

General Purchase Conditions For Products and Services

Article 1 APPLICABILITY AND DEFINITIONS

1. The capitalised terms used in these General Purchase Conditions ("Purchase Conditions") that are otherwise defined herein, have the meanings ascribed to them below:

Agreement	Any agreement, including its appendices, entered into between Fudura and the Supplier on the basis of which Fudura is being supplied Products and/or Services under any title whatsoever, of which these Purchase Conditions form an integral part.
Confidential Information	All information of a confidential or proprietary nature, whether commercial, financial or technical, and whether or not such information is marked or identified as confidential; including but not limited to information about a Party's business, products, customers, suppliers or pricing (including proposed or anticipated products, customers, suppliers or prices), trade secrets, data (including personal data), records, plans, reports, know-how, experience, drawings, designs, circuit diagrams, flowcharts, computer programs and all other information relating to a Party, project, application or subject as referred to in the Agreement and which could reasonably be of commercial interest to one of the Parties.
Corrective Maintenance	The detection and repair by the Supplier of defects reported to the Supplier by Fudura or that have otherwise become known to the Supplier.
Costs	The amounts owed to the Supplier for the performance of the Agreement, as determined in the Agreement.
Custom Software	Software developed or to be developed specifically for Fudura or adjustments to Standard Software or Third-Party Software.
Delivery	Placing one or more Products in the possession or under the control of Fudura and/or the provision of Services (or a Result thereof), in accordance with Article 5 of these Purchase Conditions.
Fudura	The private company with limited liability Fudura B.V. with its registered office in Zwolle and listed in the trade register at the Chamber of Commerce under number 17138144.
Good Market Practices	To exercise that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected of a competent and experienced professional engaged in the same kind of undertaking under the same or similar circumstances, regardless of undertaking or circumstances.
Innovative Maintenance	The further development of the IT Performance by the Supplier, whether or not by making upgrades available.
Intellectual property rights	All intellectual property rights, including copyrights, patents, utility models, trademarks, service marks, design rights, database rights, property rights to information, know-how and all other intellectual or industrial property rights as they exist anywhere in the world now or in the future (whether or not the foregoing rights are registered and including the rights to request the registration of any of the foregoing rights).
Key Personnel	Employees or (sub)contractors of the Supplier who have been designated by the Parties as key personnel in the Agreement.
Maintenance	All Corrective Maintenance, Preventive Maintenance, Innovative Maintenance and user support as further detailed in the Agreement and, where applicable, the service level agreement.
Order	The written instruction, order(s) and/or (purchase) orders for the Delivery of Products and/or the acceptance of the Supplier's Quotation by Fudura.
Preventive Maintenance	Measures taken by the Supplier to prevent defects and other technical problems, whether or not by making updates available.
Product Specifications	The specifications of Products as detailed in an Order or an appendix thereto or, insofar as these are not recorded in the Agreement, the specifications of those Products as included in the digital or written catalogue of the Supplier or as is apparent from the other information of the Supplier.
Product	All goods, products and/or Software (specified in the Agreement) delivered to Fudura, whether or not on the basis of an Order, in the broadest sense of the word.
Quotation	A Written offer from the Supplier to deliver a certain quantity of Products and/or Services under certain conditions.
Result	Any product, good, material, software, work, work product, or other result that the Supplier manufactures and/or provides to Fudura, or is obliged to manufacture or provide to Fudura, through the provision of Services.
Services	All services provided or to be provided by the Supplier to Fudura under the Agreement, whether or not remotely, and all work and tasks performed or to be performed in the broadest sense of the word.

Software	All standard software and/or third-party software to be supplied by the Supplier, as well as the Custom Equipment to be developed by the Supplier on behalf of Fudura.
SOW	The written instruction, order and/or (purchase) order for the performance/delivery of Services and/or the acceptance of the Supplier's Quotation by Fudura.
Supplier:	Any natural person or legal entity who negotiates with Fudura about the conclusion of an Agreement and/or enters into an Agreement with Fudura.
Third-Party Software	Software for which a) the intellectual property rights are not entirely vested in the Supplier or an affiliated company and b) where the Supplier is unable to enforce certain developments or changes in that software.
Written/In Writing	By letter, including by electronic route such as by email.
	- Words in plural having been assigned a defined meaning includes their single form and vice versa. - These Purchase Conditions apply to all offers to, Quotations to, Orders/SOWs and (negotiations about) Agreements and all other legal relationships with Fudura. In the event of a conflict between the Agreement and these Purchase Conditions, the Agreement will prevail over these Purchase Conditions. - General (purchase) conditions of the Supplier do not apply and are explicitly dismissed. - Unless explicitly agreed otherwise In Writing with Fudura or confirmed In Writing by Fudura, these Purchase Conditions take precedence over all other communications, offers or agreements (verbal or written) between the Parties with regard to the subject thereof, and otherwise leave these Purchase Conditions in full force. - The nullity or inapplicability of one or more provisions contained in these Purchase Conditions or part thereof does not affect the operation and validity of the other provisions. - In the event of inconsistencies between the Dutch wording of these Purchase Conditions and the translations thereof, the Dutch wording prevails. - Fudura is entitled to unilaterally make changes to these Purchase Conditions. Amended Purchase Conditions apply to the Supplier 30 days after these Purchase Conditions have been sent to the Supplier by Fudura.

Article 2. FORMATION OF THE AGREEMENT

- The request for a Quotation by Fudura is without obligation, exclusively addressed to the Supplier, may not be distributed, applies as a whole and can always be revoked. Furthermore, forecasts provided by Fudura to the Supplier for Quotations are never binding.
- Every offer, quote or other proposal made by the Supplier is binding and irrevocable and valid for at least ninety (90) days. The costs incurred for making an offer, quote or other proposal will be borne by the Supplier. The Supplier guarantees the accuracy and completeness of such Quotations, offers, quotes or other proposals.
- An Agreement is concluded if Fudura accepts the Supplier's offer:
 - by signing a statement of agreement or an Agreement (signed by both Parties); or
 - if Fudura accepts the Supplier's Quotation In Writing; or
 - if the Supplier accepts an Order/SOW placed by Fudura within five (5) days of its dispatch, with the time of dispatch of the Order/SOW being decisive; or
 - if the Supplier implements a non-revoked Order/SOW from Fudura; or
 - via another way showing acceptance of the Supplier's offer.
- Fudura may withdraw an Order/SOW or order confirmation at any time, without Fudura being obliged to pay any compensation, as long as Fudura has not received a signed order confirmation from the Supplier.
- If the Supplier provides a Service or delivers a Product (or makes preparations to do so) before an Agreement has been concluded, this is at the Supplier's expense and risk. Fudura is not obliged to reimburse costs of any nature to the Supplier.
- If the Parties have not signed a Written Agreement, the content and text of Fudura's Order/SOW is always leading and serves as the content of the Agreement. If the Supplier has made changes to the Order/SOW or order confirmation in any way - and in any form whatsoever - including making notes and/or comments, these will be deemed not to form part of the Agreement. If the Order/SOW deviates from the Quotation, the Agreement will be concluded in accordance with the Order/SOW, in view of the provisions of paragraph 3. In the event of partial acceptance of a Quotation, an Agreement is concluded for the accepted part of the Quotation, for a corresponding part of the quoted price.
- The Supplier guarantees the accuracy and completeness of the data, drawings, specifications, samples, documentation and other information provided by it.

Article 3. CHANGES

1. The Supplier will not make any changes or additions to (the method of implementation of) the Product and/or Service without Written permission from Fudura.
2. If Fudura requests a change from the Supplier to the scope and/or content of the Agreement and, in the reasonable opinion of the Supplier, this has consequences for the agreed delivery dates, other conditions and/or Costs, the Supplier will notify Fudura of this in writing, before implementing the requested change.
3. Changes to the Agreement (including contract variations) only bind Fudura if they have been confirmed In Writing by Fudura.
4. If as a result of a change, or as a result of changes in applicable law, the scope of the Agreement and/or the Supplier's obligations thereunder have been demonstrably reduced, the Supplier will reduce the Costs accordingly.

Article 4. PRICES, PAYMENT AND INVOICING

1. The prices and/or price structure stated in the Agreement - whether or not specified in the Order/SOW - are fixed for the term of the Agreement and will not be changed by the Supplier to the disadvantage of Fudura, even if the cost-determining factors, such as prices of raw materials, wages, etc. have changed after the conclusion of the Agreement.
2. The Costs are in euros and include all costs and expenses incurred by the Supplier in the context of the fulfilment of its obligations under the Agreement, based on the DDP (Delivered Duty Paid) delivery laid down in Article 5, paragraph 2 of the Purchase Conditions. The Costs include, among other things, administration costs, transport costs, loading and unloading, freight costs, insurance costs, packing costs (including packaging), import and export duties and any licence costs for Intellectual Property Rights based on or associated with (the use of) the Products and/or Services, but are exclusive of any applicable turnover tax and expenses approved in advance by Fudura. If Fudura nevertheless pays the aforementioned costs, Fudura is entitled to charge these separately to the Supplier.
3. Fudura is only obliged to pay an amount to the Supplier for accepted Products, Services or Results thereof, after receiving an invoice received by Fudura no later than ninety (90) days after the date on which the Products and/or Services (or the Results thereof) have been provided or delivered.
4. Invoices will only be processed if they are complete and meet all statutory requirements. The invoices must in any case state the purchase order number, the delivery date, as well as item numbers, quantities, descriptions of the Products and/or Services, any additional agreed costs and the invoice amount (both including and excluding VAT). Invoices must also state the name, (invoice) address, postcode, place of residence, email address for payment specifications, required IBAN and BIC details, VAT number and Chamber of Commerce number of the Supplier. If applicable, a G account must also be specified and the percentage and amount of the wage bill that must be deposited into the G account. If an invoice is incomplete, Fudura is entitled to return it; in that case, the payment term will not start.
5. All invoices from the Supplier must be sent to invoices@fudura.nl, quoting the purchase order number. The invoice and associated specification are submitted as a single PDF file, version 1.4 (or lower), and one invoice is attached by email. The content of the accompanying email will not be processed.
6. Unless explicitly agreed otherwise in the Agreement, Fudura will pay invoices for accepted Products and/or Services or Results within thirty (30) days of Fudura receiving a complete and correct invoice issued by the Supplier. If a different payment term has been agreed on by the Parties in the Agreement, this must be stated on the invoice.
7. (Partial) payment by Fudura does not imply acceptance of the Supplier's performance. Nor does a (partial) payment by Fudura qualify as recognition of the Supplier's claim.
8. Payments by Fudura first serve to reduce the principal sum, then interest and then other costs.
9. Fudura will not provide security or pay an advance in any way.
10. If an undisputed invoice has not been paid before its due date, the Supplier will send Fudura a notice of default. After a period of fourteen (14) days has elapsed after such notice of default, without the Parties having entered into discussions to resolve the payment dispute, a maximum interest of 2% (two percent) per year may apply to the outstanding undisputed amount, to be calculated from the date of the notice of default.
11. In the event of delay in payment of a sum of money, Fudura is not liable for costs other than the actual costs incurred for (extrajudicial) legal assistance up to a maximum amount equal to the rate as paid in accordance with the Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding buitengerechtelijke incassokosten*).
12. Fudura has the right to suspend its payment obligation in the cases stated in Dutch law. Furthermore, Fudura is entitled at all times and therefore also outside the cases regulated by law, to offset any payments, costs, claims and/or interest that the Supplier owes and/or will owe Fudura against payment(s) to the Supplier.
13. The Supplier is not entitled to withholding, deduction or settlement on any grounds whatsoever, nor is the Supplier entitled to suspend its obligations towards Fudura. The Supplier also (in advance) waives any right of retention that could be asserted against Fudura and any (statutory) right to dissolve the Agreement.

Article 5. DELIVERY

1. The Supplier will perform the Services described in the Agreement. The Supplier will complete the Services, or if agreed, deliver the Results thereof, within the delivery date or delivery periods set therein and will adhere to all time schedules, milestones, service levels and KPIs stated therein. If no delivery date or delivery period has been agreed on, the Supplier will complete the Services in a timely manner.
2. Delivery of Products to Fudura takes place DDP (Delivery Duty Paid, most recent version of the Incoterms) at the stated delivery location(s) as set out in the Agreement and/or Order.
3. All obligations under the Agreement apply as an obligation of result, unless they are explicitly formulated as a best-efforts obligation.
4. All agreed delivery dates and delivery periods are strict deadlines, non-compliance of which counts as a material shortcoming in the performance that cannot be remedied.
5. The Supplier will not make partial deliveries under the Agreement, unless Fudura has agreed in writing in advance to a specific partial delivery. The additional costs of partial deliveries will be borne by the Supplier, unless the partial delivery is made at the request of Fudura.
6. The Supplier is obliged to inform Fudura immediately if it knows or expects that the Products and/or Services (or Results) cannot be delivered or cannot be delivered in time, stating the reasons, the likely duration of the delay, as well as proposed measures to minimise delays as much as possible. Fudura is free to accept or refuse the new expected delivery date or to cancel the delivery of the Products and/or Services. Fudura also has the right to impose conditions when accepting a new delivery date. The Supplier acknowledges that Fudura's acceptance or refusal of a new date does not in any way limit or exclude the Supplier's liability for costs and damage arising from the Supplier's failure to meet the originally agreed delivery date, and all other rights and remedies arising under the Agreement or the law remains unaffected. The Supplier will compensate the damage suffered by Fudura as a result of no or late delivery.
7. If Fudura knows or reasonably suspects that the Supplier will not be able to meet the agreed timelines, Fudura has the right to engage third parties at the expense of the Supplier to perform the Agreement, in order to prevent or limit (further) delays, without prejudice to exercise the rights and remedies it has under the Agreement and applicable law, including the right to claim compensation and the right to dissolve the Agreement in accordance with its provisions.
8. Fudura has the right to reasonably request the Supplier to:
 - a. postpone the start of the performance of the Services for a maximum of thirty (30) days, which request the Supplier will comply with, without liability to the Supplier;
 - b. reschedule all or part of the originally scheduled delivery date or the scheduled quantities per Product scheduled for a specific delivery time, or cancel all or part of an accepted Order at any time, without liability to Supplier, by written notice to the Supplier; on the condition, however, that Fudura has notified the Supplier no later than fourteen (14) days before the originally scheduled delivery date. The Supplier will comply with a request from Fudura to expedite the delivery date if it is reasonably able to do so.
9. Upon Delivery, the Supplier will make all associated documentation, including instructions for use, product information, quality marks and/or certificates available free of charge and will supply all aids. If Fudura so demands, the Supplier will cooperate in placing source data or source code in escrow that is necessary for the use of the Products and/or Services.
10. The Supplier will follow all reasonable instructions from Fudura before, during and after Delivery.

Article 6. PACKAGING, TRANSPORT AND ENVIRONMENT

1. Taking into account any relevant provisions in the Agreement, the Supplier will ensure that Products are properly and environmentally friendly packed, secured and transported exclusively via carriers that are suitable for the transport of similar goods according to generally accepted international standards. The Supplier is responsible for ensuring that the carrier is aware of the rules, instructions or directions applicable at the delivery location and acts in accordance with them.
2. The Supplier is responsible for compliance with national, international and supranational regulations regarding packaging and transport. If safety data sheets exist for a Product or packaging, the Supplier must provide these sheets to Fudura no later than twenty-four (24) hours before the time of Delivery and provide Dutch-language copies with the Products. Fudura, or a third party designated by it, is authorised not to accept the Products if the foregoing regulations have not been complied with.
3. Any changes regarding the packaging and/or transport of the Products approved by Fudura must be submitted to Fudura for approval at least three (3) months before these changes become operational.
4. If the Supplier uses loan packaging, this must be stated separately on the consignment note. The Supplier must return loan packaging at its own expense and risk in accordance with Fudura's logistics conditions.
5. When packing the Products, the Supplier, where reasonably possible, only uses sustainable and/or recyclable packaging materials.
6. The Products are provided with clear, legible and indelible features, such as a packing slip that clearly shows which Products are delivered and with relevant data to trace the Delivery. After Delivery, the packing slip must be signed

by the contact person at the location. The Supplier must send the signed packing slip to logistiek@fudura.nl within three (3) working days of delivery.

7. Delivery must take place on working days after 08:00 and before 16:00. Delivery outside these daily working hours and outside working days is only possible after prior Written permission from Fudura.
8. Packaging that deviates from the usual standard remains the property of the Supplier and will be taken back by the Supplier in an environmentally friendly manner should Fudura so demand. If the Supplier does not comply with this request, Fudura has the right to return the packaging at the expense and risk of the Supplier. If packaging falls under the category of chemical waste, the Supplier will indicate how this packaging will be retrieved by or on behalf of Suppliers. Fudura determines whether the packaging deviates from the usual standard and the Supplier complies with Fudura's assessment in this regard.

Article 7. INSPECTION AND ACCEPTANCE

1. Fudura has the right to inspect and analyse the Products and/or Services provided (including Results) and/or to subject them to an acceptance test. Fudura has these rights both before Delivery and during or after Delivery.
2. If the Parties have not agreed on specific acceptance procedures, an acceptance period of fifteen (15) working days will commence after delivery or completion and/or (where applicable) installation, during which Fudura can carry out tests that are reasonably necessary to determine whether the Product or the Service or Result complies with the Agreement and/or other agreed specifications.
3. The Supplier will schedule the Delivery in such a way that Fudura can perform all acceptance tests correctly, without prejudice to any delivery date or timetable agreed on in the Agreement.
4. The Agreement is accepted by means of a Written declaration of acceptance by Fudura.
5. If Fudura informs the Supplier that it does not accept the Product and/or Service (or the Result), Fudura may request the Supplier to investigate the defect and, insofar as the defect can be repaired, to repair it at the expense of the Supplier within five (5) Working Days of Fudura's notification, after which the Supplier will resubmit the corrected, completed or adjusted Product or Result to Fudura. Fudura will then repeat the acceptance test(s) at the expense of the Supplier.
6. Whether or not exercising the rights in this article does not affect all of Fudura's rights (regardless of whether they arise from the Agreement or otherwise) and does not release the Supplier from its obligations, warranties or liability under the Agreement. Payment by Fudura of any Costs or other fee to the Supplier or the use of the Products and/or Services (or Result) by Fudura before acceptance does not in itself constitute acceptance by Fudura of those Products or Services.
7. Fudura is entitled to use, reproduce, display, make copies of and distribute the Results for internal purposes and to produce derivative works thereof. In addition, Fudura is entitled to disclose the Results to (i) its external auditors and/or accountants, (ii) its works council and (iii) government or competent regulatory authorities, if required by law or regulation.

Article 8. OWNERSHIP AND RISK

1. In principle, full and unencumbered ownership of the Products is transferred to Fudura at the time of receipt of the Products by Fudura or a third party designated by it. If Fudura is required to make a down payment for the Products, ownership of those Products will transfer entirely to Fudura at the time of such payment and in that case, the Supplier will clearly mark the Products as the property of Fudura and store them clearly separate from other products. The transfer of ownership does not affect Fudura's right to inspect the Products in accordance with Article 7 of the Purchase Conditions after receiving the Products. Receipt and transfer of ownership therefore does not imply acceptance of the quantities and quality of the Products delivered. Fudura is authorised to demand security from the Supplier if a down payment is requested.
2. Unless otherwise agreed on in writing, the Supplier bears the risk of damage or loss of the Products until the moment of receipt of the Products by Fudura or a third party designated by it. If it has been agreed that the Supplier takes care of installation or assembly, the risk remains with the Supplier until the installed or assembled Products have been accepted by Fudura in accordance with the Agreement or until the Products have been put into production by or on behalf of Fudura. The Supplier has no right of retention or right of suspension with regard to the Products.
3. The Supplier is not permitted to supply Products to Fudura under retention of title or with any other reservations. Any stipulated retention of title and/or other security right with regard to the Products will only apply if it has been accepted by Fudura In Writing. In the event of a retention of title and/or other security right, Fudura reserves the right to resell these Products in the context of normal business operations without Fudura being obliged to pay compensation.
4. If Fudura has made items available to the Supplier for the purpose of fulfilling the Supplier's obligations, these remain the property of Fudura. Only after Written permission from Fudura may the Supplier change and/or process these items and/or combine and/or mix them with other items. The Supplier will store all these items separately from objects belonging to the Supplier or a third party, mark them as the property of Fudura and

insure them against any damage that may be caused to these items as long as the Supplier acts as a holder of these items.

5. If the items referred to in the previous paragraph are changed and/or processed, combined or mixed with items owned by the Contractor or Third Parties, Fudura will become the owner of the new items. The Contractor will mark these items as the property of Fudura at his expense. The Contractor bears all risks with regard to these items as long as he acts as the holder of these items.

Article 9. WARRANTIES

1. Supplier guarantees that the Services will be provided (i) in accordance with Good Market Practices; (ii) in accordance with agreed specifications and certifications; (iii) in accordance with the laws and regulations applicable to the Services or the Supplier's obligations under the Agreement; and (iv) without infringing any Intellectual Property Rights. The standard warranty on the Services and/or Results provided by the Supplier is twenty-four (24) months.
2. The Supplier guarantees that at the time of delivery or delivery and for twenty-four (24) months thereafter, the Products (i) are suitable and legally permitted for the purpose for which they are intended; (ii) are of good quality and free from defects caused by design errors, materials used and/or improper workmanship; (iii) with regard to Products, that they comply with the Product Specifications and with regard to Results, that they comply with the agreed specifications; (iv) are suitable for the purpose for which the Agreement was concluded; (v) do not infringe any Intellectual Property Rights; (vi) comply with all applicable mandatory laws, regulations, certification requirements and agreed standards; and, with respect to Products only, that they (vii) are new (in the sense that they do not contain any used or repaired parts or materials) (viii) are free from all pledges, encumbrances and other claims of ownership; (x) are of good workmanship, good quality and free from defects in terms of design, construction, production and materials, are not unsafe or inherently dangerous and bear all required warnings and instructions; and (xi) strictly comply with the Agreement. In addition, the Supplier provides Fudura with warranties of at least the same level as those provided to Supplier by the manufacturer of the Products. The supplier will provide a copy of the manufacturer's warranties should Fudura so demand.
3. If the Products and/or Services do not appear to meet one of the warranties in this article, Fudura may:
 - a. require the Supplier to supply replaced Products and/or Services at its own expense and risk (insofar as the violation can be remedied), in any case within thirty (30) days of receiving the notification from Fudura or another period agreed on In Writing between the Parties;
 - b. have the Products and/or Services repaired or replaced by a third party at the expense and risk of the Supplier;
 - c. return the Products at the expense and risk of the Supplier for repair, replacement or refund, whether or not to be carried out by the Supplier itself, whereby Fudura may require that any payments already made by Fudura be refunded to Fudura without delay.
 - d. dissolve all or part of the Agreement without further notice of default or judicial intervention, without being obliged to pay compensation for any damage.The Supplier bears all costs, including transport costs, associated with the repair or replacement of Products and will reimburse all other costs incurred by Fudura and any damage suffered by Fudura as a result of a breach of Product warranties. This obligation to repair does not extend to Fudura's legal remedies under the Agreement and applicable law.
4. The warranty periods referred to in this article for Products/Services that have been repaired or replaced within the warranty period commence again for the replaced/repaired (parts of) the Products and/or Services from the delivery date of the Products and/or Services.
5. The Supplier guarantees that it has and will keep sufficient materials, knowledge and capacity available to repair or replace the Products and/or Services or to provide the Services during the agreed warranty period.

Article 10. INTELLECTUAL PROPERTY RIGHTS

1. All Intellectual Property Rights that existed prior to the Agreement will remain vested in the Party that owned those rights immediately prior to the effective date of the Agreement and will not be transferred by entering into the Agreement.
2. If and insofar as (claims to) industrial and/or intellectual property rights arise during the performance of the Agreement, including but not limited to copyrights, database rights and rights to know-how, these accrue to Fudura insofar as reasonably necessary for the use of the Products and/or Services. Insofar as necessary, these rights are transferred to Fudura under the Agreement at the time those rights arise. Fudura hereby accepts this transfer. If any further action or deed is required for the transfer of these rights as referred to in this article, the Supplier will cooperate should Fudura so demand, without imposing any further conditions.
3. Insofar as pre-existing industrial and/or intellectual property rights not vested in Fudura are (jointly) exercised during the Delivery, the Supplier grants Fudura a non-exclusive and non-cancellable right of use of indefinite duration. In that case, the Supplier guarantees that it is entitled to grant this right of use.
4. The Supplier guarantees that the Products and/or Services or Results delivered to Fudura do not infringe any third-party Intellectual Property Rights. The Supplier indemnifies Fudura against all third-party claims arising from



an (alleged) infringement of the rights referred to in the previous paragraph and will reimburse Fudura for all costs and damage resulting from such an (alleged) infringement. In addition to indemnifying Fudura and in addition to the other rights that Fudura has under the Agreement, the Supplier will:

- a. guarantee the right to continue using the delivered goods;
 - b. if (a) cannot be achieved with reasonable efforts and at reasonable costs, replace or adapt the delivered goods so they become non-infringing, provided that such replacement or adaptation does not reduce the functioning and quality of the relevant part of the Agreement;
 - c. if neither (a) nor (b) can be achieved by the Supplier with reasonable effort, if possible, remove the delivered goods, in which case the Costs will be adjusted proportionally.
5. In dealings with Fudura, the Supplier hereby waives any personality rights as referred to in the Copyright Act, insofar as permitted by law. The Supplier also makes this waiver on behalf of its personnel involved in the performance of the Agreement.

Article 11. COMPLIANCE WITH LAWS AND REGULATIONS

1. The Supplier will comply with all applicable laws and regulations in performing its obligations under the Agreement (and will take all reasonable steps to ensure Fudura's compliance therewith and not do anything that may jeopardise this), including but not limited to the laws and regulations relating to (i) trade restrictions and/or export controls (including sanctions imposed by the US, the EU and/or the UN) with respect to the Products it sells to Fudura, (ii) anti-bribery and anti-corruption, and (iii) tax, labour and social security legislation, legislation regarding working conditions, welfare and safety of employees.
2. The Supplier acknowledges that Fudura is bound by laws and regulations in the fields of ESG (Environment, Social and Governance) and safety, including the obligation to report on relevant sustainability issues within the company and value chain. The Supplier will comply with applicable Fudura policies, including the most recent version of the [Fudura Code of Conduct for Suppliers](#), which can be found at www.fudura.nl (which may be updated by Fudura from time to time). The Supplier has a code of conduct that applies to its own employees, subsidiaries and suppliers that is in line with the Fudura Code of Conduct for Suppliers and the Supplier is responsible for monitoring and complying with its code of conduct.
3. Should Fudura so demand, the Supplier will immediately provide all information that Fudura considers reasonably necessary in the context of compliance with the Agreement, the Fudura Code of Conduct for Suppliers and/or other laws and regulations, including relevant information regarding sustainability issues within the value chain. The information provided is used by Fudura to comply with its statutory (reporting) obligations and is not regarded as Confidential Information.
4. The Supplier will impose the obligations under paragraphs 2 and 3 of this article on its suppliers and oblige those suppliers to agree on similar provisions with their (sub)suppliers.

Article 12. TERMINATION

1. The Agreement can only be terminated insofar as stipulated in the Agreement.
2. Either Party may dissolve all or part of the Agreement with immediate effect by giving written notice to the other Party, if:
 - a. the other Party has failed to fulfil a material contractual obligation and this failure cannot be remedied;
 - b. the other Party has failed to fulfil a material contractual obligation and this failure can be remedied, but the defaulting Party has not remedied this failure within fourteen (14) days of a written notice requesting it to do so; or
 - c. the other Party applies for (provisional) suspension of payments, the other Party applies for bankruptcy or is declared bankrupt, the Other Party's company is dissolved, the other Party ceases its business operations, there is a major change in control over the activities of the other Party's company, a significant part of the assets of the other Party is seized or the other Party is otherwise no longer considered able to fulfil the obligations under the Agreement.
3. For the purpose of paragraph 2(a) of this Article, articles 7, 9, 10, 11, 15 or 18 of these conditions will be regarded without limitation as essential contractual obligations, the non-fulfilment of which cannot be remedied. Failure to pay a due and undisputed invoice in time does not qualify as a material contractual obligation that cannot be remedied.
4. Fudura may dissolve all or part of the Agreement with immediate effect, by Written notice, if:
 - a. the reputation of the Supplier or the companies affiliated with the Supplier is seriously damaged or it is accused of a serious crime (and in the event of reasonable suspicion of this, Fudura may suspend the Agreement or the payments thereunder);
 - b. a change in control occurs with regard to the Supplier.
5. If Fudura dissolves the Agreement in its entirety, it will pay a reasonable portion of the (purchase) price for the Products already properly delivered by the Supplier, if Fudura chooses to retain all or some of them, and/or properly performed Services. If Fudura chooses to return the delivered Products, this will be done at the expense

and risk of the Supplier, subject to the Supplier's obligation to refund Fudura the purchase price already paid by Fudura.

6. By exercising its rights under this article, Fudura cannot be obliged to compensate any damage, without prejudice to its other rights.
7. All claims Fudura may have or acquire against the Supplier in the cases referred to in this article will be immediately due and payable in full.
8. Notwithstanding any other provision of the Agreement, Fudura may terminate the Agreement at any time by giving written notice to the Supplier with at least thirty (30) days' notice. In the event of termination of the Agreement on the basis of this paragraph, Fudura will pay the Supplier the Costs for the Services provided up to the date of termination. Fudura is not liable to the Supplier for any other compensation whatsoever.
9. In the event of termination or expiry of the Agreement, the Supplier will, should Fudura so demand, fully cooperate with Fudura to facilitate a smooth transition and migration of the Services to Fudura or a third party designated by Fudura (hereinafter referred to as "**Exit Assistance**"). The provisions of the Agreement apply to all Exit Assistance provided by the Supplier. As part of the Exit Assistance, the Supplier will provide Fudura with such documentation as is reasonably necessary for the purchase of replacement services, for the transition of the Services to a new service provider and return all data and Confidential Information to Fudura in a format prescribed by Fudura. Unless the Agreement has been dissolved by Fudura due to breach of contract on the basis of paragraph 2 or paragraph 4 of this Article, the Supplier is entitled to charge a reasonable fee for Exit Assistance to be agreed on in advance, which in that case will be calculated on the basis of the agreed rates and, failing that, at reasonable and market rates. Both Parties will make every effort to keep these costs limited where possible.

Article 13. LIABILITY AND INDEMNITY

1. The Supplier will fully indemnify Fudura for all damage of any nature whatsoever that may arise for Fudura, its staff or its customers from or as a result of:
 - a. failure by the Supplier to fulfil any obligation under the Agreement in time or in full;
 - b. a defect in a Product supplied by it, as a result of which it does not offer the safety or properties that Fudura or third parties may reasonably expect;
 - c. incorrect or incomplete data provided by and/or on behalf of the Supplier;
 - d. any other acts or omissions of the Contractor, its staff or other persons involved by the Supplier in the performance of the Agreement.
2. The Supplier will fully indemnify Fudura against third-party claims for compensation for damage for which the Supplier is liable under the first paragraph and will fully indemnify Fudura against these third-party claims. For the purpose of the provisions of paragraph 2 of this article, employees of Fudura, as well as other persons working for Fudura, will be regarded as third parties.
3. Fudura is not liable for damage due to breach of contract or unlawful act towards the Supplier, except in the event of intent or deliberate recklessness on the part of Fudura.
4. The Supplier guarantees that (i) it is at all times and at its own expense, adequately and sufficiently insured for all liability that may arise under the Agreement, that (ii) it has paid all insurance premiums due in time and (iii) that it will continue to pay these during the term of the Agreement. Should Fudura so demand, the Contractor will provide Fudura with a copy of the insurance policy.
5. If the Supplier can claim an insurance payment in connection with its possible liability towards Fudura, the Supplier must ensure that these payments are made directly to Fudura.

Article 14. FORCE MAJEURE

1. If a Party is prevented or delayed from fulfilling its obligations under the Agreement due to force majeure, it must immediately notify the other Party in writing of the force majeure situation, its expected duration, and the Supplier's obligations that are (or may be) affected by that.
2. Force majeure is taken to mean any event or circumstance, or a combination thereof, that is beyond the reasonable control of the affected Party and cannot otherwise be attributed to the affected Party, taking into account (i) the nature of the affected Party's business, (ii) Good Market Practices, and (iii) the obligations of the affected Party under the Agreement. Strikes, work stoppages or other non-compliance by employees, (sub)contractors or (sub)suppliers of the Supplier and a lack of raw materials do not qualify as force majeure.
3. From the moment of notification in accordance with paragraph 1 of this Article, the affected Party will, for as long as the force majeure continues:
 - a. be released from the (prompt) fulfilment of its contractual obligations, insofar as they are affected by the relevant force majeure; and
 - b. be deemed not to be in violation of its contractual obligations insofar as such violation is caused by that force majeure;
provided that the affected Party: (i) takes measures in accordance with Good Market Practices to resume the full fulfilment of its obligations as soon as possible; (ii) limits and continues to limit the adverse consequences of the situation (as far as possible); and (iii) keeps the other Party informed of important developments

- relating to the force majeure situation and measures it proposes to take to minimise the consequences, including reasonable alternatives to fulfil its obligations.
4. If the force majeure situation lasts longer than thirty (30) days, Fudura may, at its discretion, (i) terminate (the part of) the Agreement whose performance has been prevented or delayed, in which case any Costs owed will be adjusted proportionally; or (ii) terminate the Agreement upon written notice to the Supplier as of the date specified by Fudura in that notice, without liability to the Supplier.
 5. If the Supplier has partially performed its Services before invoking force majeure, the Supplier is entitled to invoice proportionally.

Article 15. TRANSFER AND SUBCONTRACTING

1. The Supplier is not permitted to transfer all or some of its rights and obligations under the Agreement to a third party without prior written permission from Fudura. This permission may be subject to the condition that the Supplier and the beneficiary accept additional conditions.
2. Fudura has the right to transfer its rights and obligations under the Agreement to a third party without the Supplier's permission. The Supplier gives its permission in advance for such a (contract) takeover. This provision affects property rights within the meaning of Article 3:83, paragraph 2 of the Dutch Civil Code.
3. The Supplier is not permitted to outsource the fulfilment of its obligations under the Agreement to a third party without the prior written permission of Fudura. The Supplier remains fully responsible for the fulfilment of its obligations under the Agreement and the acts or omissions of subcontractors will be regarded as acts or omissions of the Supplier itself. The Supplier will indemnify Fudura against any liability under the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act.

Article 16. PERSONNEL AND WORKING CONDITIONS

1. The Supplier will ensure that during the performance of the Agreement, it at all times has qualified, experienced and skilled personnel required to perform the Agreement.
2. When performing the Agreement, the Supplier will comply with all applicable laws and regulations in the field of hiring and assigning personnel (including employment conditions), including but not limited to the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act, the Labour Market Fraud (Bogus Schemes) Act, the Foreign Nationals (Employment) Act and other applicable laws and regulations. Any sanctions (including fines) resulting from these laws and regulations will be borne by the Supplier. The Supplier indemnifies Fudura and fully compensates Fudura in connection with any sanctions imposed on Fudura due to persons engaged by the Supplier acting in violation of the aforementioned laws and regulations. If Fudura wishes to take legal remedies against an imposed sanction, the Supplier will provide Fudura with all assistance, should Fudura so demand.
3. Should Fudura so demand, the Supplier:
 - a. must, at its own expense, provide a recent and original Vicarious Tax Liability and Recipients' Liability Payment History Report from the Tax and Customs Administration;
 - b. must notify Fudura that all obligations under the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act have been fulfilled with regard to persons engaged by the Supplier for the performance of the Agreement.
 - c. must, at its own expense, provide recent Certificates of Good Conduct ("VOG") of the Supplier's employees.
4. The Supplier is responsible for the health and safety of its personnel and the personnel of third parties engaged by it. The Supplier undertakes to enable Fudura to fulfil the duty of care that Fudura may have under Article 7:658 of the Dutch Civil Code. The Supplier ensures that its personnel comply with Fudura's instructions and orders.
5. Fudura has the right to subject persons who work for the Supplier in the context of the performance of an Agreement to a security screening in accordance with Fudura's customary rules. The Supplier will cooperate fully in this screening and will ensure that its personnel and persons engaged by it fully cooperate in this screening. Fudura is entitled to refuse people access to Fudura's business premises if these people refuse to cooperate in the aforementioned screening. Such a refusal does not affect the Supplier's responsibility for the performance of an Agreement.
6. If the Agreement requires the Supplier to have its employees, contractors or subcontractors present at Fudura's premises, the Supplier will ensure that the relevant persons carry identification documents so they can prove their identities, and that they comply with the applicable rules and regulations that apply at that location. Should Fudura so demand, the Supplier will have the relevant employees, contractors or subcontractors sign statements showing that they comply with the applicable regulations. Fudura will send the applicable regulations to the Supplier at the latter's request. If the applicable regulations are violated at a particular location, Fudura has the right to immediately deny the person(s) concerned access to the location and to suspend the fulfilment of its obligations under the Agreement.
7. The Parties may appoint and retain Key Personnel in the roles set out in the Agreement. The Supplier may only replace a Key Personnel member in one of the following cases: (a) if that person is no longer an employee or (direct or indirect) contractor or subcontractor of the Supplier; or (b) with the prior written consent of Fudura, which consent will not be unreasonably withheld. Any intended change to Key Personnel will be discussed in



advance with the other Party. Replacement of Key Personnel may not result in a higher applicable rate or additional costs for Fudura.

8. The Supplier is obliged to replace Key Personnel at Fudura's request if, in its reasonable opinion, the performance of that Key Personnel member is not at the agreed level or has significantly declined and is likely to remain at that level for more than two (2) weeks (including in circumstances of absenteeism due to illness or accident).

Article 17. DATA PROTECTION AND INFORMATION SECURITY

1. During the performance of the Agreement, data is processed, including personal data (such as the contact details of the Supplier and customers). Fudura will be regarded as the controller with regard to the processing of personal data and on the basis of applicable privacy legislation. The processing of personal data is subject to Fudura's privacy statement. More information about data processing by Fudura can be found in this statement. Fudura's privacy statement can be consulted on the Fudura website at <https://www.fudura.nl/privacy>.
2. The Contractor will immediately report (security) incidents regarding delivered or ordered Products to Fudura, and if necessary, by law, to the relevant authority (including the Dutch Data Protection Authority).
3. Insofar as the Supplier processes personal data in the context of the performance of the Agreement for which Fudura is responsible within the meaning of the General Data Protection Regulation (GDPR) and the General Data Protection Regulation (Implementation) Act, the Supplier is regarded as the processor in this regard. The Supplier is only authorised to process these personal data if and insofar as necessary for the performance of the Agreement, all in accordance with the processing agreement that is attached as an appendix to the Agreement.
4. The Supplier implements at least the security measures mentioned below (based on ISO 27001 and for specific Personal Data in line with the "CBP Guidelines for the Security of Personal Data"). The measures below are regarded as urgent and must always be implemented by the Supplier. Based on a higher sensitivity classification, additional measures can be agreed on in the Agreement to ensure compliance with Fudura's security policy, applicable legislation and sector guidelines. The technical and organisational security measures include at least:
 - a. existing information security consisting of a coherent set of organisational, process and technical measures, taking into account the state of the art;
 - b. responsibilities for information security are clear (defined) and recorded, which ensures that someone is accountable for this;
 - c. network security consisting of measures that ensure that the Supplier's network and systems are protected against cyber-attacks, for example, by means of firewalls and anti-virus software;
 - d. backup policy regarding the backup, restoration and recovery of the software and data required for the service and it provides an adequate level of physical protection and control of access to the software and data in the backup;
 - e. access security consisting of physical and logical access where data is protected against unauthorised access;
 - f. awareness among personnel by structurally embedding it in the Supplier's organisation and creating awareness and organising knowledge and training regarding data protection and information security, privacy and security. Personnel who come into contact with classified data must sign a non-disclosure agreement;
 - g. a process of evaluation and improvement which regularly evaluates how effective the information security measures are and where improvements are needed, for example, through audits and risk analyses.

Article 18. CONFIDENTIALITY

1. Unless otherwise provided in the Agreement and unless the other Party has given its written consent to disclose Confidential Information, each Party will:
 - a. Treat Confidential Information as strictly confidential and not disclose it to anyone other than that Party's personnel, contractors, consultants and subcontractors (and in such cases only on a need-to-know basis and insofar as strictly necessary to implement or perform the Agreement and subject to the same confidentiality obligations as included in this article; and
 - b. Refrain from using Confidential Information directly or indirectly for any purpose other than implementing or performing the Agreement.
2. The following information does not qualify as Confidential Information: (a) information that the receiving Party can satisfactorily demonstrate was or has become generally available to the public other than through unauthorised disclosure; (ii) information that was already lawfully in the receiving Party's possession without obligation of confidentiality before the information was provided to it or on behalf of the other Party, as can be demonstrated by written evidence; and (c) information independently developed by one of the Parties.
3. The Parties may disclose Confidential Information if and insofar as required by law or by a judicial authority, provided that in that case, the relevant Party must, insofar as permitted by law, immediately and, if possible, prior to such disclosure, inform the other Party and limit disclosure to strictly what is required.
4. Upon completion of the Agreement, the Supplier will, should Fudura so demand and at its discretion (a) return all copies, samples and extracts of Fudura's Confidential Information, including all physical media containing the Confidential Information and other information relating to Fudura, or (b) delete or destroy all physical and electronic data containing Confidential Information and other data of Fudura; with the exception that the Supplier



may retain one copy in a confidential file for the purpose of compliance with laws and regulations and/or for monitoring compliance with the Agreement, in which case such Confidential Information will remain bound by the confidentiality provisions of the Agreement. At Fudura's request, the Supplier will confirm that it meets these requirements.

5. The Supplier will not refer to Fudura or the Services provided in marketing material, press releases or other external communications without the prior written permission of Fudura.
6. The Supplier acknowledges and agrees that Fudura's Confidential Information qualifies as a trade secret under Article 39 of the TRIPS Agreement and 'Directive 2016/943 on the protection of undisclosed know-how and business information against their unlawful acquisition, use and disclosure', and its implementing legislation, and more specifically that such Confidential Information has commercial value because it is secret and is subject to reasonable measures to keep it secret, including but not limited to the confidentiality obligations set out in these Purchase Conditions.
7. If the Supplier violates the provisions on confidentiality as included in this Article, it immediately and without notice of default owes Fudura a fine of EUR 25,000 (twenty-five thousand euros) at the time the violation occurs and EUR 1,000 (one thousand euros) before each day that the violation continues, without prejudice to Fudura's right to claim full compensation.
8. This Article will survive the expiry or termination of the Agreement.

Article 19. AUDITS

1. At Fudura's request, Supplier will allow a technical, financial and/or operational audit by Fudura's internal and/or external auditors (hereinafter collectively referred to as "**Auditors**") during office hours to determine that the Supplier fully complies with its obligations under the Agreement. Fudura will announce an audit in advance and observe a reasonable notice period. Audits will not be held more than once per calendar year, unless Fudura has good reason to believe that the Supplier is materially failing to fulfil its contractual obligations.
2. During the audit, the Supplier will during office hours grant the Auditors access to the accounts, records, audit reports of third parties, systems, facilities, controls, processes, procedures, service level measurement systems, and current service levels insofar as they relate to the Supplier's fulfilment of its obligations towards Fudura. The Supplier will always cooperate fully with the Auditors in a timely manner. The Supplier will ensure that all third parties engaged by the Supplier in the performance of the Agreement will also fully cooperate with an audit as referred to in this article and contractually agree to this with them. The Auditors will try to avoid disrupting the Supplier's business operations during the audit.
3. If the Auditors demonstrate that an excess of Costs has been charged for the period covered by the audit, or that the Supplier has otherwise failed to fulfil its obligations, the Supplier will immediately
 - a. remedy any established non-fulfilment,
 - b. reimburse Fudura for the reasonable costs of carrying out the audit, and
 - c. repay any excess amount charged to Fudura.Such audit will not be counted for purposes of the limitation in the last sentence of paragraph 1 of this Article.

Article 20. MISCELLANEOUS

1. The Agreement and any non-contractual obligations arising from or in connection therewith are governed by Dutch law. Applicability of the Vienna Sales Convention is excluded.
2. Any dispute that cannot be resolved between the Parties through consultation will be submitted exclusively to the competent court in the region Middle Netherlands, location Utrecht.
3. Insofar as the Agreement qualifies as an agreement to contract work, Articles 7:751, 7:753, 7:756(2), and 7:757(1) of the Dutch Civil Code do not apply.
4. If any provision of the Agreement is (declared) invalid or unenforceable, this will not affect the validity and enforceability of the other provisions of the Agreement.
5. Provisions that are intended to survive termination or expiry of the Agreement for any reason and provisions that are necessary for the interpretation of the Agreement will remain in force after the termination or expiry of the Agreement, regardless of the reason, and remain valid indefinitely.



Article 21. IMPLEMENTATION AND ACCEPTANCE

1. Unless explicitly stated otherwise in the Agreement or if the IT Performance cannot be implemented by its nature, the Supplier will ensure its implementation. An implementation plan will be drawn up by the Supplier in advance and implemented by Fudura after approval. An implementation plan can be included as part of a SOW or service level agreement.
2. If the implementation aims at (complete or partial) replacement of systems, software and/or services already in use at Fudura, implementation also includes the conversion and migration of data files of Fudura or those of a third party to which Fudura is entitled, of the old system, software or service to the Software or Service to be supplied by the Supplier, without affecting the completeness, integrity and metadata of the data.
3. If no implementation plan has been drawn up at the time of signing the Agreement, this will be drawn up in mutual consultation within a reasonable period, should Fudura so demand. This implementation plan describes, among other things, (always where applicable) (i) a detailed description of the objectives, (ii) the project organisation including a division of responsibilities, (iii) the planning and (iv) the manner in which the acceptance procedure will be carried out.
4. Unless explicitly stated otherwise in the Agreement, the IT Performance will be subject to an acceptance procedure by Fudura. The acceptance procedure will at least determine (i) how Defects will be inspected, (ii) which agreements apply to the repair of Defects and (iii) contain an arrangement for the consequences of a rejection by Fudura, as referred to in Article 7.5 of these Purchase Conditions.

Article 22. MAINTENANCE

1. Unless otherwise agreed, the Supplier will carry out Maintenance on the IT Performance for the fee described in the Agreement. The Maintenance takes effect from the Acceptance of (the relevant part of) the IT Performance.
2. The conditions described below apply as (minimum) conditions for Maintenance, unless otherwise stated in the Agreement.
3. Unless otherwise agreed, Maintenance includes at least the following services:
 - a. Corrective Maintenance;
 - b. Preventive Maintenance;
 - c. Innovative Maintenance; and
 - d. user support.
4. The moment of carrying out Maintenance is determined by mutual agreement. The basic principle is that Maintenance takes place in such a way that it disrupts Fudura's business processes as little as possible. If Maintenance nevertheless disrupts or could disrupt Fudura's business processes, this will be announced in advance.
5. In the context of Preventive and/or Innovative Maintenance, the Supplier guarantees at least:
 - a. that the IT Performance will continue to comply in a timely manner with the laws and regulations relevant to the agreed use;
 - b. that the IT Performance will always remain suitable for data exchange with the other relevant parts of the Application Landscape (to the extent known to the Supplier);
 - c. that when Updates and/or Upgrades are released, the performance of the IT Performance remains at least the same and that the IT Performance continues to meet the agreed use.
6. At Fudura's request, the Supplier will take care of the Implementation of Updates and Upgrades, for a fee to be agreed upon. In that case, the provisions regarding Implementation and Acceptance apply by analogy.

Article 23. THIRD-PARTY SOFTWARE

1. If (all or part of) the IT Performance consists of Third-Party Software, the Supplier, in the offer, will:
 - a. specify which part of the IT Performance consists of Third-Party Software;
 - b. make available any applicable (licence and maintenance) conditions;
 - c. insofar as there is a dependency between the Third-Party Software and the other parts of the IT Performance, clearly indicate what that dependency is and what effects that dependency has on (the quality of) the IT Performance to be provided by the Supplier.
2. In the context of Maintenance, the Supplier will issue Updates and Upgrades in a timely manner in order to



continue to ensure compatibility with Third-Party Software on which the IT Performance depends.

3. The Supplier must take preventive measures in the event of any errors in Third-Party Software (whether or not by issuing Updates and Upgrades), in such a way that these errors do not lead to defects in its own IT Performance.
4. The licence and maintenance conditions included in paragraph 1 of this Article prevail over what is stated in the Agreement, but only insofar as it concerns the Third-Party Software and if the Supplier has fulfilled the information obligations referred to in paragraph 1 of this Article.

Article 24. CUSTOM SOFTWARE

1. If the IT Performance involves the development of (standard or custom) Software on behalf of Fudura, the Supplier will carry out this work with care in accordance with the specifications included in the Agreement and any information, documentation and designs provided by Fudura.
2. Unless otherwise agreed, the Supplier will develop the Custom Software in co-creation with Fudura in accordance with a development method that is characterised by designing (parts of) the software in an iterative manner (for example, Agile/Scrum). The Parties accept that the specifications have not been (fully) developed in advance and can be adjusted in consultation during the execution of the work, including for the benefit of a next iteration. The Custom Software to be delivered will comply with the most recently agreed (set of) specifications.

Article 25. REMOTE SERVICES

1. If and insofar as no service levels have been agreed on in the Agreement and/or the service level agreement with regard to the Availability of the Remote Services (such as cloud services, ASP, SaaS, etc.), a Service Level of 99.9% applies.
2. For Remote Services, the Supplier takes care of the implementation of Updates and Upgrades, unless otherwise agreed. The Supplier is obliged to do this in such a way that the processes performed with the Remote Services are demonstrably controlled at all times.
3. Maintenance that results in the Remote Services not being able to be used or used at a reduced rate will in principle only take place outside Fudura's regular office hours and will be announced at least 48 hours in advance. The Supplier is only entitled to carry out such Maintenance within Fudura's regular office hours in urgent situations.
4. The Supplier will not delete the data processed in Remote Services without consulting Fudura, unless the data is so obviously unlawful and the urgency of the case means it cannot consult Fudura in advance.
5. For the Remote Services, the Supplier will apply a set of measures, processes and procedures in the field of information security in accordance with the ISO 27001 standard (or successors thereto). The Supplier will ensure adequate data security measures and procedures in its services as may be expected from a professional Supplier in the industry. If Fudura so demands, the Supplier, no more than once a year, will issue (a) statement(s) drawn up by an independent third-party expert as proof that it complies with the aforementioned standards.
6. The right of inspection as referred to in Article 7 of these Purchase Conditions also includes the right to attempt to break the security (so-called pen tests) in the case of Remote Services.
7. The Supplier is aware of Fudura's dependence on the availability and correct operation of the Remote Services and the data processed therein. In this context, the Supplier is not entitled to hinder or block the use of the Remote Services in whole or in part by technical measures, other than after the Supplier has given notice of default to Fudura with regard to a failure attributable to Fudura in the fulfilment of its obligations, has offered a reasonable period for compliance of at least sixty (60) days - with an explicit notice that in the event of non-compliance the use of the Remote Services will be limited or hindered - and Fudura nevertheless continues to culpably fail to fulfil those obligations. The Supplier cannot exercise this right of suspension if Fudura invokes its right of suspension in the context of a possible shortcoming on the part of the Supplier.
8. The Supplier hereby declares that it is prepared to make additional agreements with Fudura for Remote Services in order to reduce the risks in the field of continuity and dependence, including:
 - a. making agreements about the periodic return or delivery to a third party of the data processed by the Supplier (data escrow); and/or
 - b. concluding an agreement with a third party to the effect that the third party in question is jointly and severally liable for or guarantees the fulfilment of the Agreement; and/or
 - c. concluding a (tripartite) agreement with a third party that ensures that the third party in question (continually) has all necessary data at its disposal to, where appropriate, be able to provide (part of) the IT



Performance under the Agreement - whether or not on the basis of a new agreement - instead of the Supplier.

Article 26. INTELLECTUAL PROPERTY IT PERFORMANCE

1. In addition to what is stated in Article 10 of these Purchase Conditions regarding intellectual property rights, the following applies to IT Performance.
2. Unless otherwise agreed, all intellectual property rights to the IT Performance made available by the Supplier are vested exclusively in the Supplier or its licensor(s). All rights to the data processed with the IT Performance are or remain vested in Fudura, regardless of where this data is stored and regardless of whether the data has been processed after initial receipt or not.
3. Unless otherwise agreed on in the Agreement, the Supplier grants a Right of Use to the IT Performance. If a fee is periodically due for the Right of Use, the duration of the Right of Use is equal to the term of the Agreement. In other cases, the Right of Use is perpetual and irrevocable. The Right of Use in any case includes the right to use the IT Performance (and all information/knowledge contained therein) for the Agreed use, as well as for testing purposes, including all reasonably necessary reproduction and disclosures, temporary or otherwise.
4. The intellectual property rights to Custom Software are vested in Fudura. These rights are hereby transferred by the Supplier to Fudura, which hereby accepts this transfer. This transfer covers all current and future rights in the broadest sense of the word. The Supplier furthermore irrevocably waives any personality rights to the Custom Software, to the extent permitted by law. The Supplier will make all source codes of the relevant Custom Software available to Fudura. The one-off purchase price for this transfer is deemed to be included in the agreed price. The transfer and delivery of the rights and the aforementioned source code take place under the suspensive condition of payment of the relevant agreed price.
5. In the event of an (imminent) ban on the use of the IT Performance and/or other adverse consequences for Fudura in connection with (possible) rights of third parties, the Supplier will - in addition to what is stipulated in Article 12 of these Purchase Conditions regarding indemnification and continued undisturbed use - as soon as possible and at its expense, at Fudura's discretion:
 - a. ensure that Fudura still obtains the right to continue the use;
 - b. replace the infringing part with another part that is not infringing;
 - c. change the infringing part so that the infringement is eliminated;all three options mentioned above are without prejudice to Fudura's other rights, including the right to dissolve the Agreement and the right to (replacement and/or additional) compensation.