance shall be discontinued. The discontinuation of maintenance, for whatever reason, shall automatically expire the user right, in which case the Client may extend the user right subject to specific (financial) conditions set by U4.
If the user right expires or maintenance is discontinued, then the Client shall still be obliged to pay all amounts owed for the remaining term of the Agreement. The Client shall then also be obliged to comply with all of his other obligations, including the obligation referred to in article 21.8.
- 34.2. Advance payments or periodical user right fees and maintenance charges invoiced in

advance shall not be reimbursed or credited to the Client by U4.

35. Payment

- 35.1. In the absence of an explicitly agreed invoicing schedule, all amounts relating to Software maintenance and other services possibly specified in the Agreement must always be paid in advance per calendar month.
- 35.2. Amounts relating to Software maintenance and other services possibly specified in the Agreement shall be due as from the effective date of the Agreement. All payments for maintenance and other services possibly specified in the Agreement shall be due regardless of whether the Client has used or uses Software or makes use of maintenance services.

36. Third Party Maintenance

- 36.1. If maintenance is performed in accordance with the conditions of third parties, then those conditions shall, to the exclusion of all provisions to the contrary in these General terms and Conditions of Delivery, be applied to that maintenance. The Client accepts the aforesaid conditions of third parties handed over by U4 or otherwise issued to the Client. Those conditions are also available for inspection by the Client at the offices of U4, a copy of which shall be made available to the Client without charge at his request. If and insofar that the third party conditions in question are, for whatever reason, considered non-applicable or declared non-applicable to the relationship between the Client and U4, the provisions of these General Terms and Conditions of Delivery shall be applied in full.

Chapter 4 Customised Software Development

The provisions set out in this Chapter, Customised Software Development, shall, in addition to the General Provisions of Chapter 1 and the provisions of Chapters 2 and 3 of these General Terms and Conditions of Delivery, be applied in the event that U4 develops Customised Software, however named, and provides corresponding services.

37. Customised Software Specifications

- 37.1. If no Customised Software specifications or architecture have been submitted to U4 by

or on behalf of the Client prior to the effective date of the Agreement, then the Parties shall consult each other for the purpose of drafting a written specification as to which Customised Software should be developed and the manner in which that development should take place. The Parties mutually acknowledge that a good cooperation and good mutual communication are of crucial importance to the correct specification, architecture and development of Customised Software. The Parties shall to every possible extent mutually cooperate and communicate with due regard for the project organisation, arrangements and/or procedures agreed between the Parties in writing.

- 37.2. The Client at all times guarantees the correctness, completeness and consistency of all data, specifications and architecture made available to U4, including all data, specifications and designs from third parties. The consequences of inaccuracies, incompleteness and/or inconsistencies shall always be at the risk and expense of the Client.
- 37.3. U4 shall be entitled but not obliged to verify the correctness, completeness and consistency of the data, specifications and architecture made available to it and, in the event that a flaw is found, to suspend the agreed work until the Client has corrected the flaw in question. The Client commits himself to always as soon and as completely as possible notify U4 of any flaw in the proposed Customised Software of which he is aware.
- 37.4. If the Parties apply a development method which is based on the principle that the architecture and/or development of Customised Software components is subject to the further prioritisation of specifications whilst the Agreement is being implemented, then that prioritisation shall always be established by agreement between the parties.

38. Customised Software Development

- 38.1. U4 shall develop the Customised Software with due care, with due consideration for its specifications and architecture and, where applicable, with due consideration for the project organisation, methods, technologies, arrangements and/or procedures agreed with

the Client in writing. Before commencing development, U4 may require from the Client that he fully and unconditionally accepts the specifications or the architecture in writing. U4 shall be entitled to suspend all work until the moment when the Client has fully and unconditionally accepted the specifications or the architecture in writing.

- 38.2. The development activities on the part of U4 shall always be performed on the basis of a best efforts obligation, unless and to the extent that a result has explicitly been guaranteed by U4 in the Agreement and that result is sufficiently determinable.
- 38.3. If it has been agreed that the development of Customised Software is to be implemented in stages, or if U4 applies a development method which is based on a phased implementation, then U4 shall be entitled to postpone the provision of all services forming a part of a phase until the results of the preceding phase have been approved by the Client in writing.
- 38.4. Unless agreed otherwise in writing, U4 shall be under no obligation to implement any instructions given by the Client during the course of development. U4 shall be under no obligation to implement any instructions due to which the substance or scope of the performance obligations of U4 are changed or supplemented. If such instructions are nevertheless implemented, then the work in question shall be compensated in accordance with the customary fees charged by U4.
- 38.5. If an Agreement for the development of Customised Software has been effected in view of implementation by one or more specific persons, then U4 shall always, upon consultation with the Client and at a date to be determined by U4, be entitled to replace that person/those persons by one or more other persons with equivalent qualifications.
- 38.6. If so requested, the Client shall enable U4 to perform the work outside the customary working days and hours at the offices or on the premises of the Client.

39. Delivery and Installation

- 39.1. U4 shall deliver the Customised Software to the Client, whether or not by means of telecommunications facilities (online), on the agreed data carriers and in the agreed data carrier format. The moment and

- method of delivery shall be at the discretion of U4.
- 39.2. Only if explicitly so agreed between the Parties in writing shall U4 install the Customised Software at the location of the Client. In the absence of explicit relevant arrangements, the Client shall install, configure, parameterise and tune the Software himself, as well as, if necessary, modify the used Equipment and user environment. Unless agreed otherwise in writing, U4 shall be under no obligation to perform any data conversion.
- 40. Acceptance Test and Acceptance**
- 40.1. If the Parties have not agreed to run an acceptance test, then the Client shall accept the Customised Software in the state in which it was at the moment of delivery (as is), and therefore with all visible and hidden Errors and faults.
- 40.2. If the Parties have agreed to an acceptance test, then the provisions of articles 40.3 up to and including 40.10 shall be applied.
- 40.3. The Client shall be obliged to immediately notify U4 of any Error(s) in the Customised Software.
- 40.4. If an acceptance test has been agreed, then the testing period shall, unless agreed otherwise in writing, amount to 14 days as from the delivery date or, if an installation by U4 has been agreed in writing, as from the date of completion of the installation. During the testing period, the Client shall be prohibited from using Software for productive or operational purposes. The Client shall run the acceptance test on the (interim) results of the development activities with sufficient qualified personnel and with sufficient scope and depth, and report the test results to U4 in writing in a clear and comprehensible manner.
- 40.5. If an acceptance test has been agreed, then the Client shall be obliged under his full and exclusive responsibility to verify whether the delivered Customised Software complies with the functional and/or technical specifications agreed between the Parties in writing. Unless agreed otherwise in writing, the support provided by or on behalf of U4 in running an acceptance test shall be entirely at the risk and expense of the Client.
- 40.6. The Customised Software shall be considered accepted by both Parties if:
- a. the Parties have not agreed to run an acceptance test: upon delivery or, if an acceptance test has been agreed, upon completion of the installation, or;
 - b. the Parties have agreed to an acceptance test: on the first day following the testing period, or;
 - c. if U4 receives the test report referred to in article 40.7 prior to the end of the testing period: as from the moment when the Errors specified in the test report have been remedied, notwithstanding the presence of flaws which do not impede acceptance under article 40.8. Contrary to the foregoing, the Customised Software shall, if used by the Client for productive or operational purposes prior to its explicit acceptance, be considered fully accepted as from the moment of that use.
- 40.7. If it is established during the agreed acceptance test that the Customised Software contains Errors, then the Client shall notify U4 of those Errors by means of a detailed written test report by no later than the last day of the testing period. U4 shall make every possible effort to remedy the aforesaid Errors within a reasonable period of time, in which U4 shall be entitled to implement temporary solutions or introduce program diversions or problem-avoiding limitations in the Customised Software.
- 40.8. The acceptance of the Customised Software may not be withheld on any ground which is not related to the specifications explicitly agreed between the Parties, nor on account of the existence of Minor Errors. Furthermore, acceptance may not be withheld on account of aspects of the Customised Software which can only be judged subjectively, such as aesthetic aspects and aspects relating to the architecture of user interfaces.
- 40.9. If the Customised Software is delivered and tested in phases and/or components, then the non-acceptance of a specific phase and/or component shall not in any way affect the possible acceptance of an earlier phase and/or a different component.
- 40.10. The acceptance of Customised Software in accordance with this article 40 shall constitute a discharge of U4 for compliance with its obligations regarding the

availability and delivery of Software and, if installation by U4 has been agreed in the case in question, with its obligations relating to the installation of the Customised Software.

41. User Right

- 41.1. Customised Software and all corresponding Documentation developed at the request of the Client shall be made available to the Client by U4 for the duration of the Agreement.
Notwithstanding the provisions of Chapter 1, General Provisions, the right to use the Customised Software shall always be non-perpetual, non-exclusive, non-transferrable and non-sublicensable.
- 41.2. Only if and insofar as so agreed in writing shall the source code of the Customised Software and the technical documents generated during the development of the Customised Software be made available to the Client, in which case the Client shall be entitled to make changes to that Customised Software. If U4 is issued a court order to make the source code and/or technical documents available to the Client, then U4 shall be entitled to charge the Client reasonable compensation for that availability.
- 41.3. Unless agreed otherwise in writing, U4 shall be under no obligation to make any auxiliary computer programs and program or data libraries available other than those required for the use and/or maintenance of the Customised Software. If, contrary to the foregoing, U4 also makes auxiliary computer programs and/or program or data libraries available, then U4 may require the Client to enter into a relevant separate agreement.
This availability shall, where applicable, be charged separately in accordance with the customary fees of U4.
- 41.4. Unless agreed otherwise in writing, the performance obligations of U4 shall not extend to the maintenance of the Customised Software and/or the provision of Customised Software support to users. These activities and services shall, where applicable, be charged separately in accordance with the customary fees of U4.

42. Restrictions for Use

- 42.1. If the contents of the Agreement explicitly state that all architectural and development costs are borne fully and exclusively by the Client, then no user right restrictions shall be apply with regard to the Customised Software developed at the request of the Client, notwithstanding the other provisions of these General Terms and Conditions of Delivery, including the provisions of article 42.6.
- 42.2. If user restrictions have been agreed between the Parties, then the Client shall at all times comply with the agreed restrictions on the right to use the Customised Software. The Client is aware that noncompliance with the agreed restrictions on use constitutes an attributable breach of the Agreement with U4 and an infringement of the Intellectual Property rights attached to the Customised Software. The agreed restrictions on use can extend to, among other things:
- the type of Equipment for which the Customised Software is meant;
 - the maximum number of processing units for which the Customised Software is meant;
 - specific persons - whether or not referred to with a name or function - within the organisation of the Client who are entitled to use the Customised Software;
 - the maximum number of users - whether or not simultaneously - within the organisation of the Client who are entitled to use the Customised Software;
 - the location at which the Customised Software may be used;
 - specific forms and purposes of use (e.g. use for business or private purposes);
 - any other quantitative or qualitative restriction.
- 42.3. If the Parties have agreed that the Customised Software may be used exclusively in combination with specific Equipment or a specific type or model of Equipment, then the Client shall in the event of a defect of that Equipment be entitled to use the Customised Software in other Equipment of a similar type and model for the duration of the defect.
- 42.4. U4 may require that the Client refrain from using the Customised Software until the Client has requested and obtained from U4, its supplier or the manufacturer of the

- Customised Software, one or more codes (passwords, identity codes, etc.) required for its use.
- 42.5. The Client shall never remove, arrange for the removal of, circumvent or arrange for the circumvention of, technical provisions which are intended to protect the Customised Software.
- 42.6. Unless agreed otherwise in writing, the Client may use the Customised Software exclusively in and for the benefit of his own business or organisation, and only for its intended purpose. The user right shall only be granted for use by personnel directly employed by the Client. Personnel directly employed by the Client are also considered to include the employees of companies and institutions associated with the Client. Unless agreed otherwise in writing, the Client shall refrain from using the Customised Software to process data for third parties, such as time-sharing, application service provision, software as a service and outsourcing.
- 42.7. The Client shall be prohibited from selling, renting out, disposing of, alienating, granting any rights on or in any way or for whatever purpose making the Customised Software, the carriers on which the Customised Software is filed or the certificates of authenticity issued by U4, available to a third party. The Client shall furthermore be prohibited from granting any third party access to the Customised Software or transferring the Customised Software programs to a third party for hosting services, not even if the third party in question intends to use the Customised Software exclusively for the benefit of the Client.
- 42.8. If so requested, the Client shall immediately extend every possible cooperation in any investigation conducted by or on behalf of U4 into compliance by the Client with the agreed restrictions on use. The Client shall, at the first request of U4, grant U4 access to his premises and systems. U4 shall observe due confidentiality in respect of all company information which it obtains from or at the location of the Client, to the extent that that information does not constitute the use of the Customised Software itself.

43. Termination of the Agreement

- 43.1. Immediately upon expiry of the right to use the Software, the Client shall return all copies of the Customised Software which it holds in its possession back to U4. If the Parties have agreed on the destruction of the copies in question by the Client upon termination of the Agreement, then the Client shall immediately notify U4 of such destruction having taken place. U4 shall be under no obligation to support to the Client in any data conversion desired by the Client after expiry of the user right.

44. Remuneration for Development Work

- 44.1. In the absence of an explicitly agreed invoicing schedule, all amounts relating to the development of Customised Software must always be paid per calendar month in arrears. U4 may at all times require payment in advance.
- 44.2. Unless agreed otherwise in writing, the price for development work also includes payment for the right to use the Customised Software.
- 44.3. Unless agreed otherwise in writing, the price for developing Customised Software does not include payment for the auxiliary computer programs and program and data libraries required by the Client or possible installation services for, or modifications or maintenance of, the Customised Software. The provision of support for the use of the Customised Software is also not included in the price or payment for the user right. These activities and services shall, where applicable, be charged separately in accordance with the customary fees of U4.

45. Customised Software Modification

- 45.1. Unless agreed otherwise in writing, the Client shall be prohibited from entirely or partially modifying the Customised Software without prior approval from U4. U4 shall at all times be entitled to deny such approval or to subject its approval to specific conditions, including conditions relating to the manner and quality of implementation of the modifications desired by the Client.
- 45.2. The Client shall bear full responsibility for all modifications made by the Client or by third parties at the request of the Client, whether or not with the approval of U4.

46. Guarantee

- 46.1. U4 guarantees that the Customised Software made available to the Client shall comply with the written specifications issued to the Client by U4 for the duration of the maximum guarantee period of 90 days. This guarantee only applies to the initial delivery. U4 does not guarantee that the Customised Software will function without interruption, Errors or other flaws or that all Errors or flaws will always be corrected.
- 46.2. U4 shall make every possible effort to correct Errors in the Customised Software within a reasonable period of time in

accordance with arrangements to be made with the Client.

- 46.3. The correction of Errors shall take place at a location designated by U4. U4 shall at all times be entitled to implement temporary solutions or introduce program diversions or problem-avoiding limitations in the Customised Software.
- 46.4. U4 shall never be bound to recover mutilated or lost data, unless the mutilation or loss is the result of deliberate intent or intentional recklessness on the part of U4.

Chapter 5 Cloud Services

The provisions set out in this Chapter, Cloud Services, shall, in addition to the General Provisions set out in Chapter 1 and, if relevant, the provisions of Chapters 2 and 3 of these General Terms and Conditions of Delivery, be applied in the event that U4 provides services under the name or in the field of Cloud services.

47. Definitions

Cloud service(s): the paid provision and maintenance of online services (such as SaaS, Hosting and maintenance) to the Client via the Internet or other network.

SaaS (software as a Service): Cloud service for the availability and continued use of Customised Software to and by the Client via the Internet or other network, in which the Client is not provided with a physical carrier for the Customised Software in question.

Availability: the period during which the Client actually has access to the Cloud service.

User: a client and/or his employee(s) (natural person) who actually make use of the Cloud service.

Hosting: the online provision by U4 to the Client of disc space in its systems or the outsourcing by U4 to a third party of the online provision of disc space in the systems of a third party.

Device: an application to be installed by the User on his computer to make use of the Software.

Personal data: each registered detail relating to a natural person for the use of the Cloud service by means of which he or she can be directly or indirectly identified, in

particular on the basis of one or more specific elements that are characteristic of his or her physical, physiological, mental, economic, cultural or social identity.

Portal: the Internet access point where the Client and User can use the Cloud service and apply for changes.

Server: A computer managed by or for U4, containing Software, auxiliary programs and/or database software, which can be accessed via the Internet or by means of a private network connection.

Access method: The means by which to gain access to the Portal, Server and the Software and/or storage capacity, such as a token or a combination of an access code and a user name.

48. Cloud Services

- 48.1. U4 shall provide the Cloud service(s) and other services agreed on between the Parties in accordance with the Agreement. However, U4 shall not be responsible for the purchase and/or proper functioning of the infrastructure of the Client or that of third parties.
- 48.2. Unless otherwise agreed in writing, the Client shall be responsible for the management, including inspection of the settings, the use of the Cloud service and

the manner in which the results of the Cloud service are implemented. The Client shall also be responsible for the availability and functioning of all Devices that are required for access to and the use of the Cloud service(s), including but not restricted to the (auxiliary)equipment and software, auxiliary applications, configuration and internet connection to be used by the Client, all of which must comply with the technical and functional specifications issued by U4. The Client shall also be responsible for the instructions given to and the use by Users, regardless of whether those Users are involved a relationship of authority with the Client. Unless agreed otherwise between the Parties in writing, the Client shall install, configure, parameterise and tune the necessary (auxiliary)computer programs on his own Equipment himself and, if necessary, modify the used Equipment, other (auxiliary)computer programs and the user environment and accomplish the interoperability desired by the Client. The Client is responsible for maintaining a connection to the power grid and for other connections required for access to and use of the Cloud service.

- 48.3. Unless agreed otherwise in writing, U4 shall be under no obligation to perform any data conversion.
- 48.4. If, under the Agreement, the Cloud services rendered to the Client also include the provision of support to Users, then U4 shall consult the Users on the use and functioning of the Software and the Cloud services specified in the Agreement by telephone or by e-mail. U4 shall be entitled to set specific conditions for the qualifications and number of contact persons eligible for support. U4 shall handle all well-substantiated requests for support within a reasonable period of time. U4 cannot guarantee the correctness, completeness or timeliness of responses or support. Unless agreed otherwise in writing, support shall exclusively be provided on working days during the normal office hours of U4 (from 9.00 a.m. to 05.00 p.m.).
- 48.5. If, under the Agreement, the Cloud services rendered to the Client also include the creation of back-ups of data of the Client, then U4 shall, with due regard for the periods agreed between the Parties in

writing, and in the absence of such agreed periods once a week, create a full back-up of all Client data which it has in its possession. U4 shall save the back-up for the duration of a reasonable period of time agreed between the Parties or, in the absence of such an agreement, for the customary periods of time applied by U4. U4 shall handle and save the back-up with all due care.

- 48.6. If, under the Agreement, U4 performs services for the Client in relation to a domain name, including applications, extensions, alienation or transfers to a third party, then the conditions and work methods of the authority/authorities in question shall be applied to the exclusion of all provisions to the contrary in these General terms and Conditions of Delivery. The Client accepts the aforesaid conditions of the authority/authorities in question which have handed over by U4 or otherwise issued to the Client. Those conditions are also available for inspection by the Client at the offices of U4, a copy of which shall be made available to the Client without charge at his request. If and insofar that the conditions of the authority/authorities in question are, for whatever reason, considered non-applicable or are declared non-applicable to the relationship between the Client and U4, the provisions of these General Terms and Conditions of Delivery shall be applied in full. U4 explicitly rejects all responsibility for the correctness or timeliness of the services and the achievement of results as envisaged by the Client.
- 48.7. The Client shall pay all costs relating the domain application and/or registration to U4 in accordance with the agreed fees, or in the absence of such an agreement, the customary fees charged by U4.
- 48.8. U4 does not guarantee that the domain name requested by the Client will be allocated to the Client.
- 48.9. U4 shall not be responsible for the contents, composition or use of the domain name. The Client guarantees U4 that he is authorised to use the domain name and that its use is not unlawful towards one or more third parties. The Client indemnifies U4 against any claim from third parties relating to the domain name, even if the domain

- name of the Client has not been registered by U4.
- 48.10. The provision of e-mail addresses to the Client shall only be required under the Agreement if explicitly so agreed in writing. The Parties shall agree on the number of available e-mail addresses in writing.
- 48.11. U4 shall be entitled to outsource the Hosting to a third party. If the Hosting is outsourced to a third party, then the Client shall not be able to invoke any rights under the guarantee and/or by virtue of liability towards U4 other than those which were issued to U4 by the third party in question.
- 49. Implementation of Cloud Services**
- 49.1. U4 shall make every effort to provide Cloud services with due care and, where applicable, in accordance with the arrangements and procedures agreed on with the Client in writing. All services on the part of U4 shall be provided on the basis of a best efforts obligation, unless and to the extent that a result has explicitly been guaranteed by U4 in the Agreement and that result is sufficiently determinable.
- 49.2. U4 shall only provide Cloud services at the request of the Client. If so obliged by virtue of a request or authorised order from a government body or statutory obligation to process data on the Client, his employees or users, U4 shall charge all corresponding costs to the Client.
- 49.3. U4 shall be entitled to modify the contents and scope of the Cloud services. If such modifications lead to a change in the procedures applied by the Client, then U4 shall notify the Client accordingly as soon as possible and charge the costs of those modifications to the Client, in which case the Client may terminate the Agreement in writing as from the date on which the modifications take effect, unless those modifications are required due to relevant legal amendments or regulations issued by authorised bodies or third parties on whom U4 depends for the provision of the Cloud service, or if U4 bears the costs of those modifications.
- 49.4. U4 may continue the provision of the Cloud service with a new or modified version of the Software.
U4 shall endeavour but not be obliged to maintain, modify or add Client-specific
- features or functionalities of the Cloud service or Software.
- 49.5. U4 may fully or partially temporarily suspend the Cloud service for preventive, corrective or adaptive maintenance, modification or improvement. U4 shall keep the period of suspension to a minimum, if possible commence suspension outside office hours and, depending on the circumstances, after having notified the Client. Such a notice of suspension of the Cloud service cannot ever be considered an act of noncompliance on the part of U4 with its obligations towards the Client.
- 49.6. If U4 provides Cloud services on the basis of data issued by the Client, then the data in question shall be prepared and submitted by the Client in accordance with the conditions set by U4. The Client shall be obliged to deliver and collect all relevant data to and from the location from which U4 provides the Cloud service, in which case all costs of transport and transmission, in whatever form, shall be at the risk and expense of the Client, even if carried out or provided for by U4. The Client guarantees that all materials, data, software, procedures and instructions made available to U4 to enable the provision of the Cloud service shall always be correct and complete, and that all data carriers made available to U4 shall comply with the specifications of U4.
- 49.7. All Equipment, Software and Products used by U4 in the provision of the Cloud service remain the property of U4 or its suppliers in the same way that all Intellectual Property rights remain vested in U4 or its suppliers, even if the Client pays for the development or purchase thereof by U4.
- 49.8. U4 shall never be obliged to provide the Client with a physical carrier containing Software made available to and kept by the Client within the framework of the Cloud service.
- 50. Payment**
- 50.1. The amount to be paid for the Cloud service and the payment method are specified in the Agreement. In the absence of an explicitly agreed invoicing schedule, all amounts relating to the provision of the Cloud service by U4 must always be paid per calendar month in advance.

51. Guarantee

- 51.1. U4 guarantees that the Software made available to the Client shall comply with the written specifications issued by U4 for the duration of the maximum guarantee period of 90 days. This guarantee only applies to the initial delivery. U4 does not guarantee that the Software made available to the Client is without Errors or flaws or will function without interruptions. U4 shall endeavour to correct any flaws in the Software within a reasonable period of time and, with the proviso that the Software in question was developed by U4 and U4 has been informed in detail about the flaws in question in writing. All flaws must be immediately be reported to U4 by the Client upon discovery or within a period of 30 days as from the moment when they might have been discovered. Where applicable, U4 shall be entitled to postpone the correction of a flaw until a new version of the Software is put into operation. U4 does not guarantee that any flaw in Software which was not developed by U4 will be corrected. U4 shall be entitled to implement temporary solutions or introduce program diversions or problem-avoiding limitations in the Software. U4 shall charge the costs of correction to the Client in accordance with its customary rates.
- 51.2. U4 shall not be responsible for verification of the correctness and completeness of the results of the Cloud services or the data generated through the use of Cloud services. The Client shall be obliged to regularly check the results of the Cloud services and the data generated through the use of Cloud services himself.
- 51.3. The Client shall use the information provided by U4 for the prevention and limitation of the consequences of interruptions and flaws of the Cloud service, the mutilation or loss of data and other incidents, to define the corresponding risks to his organisation and, if necessary, to take additional measures.
U4 is willing, within reason and subject to (financial)conditions set at the discretion of U4, to cooperate in the implementation of additional measures taken by the Client. U4 shall never be responsible for the recovery of mutilated or lost data, unless the mutilation or loss is the result of deliberate

intent or intentional recklessness on the part of U4.

- 51.4. U4 shall, in the event of a relevant amendment to Dutch legislation, make every effort to ensure the timely modification of Software that is to be made and kept available to and for the Client, unless this cannot reasonably be required from U4.

52. Access to the Cloud Service

- 52.1. The Client is responsible for each use, whether or not approved by him, of the Cloud service and the Access methods made available to him. U4 is not responsible for any losses on the part of the Client and/or third parties caused by the unauthorised use of the Access methods.
- 52.2. The provided Access methods are non-transferrable, strictly personal and exclusively meant for use within the organisation of the Client. The Client shall exercise all due care in applying the Access methods and never disclose them to any third party.
- 52.3. U4 shall at all times be entitled to modify the Access methods, in which case the Client shall be notified in a timely manner.
- 52.4. The Client shall immediately notify U4 of any unauthorised use of the Access methods or any reasonable suspicion of such misuse.
- 52.5. The Client may request U4 to block the Access methods. U4 shall at all times be entitled to unilaterally block any Access method if it becomes aware of an unauthorised use of that Access method, in which case U4 shall not be liable for any loss on the part of the Client and/or third party resulting from a blockage of Access methods.

53. Use of the Cloud Service

- 53.1. The Client at any rate guarantees that he and the User(s) shall, insofar as relevant, comply with the following conditions for use of the Cloud service:
- a. the Client shall protect his (peripheral)equipment, software, infrastructure and Internet connections against viruses, computer crime and (other) unlawful use by Users or third parties;
 - b. when making use of the Cloud service, the Client and/or the User shall not

- distribute (computer)viruses or other files that might compromise (the correct functioning of) the Cloud service or otherwise harm U4 ;
- c. the Client and/or the User shall not take or enable any action that might disrupt or lead to the disruption of the Cloud service , (computer)networks or infrastructures (of other users) or that lead or might lead to hindrance, a limitation in use or unforeseen use (for other users);
 - d. the Client and/or User shall not transmit large quantities of unsolicited messages containing the same or similar content (“spam”);
 - e. the Client and/or the User shall not misuse any Access method or penetrate and/or attempt to penetrate the protection of the Cloud service;
 - f. the Client and/or the User shall refrain from any action or omission of which he knows or should have reasonably been able to know that it leads or might lead to unlawful use of the Cloud service or is or might be unlawful towards U4 and/or third parties;
 - g. the Client and/or the User shall not disclose or distribute any racist and/or discriminating material and/or child pornography, In which the term distribute is also considered to include placement on or distribution via the Cloud service infrastructure;
 - h. the Client and/or the User shall not deliberately penetrate a computer system or any part thereof (“hacking”) without permission from or against the will of the owner or network manager;
 - i. the Client and/or the User shall not in any way infringe the Intellectual Property rights of U4 and/or third parties; and
 - j. the Client and/or the User shall not disclose, reproduce or use any data or information made available by U4 within the framework of the Cloud service other than for the benefit of the internal organisation of the Client without explicit prior permission from U4.
- 53.2. If the Client and/or the User(s) do not comply with any of the aforesaid conditions, then the Client shall be obliged to follow all relevant instructions given by U4 and see to it that those instructions are also followed by the User(s).

- 53.3. If any data filed, modified, processed or otherwise recorded by means of the Cloud service is found to be unlawful towards third parties, then U4 shall be entitled to immediately remove it from the systems and destroy it without prior notice. The Client in that case hereby permits U4 to remove all infringing data from the systems and destroy them. U4 shall never be liable for any losses ensuing from such an action.
- 53.4. U4 may block access to the Cloud service by suspending Access methods or the provision of services if it has good reason to believe that these are being used contrary to the provisions of the Agreement and/or these General Terms and Conditions of Delivery, or if the Cloud service has been disrupted due to harmful events such as a cyber crime attack. The payment obligation on the part of the Client shall continue to apply in full during such a suspension.

54. Third Party Applications

- 54.1. If and to the extent that U4 makes third party applications or other software available to the Client within the framework of a Cloud service, then those applications and/or that other software shall, to the exclusion of all provisions agreed on between U4 and the Client, be subject to the conditions of those third parties. The Client declares to have read and accepted those third party conditions, a copy of which has been handed over or otherwise issued to the Client. Those conditions are also available for inspection by the Client at the offices of U4, a copy of which shall be made available to the Client without charge at the request of the Client. If and to the extent that the third party conditions in question are, for whatever reason, considered non-applicable or declared non-applicable to the relationship between the Client and U4, the provisions agreed on between U4 and the Client for the use of Software shall be applied. In respect of the use and maintenance of a third party application, U4 can never be called to account for anything more or less than what applies in the relationship between U4 and its supplier of that application.

55. Suspension

55.1. U4 shall be entitled to fully or partially block the Cloud service if the Client fails to comply with any obligation attached to the use of the Cloud service, with the proviso that U4 first gives the Client warning or notice of default.

56. Consequences of Termination

56.1. If the Agreement is terminated, then the Parties shall always cooperate amicably towards the provision of any support requested by the Client for the remigration of Personal data recorded during the use of the Cloud service, as well as towards the required transfer to the Client or a third party designated by the Client during the remigration phase, in which the continued availability of Personal data and the Cloud services shall be a primary objective. The Parties shall consult each other to determine the level of performance required from U4. The expenses incurred by U4 in relation to the remigration of services shall be charged to the Client on the basis of actual costs. Upon termination of the Agreement, U4 shall make all Personal data available to the Client in a customary format and in return for payment of the customary rates, thereby in all fairness enabling the Client to process those Personal data. If the Client does not inform U4 within a period of 30 days that he requires the aforesaid transfer of Personal data, then U4 shall, without prior notice being required, be entitled to immediately remove all data filed, modified, processed or otherwise recorded by means of the Cloud service from systems and destroy them.

57. Personal Data Processing

57.1. The Client guarantees that all requirements for the lawful processing of Personal data shall be met in respect of data recorded by the Client within the framework of a Cloud service.

57.2. Notwithstanding the provisions of Chapter 1, General Provisions, the Client shall be

ultimately responsible for all Personal data processed at the location of the Client within the framework of a Cloud service. The Client guarantees U4 that no Personal data shall be obtained unlawfully or infringe any third party right. The Client indemnifies U4 against all legal claims by third parties, of whatever nature, relating to the processing of those Personal data or the implementation of the Agreement.

57.3. Based on the legislation on the processing of Personal data (including the Dutch Personal Data Protection Act), the Client is subject to specific obligations towards third parties, such as the obligation to provide information about, to provide insight into, to correct and to remove Personal details of those involved. The Client is ultimately and exclusively responsible for compliance with those obligations. With regard to processing Personal data, the Parties consider U4 to be the “processor” (*bewerker*) referred to in the Dutch Personal Data Protection Act. U4 shall, to every technically possible extent cooperate in enabling the Client to fulfil his obligations. The costs attached to such cooperation are not included in the prices and payments agreed on between U4 and the Client and shall be entirely at the expense of the Client.

57.4. The Client retains full ownership of all Personal data made available to U4 by the Client and filed, modified, processed or otherwise recorded by means of the Cloud service. If the Client requires U4 to process Personal data on his behalf, then he shall be obliged to notify U4 to that effect in writing, in which case the parties shall enter into the U4 processor’s agreement.

57.5. U4 shall be under no obligation to verify the correctness and completeness of submitted data, and shall therefore not be liable for the consequences of the use of incorrect and/or incomplete data supplied by the Client.

Chapter 6 Training

The provisions set out in this Chapter, Training, shall, in addition to the General Provisions set out in Chapter 1 of these General Terms and Conditions of Delivery, apply in the event U4 provides services, however named and of whatever nature (e.g. electronically) in the field of training, courses, workshops, seminars, etc..

58. Definitions

- 58.1. Training: educational activities provided to the Client by U4, such as but not restricted to (in-house) training, independent study and/or distance learning, seminars and/or workshops.
- 58.2. Participant: Person who enrolls in a Training.

59. Enrolment and Cancellation

- 59.1. The enrolment in a Training must be effected in writing and shall be binding upon confirmation by U4.
- 59.2. The Client is responsible for the selection and suitability of the Training for the Participants, even if U4 allows a Participant to enrol in a Training to which admission standards apply.
The lack of required prior knowledge amongst Participants shall not in any way affect the obligations of the Client under the Agreement. The Client shall be permitted to replace a Participant for a Training by another Participant, with the proviso that U4 confirms that replacement in writing in advance.
- 59.3. If deemed justified by U4 in view of the number of enrolments, then U4 shall, at its own discretion, be entitled to cancel the Training, to combine the Training with one or more other Trainings or to have the Training take place at a later date. U4 reserves the right to change the location of the Training. U4 shall if necessary be entitled to make changes to the organisation and substance of a Training.
- 59.4. If an Agreement is entered into for execution by a specific person, such as a specific lecturer, trainer or speaker, then U4 shall always be entitled to replace that person by one or more persons with the same or similar qualifications.
- 59.5. The consequences of cancellation of a Training by the Client or by the Participant shall always be subject to the customary regulations applied by U4. Unless agreed otherwise, a cancellation must always be effected in writing and prior to commencement of the Training in question or any part thereof.

If the cancellation is received at least 2 weeks in advance, then U4 shall be entitled to accept that cancellation subject to payment of administration costs. In all other cases, the Client shall be obliged to pay U4 a percentage of the costs of the Training in question in accordance with the following payment arrangement:

- 100% upon receipt of the cancellation less than one week prior to commencement of the Training session;
 - 50% upon receipt of the cancellation less than two weeks prior to commencement of the Training session;
- for the remainder, a cancellation or non-appearance shall not in any way affect the obligations of the Client under the Agreement.
- 59.6. Any request from the Client to have a Participant transferred to a Training scheduled for a different date must be submitted to U4 in writing. U4 shall be entitled to grant such a transfer subject to payment of administration costs if the written request for transfer was received by U4 at least 2 weeks prior to commencement of the Training in question. In all other cases, the Client shall, all depending on the moment when the written request for transfer was received by U4, be obliged to pay U4 a percentage of the costs of the Training in question in accordance with the following payment arrangement:
- 50% upon receipt of the written request for transfer less than one week prior to commencement of the Training session;
 - 25% upon receipt of the written request for transfer less than two weeks prior to commencement of the Training session;
- 59.7. In the event of a cancellation by the Client or by the Participant, U4 shall be at liberty to decide whether or not it will grant a request for the submission of training material.

60. Implementation of Training

- 60.1. U4 shall make every effort to execute the Training with due care and, where applicable, in accordance with the arrangements and procedures agreed on with the Client in writing. All services in

- the field of Training shall be provided on the basis of a best efforts obligation. The Client accepts that U4 determines the substance and depth of the Training. U4 shall be entitled to outsource the execution of the Training to a third party.
- 60.2. Only if explicitly agreed to that effect in writing shall U4 in executing the Training be bound to follow any timely and responsible instructions issued by the Client. U4 shall be under no obligation to implement any instructions due to which the substance or scope of the agreed services are changed or supplemented; if such instructions are nevertheless implemented, then all subsequent corresponding activities shall be charged in accordance with the customary rates applied by U4.
- 60.3. Notwithstanding the responsibility of the Client for the conduct of the Participant, the Client shall inform the Participant about, and see to compliance by the Participant with, the obligations under the Agreement and the rules (of conduct) prescribed by U4 for participation in the Training. The Participant shall be obliged to comply with the specified training dates and hours.
- 60.4. If, in the execution of the Training, U4 makes use of its own Equipment or Software, then U4 cannot guarantee that that Equipment or Software will function without Errors, flaws or interruptions. If a Training is executed by U4 at the location of the Client, then the Client shall provide the necessary properly functioning Equipment and software, unless agreed otherwise in writing.
- 60.5. Unless agreed otherwise in writing, the provision of an examination or test shall not form a part of the Agreement.
- 60.6. Unless agreed otherwise in writing, the Documentation, documents or other training material or means made available for the Training shall be charged separately. The foregoing shall also apply to training certificates and any copies thereof.
- 61. Prices and Payment**
- 61.1. U4 may always require the Training to be paid in advance. U4 may, explicitly without prejudice to its other rights, exclude a Participant from participation if the Client has not paid on time.
- 61.2. Unless explicitly stated by U4 that a payment is exempt from VAT within the meaning of Article 11 of the Dutch Turnover Tax Act of 1968, the Client shall also be obliged to include VAT in the payment. Upon effecting the Agreement, U4 shall be entitled to adjust its prices in the event of an amendment to the statutory Dutch VAT regime for Training courses.
- 62. Intellectual Property**
- 62.1. U4 explicitly reserves all Intellectual Property rights on all Documentation, documents and training, testing and examination material.
- 62.2. The Client shall be prohibited from disclosing, exploiting and/or reproducing any data from or parts of the issued Documentation, documents and/or training, testing or examination material and/or extracts thereof.

Chapter 7 Management and/or Other Services

The provisions set out in this Chapter 'Management and/or other services' shall, in addition to the General Provisions set out in Chapter 1 of these General Terms and Conditions of Delivery, apply in the event that U4 provides services, however named and of whatever nature (e.g. electronically) in the field of information and communication technology.

63. Definitions

- 63.1. Management and/or other services: services in the area of information and communication technology such as, but not limited to, consultancy, advising, contract and project management, ICT systems management and related services.

64. Management and/or Other Services

- 64.1. U4 shall make every effort to provide the services with due care and, where applicable, in accordance with the arrangements and procedures agreed on with the Client in writing. All services on

- the part of U4 shall be provided on the basis of a best efforts obligation, unless and to the extent that a result has explicitly been guaranteed by U4 in the Agreement and that result is sufficiently determinable.
- 64.2. The term of the Agreement depends on various factors and circumstances, such as the effort on the part of U4, the quality of data and information issued by the Client and the level of cooperation from the Client and relevant third parties. Unless agreed otherwise in writing, U4 shall not commit itself to a term of the Agreement in advance.
- 64.3. If it has been agreed that the services are to be provided in stages, then U4 shall be entitled to postpone commencement of the services forming a part of a stage until the results of the preceding stage have been approved by the Client in writing.
- 64.4. Only if explicitly agreed to that effect in writing shall U4 in executing the Training be bound to follow any timely and responsible instructions issued by the Client. U4 shall be under no obligation to implement instructions due to which the substance or scope of the agreed services are modified or supplemented. If such instructions are nevertheless implemented, then the activities in question shall be charged in accordance with the customary rates applied by U4.
- 64.5. If an Agreement is entered into for execution by a specific person, then U4 shall, following consultation with the Client, be entitled to replace that person by one or more other persons with the same or similar qualifications.
- 64.6. The employees to be assigned by U4 shall possess the qualifications agreed on with the Client in writing.
- 64.7. If U4 provides services on the basis of data issued by the Client, then the data in question shall be prepared and submitted by the Client in accordance with the conditions set by U4 and at the risk and expense of the Client. The Client guarantees that all materials, data, computer programs, procedures and instructions made available to U4 to enable the provision of services shall always be correct and complete, and that all data carriers made available to U4 shall comply with the specifications of U4.
- 64.8. The services of U4 shall be provided exclusively on and during the customary working days and hours of U4.
- 64.9. Unless otherwise agreed in writing, any use made by the Client of a recommendation issued by U4 shall always be at the risk and expense of the Client.
- 64.10. The burden of proof for noncompliance of the services of U4 with what has been agreed in writing lies entirely with the Client, notwithstanding the right of U4 to use any means necessary to provide proof to the contrary.
- 64.11. All Equipment, Software, third party software and Products remain the property or Intellectual Property of U4, even if the Client pays for their development or purchase by U4.
- 64.12. If software, equipment or other assets are made available to U4 by the Client in relation to the services of U4, then the Client shall be responsible for obtaining all relevant permits and approvals possibly required by U4.
- 64.13. If, for whatever reason, the requested Services are cancelled by the Client, then the Client shall be obliged to pay 50% of the remuneration if the cancellation was made less than 2 weeks prior to the date on which the services would have been provided, and 100% if the cancellation was made less than 1 week prior to the date on which the services would have been provided.
- 65. ICT Systems Management**
- 65.1. If the services of U4 relate to one or more of the ICT systems specified in the Agreement, and U4, at its sole discretion, deems the substance and scope of their management not or insufficiently outlined, then a management plan shall be drafted by U4 for the implementation of the Agreement and be made available to the Client within a reasonable period of time. The management plan shall contain a description of the scope of management and the manner in which the various forms of management can be implemented. The management plan may include, among other things and to be determined at the discretion of U4, the following:

- a plan for preventive, corrective and replacement maintenance of the ICT systems;
- a plan for handling breakdowns and claims and corresponding reports;
- a security plan;
- a plan of support for the users of the ICT systems;
- a plan for connecting new users to the ICT systems;
- a training plan for users of the ICT systems;
- a plan for the management and use of means of identification (passwords, etc.);
- a plan for licence and contract management;
- a plan for the management structure and the administrative and financial aspects relating to the use of the ICT systems.

Upon completion of the plan, the parties shall consult each other to discuss which of the management tasks proposed by U4 are to be implemented and to establish the means and conditions of implementation.

- 65.2. If the services of U4 for the Client include the provision of support for users, then U4 shall be entitled to set conditions for the qualifications and the number of contact persons eligible for support, and U4 shall be obliged to handle adequately substantiated requests for support within a reasonable period of time. U4 cannot guarantee the correctness, completeness or timeliness of responses or support. Unless otherwise agreed in writing, support shall only be provided on and during the customary working days and hours of U4.
- 65.3. Unless otherwise agreed, the Client shall be responsible for the use of the service and the manner in which the results of the service are put to use. The Client shall also be responsible for the instructions given to and the use by users, regardless of whether those users are involved a relationship of authority with the Client.
- 65.4. If the services of U4 under the agreement also include the provision of Stand-by services, then U4 shall keep one or more employees available during the days and times specified in the Agreement, in which case the Client shall, in the event of an emergency or urgency, be entitled to call on the employees held available in the cases referred to in the Agreement. U4 does not

guarantee that all defects shall in all cases be remedied or that the support provided by the called-on employees is effective.

66. Reporting

- 66.1. U4 shall periodically inform the Client in the manner agreed in writing about the implementation of the activities by way of a contact person designated by the Client. The Client shall inform U4 about all circumstances affecting or possibly affecting U4 in advance in writing, such as the method of reporting, the issues to which the Contractor wishes to draw attention, priorities of the Client, the availability of means and personnel of the Client and any special facts and circumstances possibly unknown to U4. The Client shall see to it that all information issued by U4 is distributed among the personnel of his organisation and that they are aware of its contents.
- 66.2. If an employee assigned by U4 belongs to a project group or steering committee of which one or more persons assigned by the Client are also members, then the provision of information shall be effected in the manner prescribed for the project group or steering committee in question. Decisions made in such project groups or steering committees shall only be binding for U4 if those decisions are made in accordance with the relevant written agreements between the Parties or, in the absence of such an agreement, if the decisions are acknowledged by U4 in writing. U4 shall never be obliged to accept a decision if it believes the decision in question to be incompatible with the contents of an Agreement. The Client guarantees that all persons assigned by the Client to a project group or steering committee of which employees of the Contractor are also a member, shall be entitled to make binding decisions on behalf of the Client.
- 66.3. In view of the continuity of activities, the Client shall appoint a contact person or contact persons to act as such for the duration of the activities of U4. Contact persons of the Client shall possess the required experience in, and specific knowledge of, the subject, and they shall

have insight into the Contractor's intended objectives.

- 66.4. The Client shall be prohibited from in any way informing third parties about the method of operation, methods or technologies used by U4 and/or the contents of any advice given or report issued by U4 without prior written permission from U4. The Client shall refrain from providing or otherwise disclosing any advice given or report issued by U4, to third parties.

67. Payment

- 67.1. The services shall be provided on the basis of the agreed hourly rate. Unless agreed otherwise by the Parties in writing, services provided under the Agreement shall not be charged at a fixed price.
- 67.2. In the absence of an explicitly agreed invoicing schedule, all amounts relating to the services provided by U4 must always be paid per calendar month in arrears. U4 may at all times require payment in advance.
- 67.3. Unless agreed otherwise in writing, U4 shall, in the customary manner designated by U4, provide insight into the activities implemented, the time spent and the costs incurred for the Client.
- 67.4. A working day consists of 8 hours, excluding travel time and lunch break. A service shall each time be purchased for a minimum of 1 part of the day (= 4 hours). In addition, visiting costs shall be charged in accordance with the relevant provisions of the Agreement.
Overtime, work performed outside office hours (09.00 a.m. to 05.00 p.m.) shall be

charged in accordance with the following supplements on the applicable hourly rate:

- working days: from 05.00 p.m. to 11.00 p.m.: 50% supplement; from 11.00 p.m. to 09.00 a.m.: 100% supplement;
- Saturdays: 100% supplement;
- Sundays and public holidays: 100% supplement;
- Stand-by services: if the provision of Standby services has been agreed with the Client, then an employee of U4 can even be assigned on a standby basis outside office hours, during the weekend and on public holidays. Stand-by Services shall be provided subject to availability of qualified employees. 50% of the applicable hourly rate shall be charged for employees assigned to the agreed Stand-by services during office hours (09.00 a.m. to 05.00 p.m.).

If an employee is called on during Stand-by services, the actual hours of service plus visiting costs shall be charged on the basis of the applicable hourly rate plus aforesaid supplements. If the services only involve support provided by telephone, then the actual hours of service shall be charged at the applicable hourly rate, in which the assignment of employees is rounded up to whole hours.

- 67.5. For the provision of services outside the Netherlands, U4 shall charge all reasonable travel and accommodation expenses to the Client in accordance with the aforesaid internal regulations of U4.

Chapter 8 Sale of Equipment

The provisions set out in this Chapter, Sale of Equipment, shall, in addition to the General Provisions set out in Chapter 1 of these General Terms and Conditions of Delivery, be applied in the event that U4 sells Equipment of whatever nature and/or other Products to the Client.

68. Purchase and Sale

- 68.1. Any Equipment sold by U4 shall comply with the nature and quantity agreed on between the Parties in writing.
- 68.2. The selection of purchased Equipment shall be at the risk of the Client. U4 guarantees that the Equipment shall be suitable for normal use upon delivery and that it shall comply with the specifications agreed on

between the Parties in writing. U4 does not guarantee that the Equipment will be suitable for the intended use of the Client, unless that intended use has been specified in the written Agreement between the Parties without reservations.

- 68.3. Unless agreed otherwise between the Parties in writing, an Agreement shall not include assembly and installation costs, Software,

consumables, consumer items, batteries, stamps, ink(cartridges), toner items, cables and accessories.

- 68.4. U4 does not guarantee that the assembly, installation and users instructions for the Equipment will be without flaws or that the Equipment has the features described in those instructions.

69. Delivery

- 69.1. Equipment sold to the Client by U4 shall be delivered ex-warehouse. Only if explicitly agreed to that effect in writing shall U4 deliver or arrange for the delivery of Equipment sold to the Client at a location designated by the Client, in which case U4 shall, if possible prior to delivery, notify the Client of the date and time of intended delivery by U4 or the designated carrier. The dates and times of delivery stated by U4 shall always be indicative.
- 69.2. Unless explicitly agreed otherwise in writing, the purchase price of the Equipment shall not include transport costs, insurances, hoisting and lifting, temporary provisions, etc..
- 69.3. U4 shall package the Equipment in accordance with the customary standards applied by U4 or its suppliers. If the Client requires specific packaging, then all corresponding costs shall be at his expense. The Client shall process all Equipment packaging released upon delivery by U4 in accordance with the relevant government regulations. The Client indemnifies U4 against all claims from third parties on account of noncompliance with such regulations. If U4 requests the Client to remove old materials such as but not restricted to networks, cupboards, cable ducts, packaging material or Equipment, then U4 may grant such a request by means of a written order confirmation against payment of its customary rates, subject to the condition that the aforesaid materials always remain the property of the Client.
- 69.4. If explicitly so agreed between the Parties in writing, U4 shall install or arrange for the installation, configure or arrange for the configuration and/or connect or arrange for the connection of the Equipment. The possible obligation of U4 to install and/or configure the Equipment shall not include

any data conversion or the installation of Software.

- 69.5. All services on the part of U4 shall be provided on the basis of a best efforts obligation, unless and to the extent that a result has explicitly been guaranteed by U4 in the Agreement and that result is sufficiently determinable.
- 69.6. U4 shall not be responsible for obtaining any required permits.
- 69.7. U4 shall always be entitled to implement the Agreement in partial deliveries. U4 shall also be entitled to maintain or arrange for the maintenance of Equipment, for which a separate Agreement must be effected.
- 69.8. The Client shall take delivery of the Equipment within the agreed delivery period. If no such period has been agreed, then the delivery period shall be one week. If the Client does not take delivery within the aforesaid period, then the Client shall be in default by operation of law, therefore without notice of default being required.

70. Test Configuration

- 70.1. Only if agreed to that effect in writing shall U4 be obliged to set up a test configuration of the Equipment in which the Client is interested. U4 shall be entitled to attach specific (financial) conditions to the provision of a test configuration. A test configuration shall comprise the temporary placement of Equipment in a standard configuration, excluding accessories, in a space designated by the Client, prior to a final decision being made by the Client to purchase that equipment against the applicable prices. The Client shall be liable for the use of, damages to and theft or loss of any Equipment forming a part of a test configuration.

71. Export

- 71.1. The export of Equipment for or by the Client shall be subject to the relevant legislation on the export of goods. Notwithstanding the relevant provisions of these General Terms and Conditions of Delivery, the Client shall indemnify U4 against all claims from third parties relating to noncompliance with the aforesaid legislation.

72. Return Consignments

- 72.1. U4 shall be under no obligation to accept any return consignments that are sent to U4 without its written approval. U4 shall be entitled to attach specific conditions to such approval. The acceptance of a return consignment shall not in any way constitute an acknowledgement on the part of U4 of the reason(s) given by the Client for that return consignment. The Client shall always be responsible for returned Equipment, even if permission for their return has been granted by U4.
- 72.2. In the event that returned Equipment is credited, U4 shall be entitled to deduct 15% from the price of the Equipment, with a minimum of €100,00. The foregoing shall not in any way affect the entitlement to deduct more if justified under the circumstances.

73. Cooperation by the Client

- 73.1. Notwithstanding the provisions of Chapter 1, General Provisions, the Client shall provide an environment which complies with the Equipment requirements set out by U4 in the case in question, including those relating to temperature, humidity and technical facilities.
- 73.2. The Client shall see to it that all work performed by third parties, including structural work, is performed adequately and in a timely manner.

74. Guarantee

- 74.1. U4 shall make every possible effort to correct possible flaws in materials, Equipment and components supplied by U4 within a reasonable period of time and, if described in detail within a period of 3 months following delivery, in accordance with relevant agreements made with the Client. U4 shall charge the costs of correction to the Client in accordance with its customary rates. Any data conversion required as a result of a correction or replacement shall also be at the expense of the Client.

75. Third party Equipment

- 75.1. If and to the extent that U4 supplies third party Equipment to the Client, that Equipment shall, to the exclusion of any conditions to the contrary in these General Terms and Conditions of Delivery, be subject to the conditions of those third parties. The Client accepts the aforesaid third party conditions handed over by U4 or otherwise issued to the Client. Those conditions are also available for inspection by the Client at the offices of U4, a copy of which shall be made available to the Client without charge at the request of the Client. If and insofar that the third party conditions in question are, for whatever reason, considered non-applicable or declared non-applicable to the relationship between the Client and U4, the provisions of these General Terms and Conditions of Delivery shall be applied in full.

Disclaimer:

These General Terms and Conditions are also available in the Dutch language. The Dutch text is binding and shall prevail in case of discrepancies or inconsistencies between the Dutch text and the English text.