

EXACT SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS



EXACT SUBSCRIPTION TERMS AND CONDITIONS

Dear Exact Licensee,

Thank you for using Exact software.

This document describes the terms and restrictions that apply to the use of the Exact products and services supplied to you.

This document contains:

1. the Subscription Agreement (Chapter I)
2. the Consultancy Agreement (Chapter II)
3. the General Terms & Conditions (Chapter III)

The Subscription Agreement sets out your rights and obligations in respect of the use of Exact software (hereinafter: 'the Software'), and your rights and obligations in respect of the maintenance and support of the Software. The Consultancy Agreement sets out your rights and obligations in respect of the consultancy services provided by Exact. The General Terms & Conditions apply to all use, maintenance and support of the Software and to all other services provided by Exact.

The agreements and terms in this document do not apply to so-called 'customized versions' or adapted versions of the Exact software. The 'Terms and conditions for your license, maintenance and support in respect of Exact customized software' apply to such versions.

If you do not agree with the conditions and limitations as stated in one of the Agreements or in the General Terms & Conditions you are not permitted to install the Software or have it installed, or to use, access, or open the Software, and must return the Software to Exact unused and in its original packaging.

You are required to carefully read the enclosed Agreement(s) applicable to this Software as well as the General Terms & Conditions, as they fully apply to the Software supplied to you and - where applicable - to the maintenance and/or the services provided.

We wish you a lot of success in using the Exact products for which you have obtained a license and trust you will derive the full benefit from them.

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CHAPTER I: SUBSCRIPTION AGREEMENT

THE LICENSEE STATED ON THE SIGNED PROPOSAL, AND EXACT GROUP B.V. AND/OR ONE OF ITS SUBSIDIARIES ACTING AS [SUB]- LICENSOR (HEREIN AFTER: 'THE LICENSOR'), HEREBY AGREE AS FOLLOWS:

INITIATIONS Article 1

Unless otherwise described in this Subscription Agreement, capitalized terms in this Subscription Agreement shall have the meanings ascribed to them in Article 1 of the General Terms & Conditions.

RIGHT OF USE Article 2

- 2.1 The Licensor grants the Licensee the nonexclusive right and the non-exclusive license to use the Software in accordance with the provisions in this Subscription Agreement and to install the Software or have it installed for this purpose once per server and to create the maximum number of administrations and/or databases mentioned in the License File with the aid of this License File. The License File may only be used once.
- 2.2 The Licensee shall only use the Software on the computer system used for the Licensee's internal operations, using the License File made available by the Licensor and for the number of Named Users stated in the License File. The Licensee is not permitted to have the Software used by or on behalf of any other person or legal entity, except when the Software contains functionality which makes it possible for third parties to make use of that functionality via web access.
- 2.3 The right of use also includes the right to use the Documentation pertaining to the Software.

- 2.4 The Subscription Agreement and the right to use the Software come into effect only after both Licensor and Licensee have accepted, in writing or via an electronic system, the Proposal and the Licensee has accepted in writing or via an electronic system the applicable License Agreement and General Terms and Conditions.
- 2.5 The Licensee is only permitted to use the Software within the Licensee's own company on a computer system that complies with the System Requirements.
- 2.6 With the exception described in Article 2.2, the Licensee is expressly prohibited from having the Software used or from allowing it to be used for or by other than or by more than the maximum number of Named Users stated in the License File.
- 2.7 The Licensor is entitled to request the Licensee to register on an annual basis.

MAINTENANCE SERVICES Article 3

- 3.1 For the purpose of this Subscription Agreement the term 'Maintenance Services' means (I) Support as described in Article 4 and (II) Maintenance as described in Article 5, subject to the exceptions described in Article 6.
- 3.2 All Maintenance services will be performed on Work Days between 09.00 a.m. and 05.00 p.m. Other and/or extended opening hours may be possible, which may differ per Exact office.

SUPPORT

Article 4

- 4.1 'Support (Services)' means the provision of telephonic, written and/or electronic helpdesk support relating to the use and functioning of the Software.
- 4.2 When the Licensee or an Employee of the Licensee requests Support, the computer system on which the Software is installed must be in the immediate vicinity of and constantly available to the Licensee or Employee of the Licensee. Furthermore, the Licensee must have a ready-for-use Internet connection with the Licensor. Support can only be provided if the Licensee or the Employee of the Licensee provides the Licensor with the correct license number and license name.
- 4.3 Only the Licensee and its Employees can request Support.
- 4.4 In case the services delivered to the Licensee do not fall within the Support range, the Licensor is entitled to invoice the Support offered against a fee in accordance with the tariffs listed in the Price list applicable at that time and Licensee is obliged to pay such invoice.

MAINTENANCE

Article 5

- 5.1 Maintenance includes:
- a. the tracing and repairing, with commercially reasonable efforts, of all Defects in the Software the Licensee has reported to the Licensor in accordance with Article 5.5.
 - b. the provision of Software Updates and/or Upgrades at the sole discretion of the Licensor. Updates and/or Upgrades will, as much as possible, be provided via the Customer Portal. In an Update and/or

Upgrade the Licensor may duplicate the functionality from the previous Software Updates and/or Upgrades without change, but does not guarantee that every new Update and/or Upgrade will have the same functionality as the previous Software Updates and/or Upgrades.

- 5.2 The Licensor may require that the Licensee adapts his computer system to new System Requirements set by Licensor due to increased functionality or increased requirements of Software Updates or Upgrades. If the Licensee fails to comply with these new System Requirements and nevertheless installs a Software Update or Upgrade, the Licensor is not in any way liable for any ensuing loss or damages. If the Licensee does not comply with the System Requirements set by the Licensor and continues to use the previous Software Update or Upgrade the provisions in Article 5.4 c) and d) also apply.
- 5.3 Maintenance Services will, as much as possible, be performed online. The Licensee is responsible for realizing a data connection with the Licensor in his computer system. The Licensor reserves the right to suspend Maintenance services if it can reasonably be determined that the data connection does not meet the necessary technical and safety requirements set by the Licensor.
- 5.4 The Licensor is not obliged to provide Maintenance Services, including Maintenance Services relating to errors and/or Defects, resulting from:
- a. modifications to the Software, of any nature, that were not made by or on behalf of the Licensor;
 - b. use of the Software by or on behalf of the Licensee in a manner or in combination with other software or hardware that is not described in the accompanying Documentation or is otherwise not

- c. permitted pursuant to this Agreement and/ or the Subscription Agreement;
 - c. use of an old Update three (3) months after the Licensor has introduced a new Software Update;
 - d. use of an old Upgrade six (6) months after the Licensor has introduced a new Software Upgrade;
 - e. intentional incorrect use of the Software, whether or not by the Licensee;
 - f. defects, hidden risks (such as viruses, worms, Trojan horses, logic bombs, etc.) or errors in software not originating with the Licensor, hardware, communication equipment, peripherals or other equipment belonging to the Licensee or a third party, or failure on the part of the Licensee to have this equipment and/or software maintained on a regular basis;
 - g. data entry errors or errors related to data used by the Licensee. If the Licensor nevertheless, at its sole discretion, decides to perform this work at the request of the Licensee, the Licensee must pay the Licensor a fee in accordance with the tariffs listed in the Price List applicable at the time.
- 5.5 If a Defect is noted the Licensee must notify the Licensor forthwith and provide the Licensor with all system environment and other relevant information relating to the Defect in order to enable the Licensor to isolate, reproduce and resolve the Defect.
- 5.6 Within three (3) Working Days after the Licensee has reported a Defect via the Customer Portal in such sufficient detail that the Licensor is able to reproduce the Defect, the Licensor will give the Licensee an initial response to the Defect. This response may consist of a preliminary analysis or, where available, the provision of a (known) workaround.

- 5.7 The Licensor will use commercially reasonable efforts to remedy the Defects the Licensee has reported in accordance with the provisions in Article 5.5. The Licensor reserves the right to set priorities in remedying the Defects on the basis of their seriousness and consequences of the Defects for the entire data file. Depending on the seriousness of the Defect the Licensor is entitled, at its sole discretion, to resolve the reported Defect by offering the Licensee a repair option or workaround.
- 5.8 The Licensee will provide every assistance to the Licensor’s investigation of the Defect, including ceasing the use of the Software in question at the request of the Licensor in order to enable the Licensor to analyze and repair the Defect. If the Licensee fails to provide this assistance the Licensor will not be obliged to further investigate or remedy the Defect.

EXCEPTIONS
Article 6

Maintenance Services do not include:

- a. services in respect of system configurations, hardware and networks;
- b. structural work such as defining layouts, overviews, annual reports, the lay-out of accountant’s charts, bookkeeping issues, import definitions and connections to thirdparty software;
- c. on-site support;
- d. te on request of the Licensee extensions to the functionality of the Software;
- e. the on request of the Licensee adjusted and/or extended configuration (of the system) by means of the Exact Synergy Enterprise Configurator;
- f. file conversions;

- g. services with respect to external databases of third parties, meaning producers other than the Licensor;
- h. installation, configuration, training or other services not expressly described in this Agreement;
- i. maintenance or support for software supplied by the Licensor other than the Software and/or for (operating) software of producers other than the Licensor;
- j. maintenance or support for hardware;
- k. file repairs, of which the cause of damage cannot be attributed to the Licensor's Software;
- l. the maintenance on other products than the Software that are put on the market by or on behalf of the Licensor;
- m. reproduction of corrupted or lost data.
- n. maintenance and/or support for Software, in a different country than the country in which the software was acquired.
The Licensor is not obliged to perform work in respect of the matters listed under a) through n). If the Licensor nevertheless, at its sole discretion, decides to perform this work at the request of the Licensee, the Licensee must pay the Licensor a fee in accordance with the tariffs listed in the Price List applicable at the time, in addition to the subscription fee.

SUBSCRIPTION FEE

Article 7

- 7.1 Under this Subscription Agreement the Licensee has an obligation to pay a monthly subscription fee for each part of the Software for which a right of use is granted pursuant to this Subscription Agreement and for the Maintenance Services as described in this Subscription Agreement.
- 7.2 The monthly subscription fee will be payable in advance for the term of this Subscription

Agreement and from the date upon which the Subscription Agreement comes into effect in accordance with article 11.1 Unless otherwise agreed in writing, payment will be done via direct debit, for which the Licensee will give authorization to the Licensor.

- 7.3 The Subscription fee is due and payable irrespective of whether Licensee uses the Software or not.
- 7.4 The Licensor may suspend its obligation pursuant to this Subscription Agreement until the subscription fee has been paid in full.
- 7.5 When the Subscription Agreement is renewed as described in article 11.2, the Licensor is entitled to adjust the Subscription fee on an annual basis in accordance with the CBS (Dutch Central Statistics Bureau) Consumer Price Index figure (series: all households 2006=100). Any price changes will be communicated through the Customer Portal or some other means.

TRANSFERABILITY

Article 8

- 8.1 The Licensee is prohibited, being it for remuneration or not, from transferring the right and license of use of the Software to third parties by act of law or by agreement, including but not limited to through a merger or change of Control, or to hire out, sub-license, sell, dispose of or pledge the Software.
- 8.2 The Licensee is prohibited from passing and/or accepting the Software into control and/or use of a third party, including hosting, timesharing or outsourcing. The term 'third party' also includes Affiliated Companies.
- 8.3 If the Licensee grants a third party the unauthorized use of the Software as referred to in Article 8.1 and Article 8.2 of

this Subscription Agreement, the Licensee will, from the commencement date of the right of use referred to in Article 2.4 of this Subscription Agreement, remain liable for the payment of the subscription fees both for the Licensee's own use as well as the unauthorized use by that third party, without prejudice to the Licensor's right to recover these fees directly from that third party. The right to recover subscription fees as described here above does not affect the Licensor's right to recover the full damages resulting from an infringement of the provisions in Article 8.1 and/or Article 8.2 of this Subscription Agreement from the Licensee nor the right to terminate the Subscription Agreement in accordance with Article 10 of the General Terms and Conditions.

8.4 The Subscription Agreement can only be transferred after the express written consent of the Licensor. Any actions, failure to act, or behavior of Exact, or circumstances of any nature whatsoever do not alter this condition. For example, if a third party pays subscription fees to the Licensor on behalf of the Licensee, or uses Support, this never results in a valid transfer of the Subscription Agreement.

MANNER OF USE Article 9

9.1 The Licensee shall use the Software in the correct manner, with due observance of the provisions in this Subscription Agreement (including the General Terms & Conditions) and the Documentation. With the exception of the provisions in Articles 9.2 and 9.3 of this Subscription Agreement the Licensee is prohibited from copying, reproducing, translating, modifying, disassembling, decompiling, imitating,

changing or reconstructing the Software and/or Documentation, or reproducing or processing it in any other manner, wholly or in part, without the express prior written consent of the Licensor.

- 9.2 The Licensee is entitled to make one copy of the Software as backup and for recovery purposes. The Licensee will only use this copy to replace the original Software when it has become unfit for use.
- 9.3 The Licensee must make regular backups of all data files that are generated, used and/or applied with the Software.
- 9.4 Pursuant to this Subscription Agreement the Licensee must:
- a. always ensure that the Software and Documentation are sufficiently protected against misuse, damage (including damage as a result of hidden risks such as viruses, worms, Trojan horses, logic bombs etc.), theft or destruction by any party;
 - b. prevent any unauthorized persons from copying, reproducing, translating, modifying, disassembling, decompiling, imitating, changing or reconstructing the Software and/or Documentation, from having access to the Software and/or Documentation or from reproducing or processing the Software and/or Documentation in any other manner;
 - c. immediately notify the Licensor of any and all information the Licensee obtains relating to the unauthorized copying, changing or use of the Software and/or Documentation or relating to all other actions that are prohibited pursuant to Articles 9.4 and 9.1;
 - d. ensure that the number of Named Users does not exceed the allowed number stated in the License File.
- 9.5 The Licensee is ultimately responsible for the proper installation and configuration of the Software on the Licensee's computer system. At the request of the Licensee

the Licensor will support the Licensee in the installation and configuration of the Software and will train the Licensee or the Licensee's Named Users in the use and operation of the Software. De costs of this support will be determined in accordance with the Price List.

FUNCTIONING OF THE SOFTWARE

Article 10

10.1 The Licensor declares that the Software supplied to the Licensee hereunder will function substantially in accordance with the provisions of the accompanying Documentation during a one-off period of ninety (90) calendar days from the date of supply of the Software or from another starting date expressly agreed in writing between the Licensor and the Licensee. The Licensee must notify the Licensor of any claim related to the functioning of the Software no later than 5 Work Days after the aforementioned ninety (90) calendar days, in writing and by certified mail. If the Licensee notifies the Licensor in accordance with the provisions of this Article 10.1 that the Software does not function substantially in accordance with the accompanying Documentation, the Licensor will provide the Maintenance Services as described in Articles 4 and 5.1, under a and b of the Subscription Agreement.

10.2 The Licensor is not obliged to restore corrupted or lost data or provide Maintenance services pursuant to Article 10.1 of this Subscription Agreement in respect of errors and/or Defects that are not attributable to the Licensor, including but not limited to errors and/or Defects resulting from:

- a. modifications to the Software, of any nature, that were not made by or on behalf of the Licensor;
 - b. use of the Software by or on behalf of the Licensee in a manner or in combination with other software or hardware that is not described in the accompanying Documentation or is otherwise not permitted pursuant to this Agreement;
 - c. use of an old Update three (3) months after the Licensor has introduced a new Software Update or Upgrade;
 - d. use of an old Upgrade six (6) months after the Licensor has introduced a new Software Upgrade;
 - e. intentional incorrect use of the Software, whether or not by the Licensee;
 - f. defects, hidden risks [such as viruses, worms, Trojan horses, logic bombs, etc.] or errors in software not originating from the Licensor, hardware, communication equipment, peripherals or other equipment belonging to the Licensee or a third party, or failure on the part of the Licensee to have this equipment and/or software maintained on a regular basis;
 - g. data entry errors or errors related to data used by the Licensee. If the Licensor nevertheless, at its sole discretion decides to perform this work at the request of the Licensee, the Licensee must pay the Licensor a fee in accordance with the tariffs listed in the Price list applicable at that time, in addition to the subscription fee.
- 10.3 The one-off ninety (90) day period for previously ordered and supplied Software referred to in Article 10.1 of this Subscription Agreement is not extended by [additional] Software that is ordered and supplied at a later date. If additional orders are added to a license for which the period referred to in Article 10.1 of this Subscription Agreement

- has expired, this period will not revive for the previously ordered and supplied Software.
- 10.4 If more than three (3) months have expired since the issue of an Update or six (6) months since a Software Upgrade, the Licensor is not obliged to supply the preceding Update or Upgrade or any extension of the license based thereon.
- 10.5 The Licensee is fully responsible for the Software receiving correct and correctly formatted data from all software and hardware used to exchange data with the Software or to provide data to the Software.

COMMENCEMENT, DURATION AND TERMINATION
Article 11

- 11.1 The Subscription Agreement and the right to use the Software come into effect on the date on which the Proposal, including this Subscription Agreement and the General Terms & Conditions is duly executed by both the Licensor and the Licensee, either in writing or electronically. As per the start date of the Subscription Agreement the Licensee can download from the Customer Portal the License File which is needed to create the administrations and/or databases and Named Users and to use the Software.
- 11.2 The Subscription Agreement is entered into for a duration as laid down in the Proposal, cannot be terminated early, and after the expiry of this duration will be automatically and tacitly renewed, unless either party gives the other party written notice by certified mail not later than one month (1) prior to the date that the Subscription Agreement tacitly will be renewed. After the renewal the Subscription Agreement can be terminated at the end of each next month with a written notice by certified mail.

- 11.3 The duration of this Subscription Agreement will not change as a result of the Licensee adding additional orders to the Software under the same Subscription Agreement. These additional orders are added to the current Subscription Agreement and the subscription fee in respect of the additional orders will therefore also for the then current month be invoiced proportionally, in other words, from the date the additional orders are added to the Subscription Agreement until the end of the then-current term. When the Subscription Agreement is renewed, the Subscription Agreement will cover as per the renewal date the entire Software composition and the subscription fee will be invoiced over the total value of the Software.
- 11.4 During the term of this Subscription Agreement Licensee annually receives a license voucher and this license voucher must be read by the Licensee to use the Software until the moment that the Subscription Agreement will terminate.
- 11.5 When no (timely) payment of the Subscription Fee is received and/or payment by direct debiting is reversed, the (renewed) Subscription Agreement will not come into effect and/or the (current) obligations pursuant to the Subscription Agreement and the General Terms & Conditions shall be suspended until payment of all current terms have been made.
- 11.6 If the Subscription Agreement is expired, not timely renewed or otherwise terminated, the right and license of use automatically ceases in respect of the Software. Furthermore Licensor's obligation to provide Maintenance Services pursuant to this Subscription Agreement automatically ceases in respect of the Software. Article 5.1 of the General Terms & Conditions also apply.

LICENSE NAME

Article 12

- 12.1 The name for the license provided by the Licensee must correspond with the business name used by the Licensee as it is registered in the commercial register of the Chamber of Commerce or the equivalent commercial register in his country, or - in the event that the Licensee is not registered in the commercial register - the business name the Licensee uses for legal purposes.
- 12.2 The Licensor reserves the right to unilaterally change a name provided by the Licensee and accepted by the Licensor with due observance of Article 12.1 of this Subscription Agreement.

GENERAL TERMS & CONDITIONS

Article 13

The Licensor's General Terms & Conditions form an integral part of this Subscription Agreement and are deemed to have been fully included in this Subscription Agreement.

CHAPTER II: CONSULTANCY AGREEMENT

THE FOLLOWING TERMS AND CONDITIONS APPLY BETWEEN THE LICENSOR AND THE LICENSEE, WHEN THE LICENSEE ENTERS INTO A CONSULTANCY AGREEMENT WITH THE LICENSOR

DEFINITIONS

Article 1

Unless otherwise described in this Consultancy Agreement, capitalized words in this Consultancy Agreement shall have the meanings ascribed to them in Article 1 of the General Terms and Conditions.

CONSULTANCY FEE

Article 2

2.1 Pursuant to the Consultancy Agreement, the Licensee must pay the Licensor the price agreed and/or rates agreed by the Licensee and the Licensor in the Proposal/Order Confirmation. The Licensor reserves the right to charge other fees, such as but not limited to additional work/contract extras. All prices and rates are exclusive of VAT and exclusive of travel, accommodation and subsistence costs. Invoicing will take place on a time-spent basis per full hour. On-site consults are invoiced with a minimum of four (4) hours per visit per consultant. The hourly rates are increased on Work Days after 6:00 pm to 150% of the normal rate and to 200% during non-Work Days.

CONSULTANCY SERVICES

Article 3

3.1 The Licensee shall be entitled to the consultancy services to be carried out by the Licensor in the form and scale as set down in the Proposal/Order Confirmation and/or the Plan of Approach signed by both parties.

3.2 The consultancy services to be carried out by the Licensor for the Licensee may relate to implementation and/or installation and/or setup and/or training in the use of the Software and/or the Customized Software of the Licensee, and are carried out per part day. Depending on the activities, the consultancy services can, at the Licensor's sole discretion, be carried out remotely or on-site at the Licensee.

3.3 All copyrights, patent rights, other intellectual property and industrial property rights as well as all similar rights for the protection of information in respect of Software and/or materials, tools, reports and documentation deriving from the consultancy services are the exclusive property of the Licensor. None of the provisions in the Consultancy Agreement can be interpreted in such a way that it results in the full or partial transfer of these rights to the Licensee and no such transfer is aimed, meant or may be understood. The Licensor grants the Licensee the non-exclusive right and the non-exclusive license to use such materials, tools, reports and documentation for the duration of the License Agreement. The Licensee is prohibited, being it for remuneration or not, from transferring such right and license to third parties by act of law or by agreement, including but not limited to through a merger or change of Control, or to hire out, sub-license, sell, dispose of or pledge the Software, materials, tools, reports and documentation deriving from the consultancy services.

CONSULTANCY ORDER (CONFIRMATION)

Article 4

- 4.1 In the event that the Licensee wishes to purchase consultancy services which are not (yet) agreed upon in a Proposal, the Licensee must contact the Licensor for this purpose a minimum of 1 Work Day before the commencement date desired by the Licensee, then the Licensor shall plan for such consultancy services, taking into account as far as possible the schedule desired by the Licensee. The Licensor can not guarantee the schedule requested by the Licensee.
- 4.2 The Licensor shall confirm the consultancy services desired by the Licensee to the Licensee in a Consultancy Order Confirmation. The consultancy services shall only be carried out following receipt of a (Consultancy) Order Confirmation signed by the Licensee to indicate its approval.
- 4.3 If a Proposal/Order (Confirmation) is established between the Licensor and the Licensee, the Licensor will, with input from the Licensee create a Plan of Approach. The consultancy services shall only be carried out following receipt of the Plan of Approach signed by the Licensee to indicate its approval.
- 4.4 The Licensee may cancel the requested consultancy services up to 5 (five) Working days before the (start) date agreed in the Proposal/Order (Confirmation) or Plan of Approach or ask the Licensor for a new (start) date, which shall not be any earlier than the original (start) date. A new (start) date shall be established in the form of a Proposal/ Order (Confirmation) and/or an amended Plan of Approach to be signed by the Licensee indicating its approval. In the event that the Licensee does not take the stated period of 5 (five) Working days into account

for this purpose, the Licensor shall be entitled to invoice the Licensee the cancelled consultancy services.

If travel costs have already been made by the Licensor prior to cancellation of the consultancy services (irrespective of the date of cancellation), the Licensor is entitled to charge these costs to the Licensee.

- 4.5 The Licensor shall make every effort to carry out the consultancy services agreed in the Proposal/Order (Confirmation) or the Plan of Approach within the periods agreed for this. All (delivery) periods stated by the Licensor have been determined to the best of its knowledge on the basis of the information that was known when the Proposal/Order (Confirmation) or Plan of Approach was entered into. The Licensor shall not be in breach if a stated (delivery) period is exceeded.
- 4.6 Articles 9 and 15 of the General Terms and Conditions shall apply mutatis mutandis.

EFFORTS OF THE LICENSOR

Article 5

- 5.1 The Licensor shall carry out the consultancy services to the best of his ability and make every effort to carry out the consultancy services with care, in accordance with the agreements and procedures laid down in writing with the Licensee, where appropriate.
- 5.2 If it has been agreed in the Proposal/Order (Confirmation) or Plan of Approach that the consultancy services shall take place in phases, the Licensor may postpone starting the services that form part of a subsequent phase, until the Licensee has approved the results of the phase preceding it in writing.

IMPLEMENTATION OF CONSULTANCY SERVICES
Article 6

- 6.1 De Licensor is always entitled to replace the person that is effectively carrying out the Consultancy Agreement, the consultant, with another person with the same qualifications, even if the Consultance Agreement was concluded with the purpose of execution by a particular person.
- 6.2 De Licensor is always entitled – if he deems it appropriate or necessary for the execution of the Consultancy Agreement – to engage other (third party) professionals of which the costs will be charged to the Licensee after consultation and mutual agreement.
- 6.3 The consultancy services are carried out on Work Days during normal office hours, with a lunch time of thirty (30) minutes.
- 6.4 A visit report is drawn up every day or at the end of consecutive visit days by the consultant, which must be signed off by the Licensee and is passed to the Licensee by the Licensor via the Customer Portal. If the Licensee does not agree to the content of a visit report, the Licensee shall notify this in writing to the consultant, project manager or consulting manager of the Licensor within fourteen (14) days after the publication of the visit report on the Customer Portal. If such notification is not received in time, the contents of the visit report are deemed to be accepted by the Licensee as being complete and correct.

ADDITIONAL WORK
Article 7

- 7.1 The Licensor is only obliged to follow up the Licensee's instructions given in a timely and responsible manner when performing services if this has been expressly agreed in writing in the Proposal/Order (Confirmation) or Plan of Approach. The Licensor is not obliged to follow up instructions that are not in accordance with the content of the consultancy services described in the Proposal/Order (Confirmation) or Plan of Approach; in the event that instructions such as these are followed up, the activities in question shall be paid for by the Licensee as additional work, as set down in Article 7.2.
- 7.2 In the event that the consultancy services requested by the Licensee exceed the estimated number of hours necessary to carry out the consultancy services requested, to the best of the Licensor's knowledge as set out in the Consultancy Order Confirmation and/or Proposal and/or Plan of Approach, the consultancy services for the Licensee may be carried out on the basis of the usual rates for the Licensor, for which a separate Consultancy Order Confirmation and/or Plan of Approach shall be entered into between the Licensor and the Licensee.

OBLIGATIONS OF LICENSEE

Article 8

- 8.1 The Licensee shall, at all times, provide the Licensor with all data or information that is useful and necessary to perform the consultancy services properly, and shall collaborate fully to that purpose.
- 8.2 The Licensee shall be responsible for the use and application of the equipment, software and services to be provided by the Licensor (within its organization), as well as for the surveillance and security procedures and adequate system management.
- 8.3 The Licensee shall be responsible for the computer system's compliance with the System Requirements. Should this not be the case when the consultancy services begin, the Licensor shall be entitled to invoice the consultancy days that it could not reasonably fulfill, due to the fact that the Licensee's computer system does not meet the System Requirements, or (at the Licensor's discretion), pass on the expenses that the Licensor incurred in order to get the computer system working in accordance with the System Requirements.
- 8.4 The Licensee shall indemnify the Licensor against claims of third parties, including its Employees, who suffer loss as a result of carrying out the Proposal/Order [Confirmation] or the Plan of Approach, which is the consequence of the Licensee's actions or failure to do something or of unsafe situations in its organization.

GENERAL TERMS AND CONDITIONS

Article 9

The General Terms and Conditions form an integral part of this Consultancy Agreement and are deemed to have been fully included in this Consultancy Agreement.

CHAPTER III: GENERAL TERMS & CONDITIONS EXACT GROUP B.V.

DEFINITIONS

Article 1

For the following words in these General Terms & Conditions and in the Agreements the following definitions apply:

- a. 'Affiliated Company': a group company of the Licensee in the meaning of Article 24 of Book 2 of the Dutch Civil Code, as well as any other company or partnership in which the Licensee has a controlling interest, by virtue of law, agreement or otherwise;
- b. 'Agreement': the Subscription Agreement and/or the consultancy agreement and/or any other agreement between Licensor and Licensee;
- c. 'Confidential information': the information of the Licensee and/or Licensor of a confidential nature, including but not limited to company secrets, knowhow and source codes, and also (a) information that is indicated 'confidential' in writing, (b) information that is not commonly known, (c) information that has not been made accessible by the party to which the information relates and/or from which the information originates and/or (d) information of which the confidential nature must reasonably be assumed by the other party;
- d. 'Control: the possibility of exercising decisive influence on the activities of a business of a legal entity, by virtue of an agreement or by law.
- e. 'Customer Portal': the protected part of the website indicated by the Licensor, to which Named Users are given access by means of a User ID issued by Licensor;
- f. 'Defect': all substantial failures in the Software that prevent the Software from functioning substantially in accordance with the accompanying Documentation. The lack of certain functionality in a new Software Upgrade and/or Update that was present in an earlier Upgrade and/or Update is not considered to be a Defect;
- g. 'Documentation': the written and/or electronic documentation pertaining to the Software;
- h. 'Employee': a natural person employed by the Licensor or Licensee, or a natural person authorized to carry out work activities for and/or under the responsibility of the Licensor or Licensee;
- i. 'Subscription Agreement': the Agreement between the Licensor and the Licensee that contains the rights and obligations relating to the use of the Software and the Maintenance Services (as described further in Chapter I);
- j. 'Licensee': the natural person or legal entity who entered into an Agreement with the Licensor;
- k. 'License file': the file issued by the Licensor to the Licensee that can be used to create administrations and/or databases and Named Users in the Software;
- l. 'Licensor': Exact Group B.V. and/or one of its subsidiaries acting as a (sub) Licensor;
- m. 'Named User': the natural person for whom a User ID is created, which User ID gives access to the Software (irrespective if this natural person uses the Software or not) and/or to the Customer Portal;
- n. 'Plan of Approach': the written or electronic document containing amongst other things a description of the goal of the consultancy services, a description of the consultancy services to be provided by the Licensor and a planning.
- o. 'Price list': the official (international) price list of the Licensor that applies at any given time;

- p. 'Proposal' / 'Order (Confirmation)': the written or electronic document containing the commercial offering of Licensor to Licensee based on which an Agreement is entered into;
- q. 'Software': the standard (executable) software of the Licensor that is supplied to the Licensee or made available to the Licensee via the Customer Portal pursuant to the Subscription Agreement as well as all Updates and Upgrades the Licensor has issued to the Licensee. 'Software' does not refer to thirdparty software that is also supplied;
- r. 'Subsidiary': a legal entity in which the Licensor or one or more of its Subsidiaries, either by agreement with other voters or otherwise, alone or together, can exercise more than half of the voting rights in the general meeting and thus can determine the course of action of the business conduct by that legal entity;
- s. 'System Requirements': the minimum requirements for Licensee's computer system with regard to hardware and (third party) software as prescribed by the Licensor from time to time;
- t. 'Update' (maintenance release): a version of the Software in which a minor adjustment or a solution to a Defect or an enhancement is made;
- u. 'Upgrade' (release): a version of the Software in which an important change in the functionality and/or technology is made;
- v. 'User ID': a code that is exclusive to the Named User, consisting of a user name and password. The User ID may only be used by the Named User;
- w. 'Work Days': public accepted work days in the country from which maintenance and support services are provided, with the exception of official public holidays;

OFFER AND AGREEMENT

Article 2

- 2.1 These General Terms & Conditions apply to all negotiations and offers and to all Agreements pursuant to which the Licensor supplies or could supply goods of any nature and/or provides or could provide services of any nature, even if these goods or services are not further specified in these General Terms & Conditions or in the Agreement, unless agreed otherwise in writing.
- 2.2 An offer or quotation from the Licensor that is not directed at a specific person or legal entity is free of obligations and is revocable and must be considered an invitation to place an order. The Licensor reserves the right to refuse orders without giving any reasons.
- 2.3 The Licensor is entitled to unilaterally change the General Terms & Conditions and the Agreement. Where possible the Licensee will be notified of such changes two (2) months before the changes come into effect. The Licensee is entitled to terminate an Agreement within two (2) weeks after the Licensor has announced the changes to the General Terms & Conditions and the Agreements if the changes are material and/or unreasonable onerous for the Licensee. Price increases in accordance with Article 3.5 of the Subscription Agreement and/or Article 3.2 of the General Terms & Conditions are considered neither to be material nor unreasonably onerous. In this case the Agreement will terminate at the time the changes come into effect. This termination will not result in reimbursements of license, maintenance and/or any other fees to Licensee. In the absence of a written, express objection against the announced change(s) within the stated period the Licensee is deemed to have accepted the changes.

PRICE AND PAYMENT

Article 3

- 3.1 All prices and other tariffs are exclusive of VAT and exclusive of any other government levies payable by the Licensee.
- 3.2 The Licensor is entitled to adjust fees agreed upon with the Licensee on an annual basis. The price changes will be communicated to the Licensee in good time by means of the Customer Portal or some other means. The Licensee expressly declares that he agrees with these price increases, when they are in line with and do not exceed the CBS (Dutch Central Statistics Bureau) Consumer Price Index figure (series: all households 2006 = 100). In the event of price increases that exceed the aforementioned Price Index figure the Licensee is entitled to terminate the Agreement before the end of next month by notifying the Licensor accordingly in writing and by certified mail within two (2) weeks after the price increase was announced. If the Licensee does not respond to an announced increase within the aforementioned period of two (2) weeks the Licensee is deemed to have accepted the Licensor's new price terms.
- 3.3 Payment for the Subscription fee will be done via direct debiting for which the Licensee gives authorization to the Licensor. For other fees to be paid by the Licensee to the Licensor, the Licensee will make payments in accordance with the payment terms stated on the invoice. If no such terms are mentioned payment must be made in Euros within thirty (30) calendar days after the invoice date. The amount must be paid in full without any deductions or setoffs.
- 3.4 If the Licensee wholly or in part fails to meet his payment obligations under Article 3.3 of these General Terms & Conditions, or fails to meet his payment obligations on time, the Licensee is in default without any further notice being required. Once in default the Licensee must pay interest of 1.5% per month or part thereof, commencing on the date the payment was due. If, after the payment has become due and the Licensee has not made a payment, the Licensor asks for payment of the principal sum only, this never means that the Licensor waives the aforementioned interest. The Licensee will always be liable to pay interest from the moment the payment first became due.
- 3.5 All costs, including reasonable attorney fees, incurred by the Licensor, either through the courts or otherwise, as a result of the Licensee not meeting his obligations under an Agreement will be at the expense of the Licensee. The extrajudicial (collection) costs incurred by the Licensor will be set at a minimum of 15% of the principal amount of the claim, with a minimum amount of EUR 250.
- 3.6 The Licensor is entitled to suspend any obligation pursuant to the General Terms & Conditions and the Agreements until such time as the Licensee has paid all outstanding amounts in full. The (financial) administration of the Licensor serves as full proof.
- 3.7 Payments made by Licensee go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the (oldest outstanding) principal sum and the current interest.

CONFIDENTIALITY

Article 4

- 4.1 Neither party will disclose Confidential Information about the other party or use such information for anything other than the purpose for which the Confidential Information was obtained, unless such use is necessary in the scope of the realization of an Agreement.
- 4.2 Both parties will take all reasonable precautions to ensure they comply with their confidentiality obligations. None of the provisions included in this Article (4) imposes any restrictions on the receiving party in respect of information or data - either the same or similar to the information or data contained in the Confidential information or otherwise - if this information or data:
- (I) was already the legal property of the receiving party before it was obtained from the party in question;
 - (II) was developed independently by the receiving party without using information or data of the party in question;
 - (III) is or will be generally known or accessible other than by an act or omission on the part of the receiving party; or
 - (IV) is disclosed to the receiving party by a third party without an obligation of confidentiality toward the party in question being infringed.
- The confidentiality obligations pursuant to this Article 4 also do not apply if the Confidential Information of the other party must be made public pursuant to the law, an ordinance, a court order or a decision by another government agency, on condition that the receiving party makes every effort to limit the scope of the publication and notifies the party concerned in advance of any such intended publication.

- 4.3 The parties guarantee that their Employees and third parties engaged by the parties will comply with the confidentiality obligations as described above in Articles 4.1 and 4.2

RETENTION OF TITLE

Article 5

- 5.1 All items the Licensor has supplied or will supply to the Licensee, such as but not limited to Software disks, CD-ROMs, DVDs and Documentation, are on loan to the Licensee for the duration of the Agreement and remain the full property of the Licensor at all times. Even in the event of a legal transfer of ownership, abovementioned goods remain the full property of Licensor after delivery, until Licensee has fulfilled all its obligations resulting from any agreement with Licensee (now or in the future), including payment of damages as a result of the non-fulfillment of the abovementioned agreements, including interests, costs and penalties.
- 5.2 The Licensee is prohibited from encumbering, disposing of or renting out the items loaned to him, or making these items available to third parties in any other manner.
- 5.3 The Licensee must notify the Licensor forthwith when any items or property rights the Licensor has provided to the Licensee pursuant to the Agreement are seized. In the event of such a seizure, or if the Licensee is granted a suspension of payments or if the Licensee is declared bankrupt, the Licensee must notify the process server charged with seizing the items, the trustee, the administrator or the receiver forthwith of the fact that the Licensor is the owner of the items and/or property rights.

- 5.4 Without prejudice to the above statements no (part of any) intellectual property rights or any other rights the Licensor has in respect of the Software are transferred to the Licensee at any time and no such transfer is aimed, implied or may be understood.
- 5.5 Upon the expiry of the Agreement the Licensee is obliged to return the items loaned to him to the Licensor within two (2) weeks.

COOPERATION OF THE LICENSEE
Article 6

- 6.1 The Licensee is aware that keeping the Software operational is a continuous process that requires an investment in time, money and energy on the part of all the parties involved. For this reason the Licensee must lend his cooperation to enable the Licensor to comply with its obligations pursuant to an Agreement. The Licensee must always provide the Licensor with all the useful and necessary information and guarantee the correctness of this information.
- 6.2 The Licensee must notify the Licensor in writing and in due time of any changes to the company details and of any other relevant information.
- 6.3 The Licensee is responsible for (I) the correct use and application of the licensed Software and services provided by the Licensor; (II) the implementation of the required procedures in his organization; (III) the security of the data, like making backups of data files; and (IV) complying with the System Requirements. The Licensee will also install or have installed all new Updates and/or Upgrades provided by the Licensor correctly and in a timely manner.

- The Licensee is not allowed to change files, to add extra files to the Software or, with the exception of the cases outlined in the Software or Documentation, to change files in any other manner.
- 6.4 If it has been agreed that the Licensee will provide the Licensor with materials or data by means of third-party information carriers, these information carriers must meet the Licensor's specifications for the activities in question and be free of any hidden risks such as viruses, worms, Trojan horses, logic bombs etc.
- 6.5 If the Licensee fails to provide the information the Licensor requires in order to meet its obligations pursuant to an Agreement in good time, or if the Licensee fails to meet his obligations pursuant to an Agreement in any other way, the Licensor is entitled to suspend its obligations pursuant to the Agreement and to charge the Licensee an additional fee for such delay.
- 6.6 If the Employees of the Licensor need to perform their work at the Licensee's premises, the Licensee will ensure that these Employees are able to work undisturbed. The Licensee will comply with all reasonable requests from the Licensor, communicated through these Employees, free of charge. The Licensee will provide the aforementioned Employees with access to all Software, Documentation and other materials, and to any location containing goods supplied by the Licensor.

CUSTOMER PORTAL
Article 7

- 7.1 The Licensor will provide the Licensee with access to the Customer Portal by means of issuing a User ID.

- 7.2 From the Customer Portal, amongst other, information can be obtained and Updates and Upgrades can be downloaded. The Customer Portal can also be used to provide the Licensee and its Employees with support.
- 7.3 The Licensor is at all time entitled to limit or block access to the Customer Portal for an indefinite period of time, without giving reasons, if the Licensor suspects improper use or misuse, whether or not caused by the Licensee or one or more of its Employees.
- 7.4 The Licensee will ensure that the right granted to him pursuant to Article 7.1 is only delegated to its Employees.
- 7.5 The Licensee guarantees that its Employees will handle their access to the Customer Portal and the information thus obtained in a responsible manner, while the Licensee retains and/or accepts unconditionally the ultimate responsibility for any information its Employees add to the Customer Portal.
- 7.6 The Licensee must take care of and is responsible for the User ID. The User ID is not transferable and must not be used outside the Licensee's organization. The Licensee and its Employees are obliged to observe complete confidentiality with regard to any other in respect of their User ID. The Licensee is responsible for any use of the Customer Portal with his User ID, regardless of whether the Licensee permitted this use. As soon as the Licensee becomes aware of or has reason to suspect that third parties have obtained access to his User ID, the Licensee will notify the Licensor of this fact forthwith, without prejudice to the Licensee's obligation to immediately take his own measures against these third parties.
- 7.7 Using the most recent versions of antivirus programs and other programs the Licensee and its Employees will regularly and in any case before accessing the Customer Portal, scan their system, [personal] computers, hardware and information carriers on a regular basis for hidden risks such as computer viruses, worms, Trojan horses, logic bombs and other conceivable harmful programs and – if such hidden risks are found – immediately take the appropriate measures.
- 7.8 The information that is made available via the Customer Portal by or on behalf of the Licensor is provided without any guarantees unless stated otherwise, and the Licensee or third parties cannot derive any rights from this information.

COMPLAINTS

Article 8

The Licensee must notify the Licensor in writing of any complaints in respect of an incorrect delivery or the performance of an incorrect or deficient service within two (2) weeks after the Licensor has made the licensed Software available or has provided the service in question. Such notification does not suspend the payment obligations of the Licensee toward the Licensor, nor is such notification deemed to constitute an extension of the obligations regarding the functioning of the Licensor's Software described in the License Agreement. The Licensee is prohibited from returning goods to the Licensor without prior consent from the Licensor.

(DELIVERY) PERIODS

Article 9

The Licensor sets all the (delivery) periods to the best of its knowledge and complies with these periods as much as possible. As soon as the Licensor becomes aware of any circumstance that may prevent the timely delivery of the goods and/or services, the Licensor will consult with the Licensee. The Licensee is never entitled to compensation in respect of a late delivery. The Licensor is always entitled to make partial deliveries.

TERMINATION OF THE AGREEMENT

Article 10

- 10.1 Without prejudice to the provisions in Article 11 of the Subscription Agreement and Article 2.3 and Article 3.2 of the General Terms & Conditions, an Agreement can be dissolved in writing and without judicial intervention, if:
 - a. the party, after having been served the appropriate notice of default, still fails to meet his obligations pursuant to the Agreement thirty (30) days after receipt of the notice of default;
 - b. a change of Control occurs with respect to the Licensee.
- 10.2 The Licensor is entitled to terminate an Agreement by operation of law and with immediate effect at the time the Licensee notifies the Licensor that he is no longer able or prepared to meet his payment obligations, or at the time the Licensor must conclude from the circumstances that the Licensee is no longer able to meet his payment obligations, or at the moment the Licensee ceases his activities. An Agreement will terminate by operation of law and with immediate effect if the (company of the) Licensee goes into

liquidation, is granted a suspension of payments or is declared bankrupt.

- 10.3 The Licensor is in no event obliged to pay any damages as a result of the dissolution or termination of an Agreement as described in the preceding paragraphs of this Article.
- 10.4 Unless the parties explicitly agree otherwise in writing, if an Agreement is terminated all rights, obligations and activities of the parties will cease to exist at the time of termination, with the exception of the provisions in Articles 4, 5, 11, 13 and 17 of the General Terms & Conditions. At the time the Subscription Agreement is terminated the Licensee will immediately cease and not resume all use of the Software, Documentation and other materials supplied by the Licensor and will return the Software, Documentation and other materials to the Licensor in accordance with the provisions in Article 5.1 of these General Terms & Conditions. If an Agreement is terminated, for any reason, the Licensor will not reimburse license and/or maintenance and/or support and/or other fees.

LIABILITY

Article 11

- 11.1 Licensor, its legal representatives, employees and persons employed in performing its obligations can only be held liable for direct damages, which can be attributed to intentional misconduct or gross negligence on its part, the part of its legal representatives, employees or persons employed in performing its obligations. In the event statutory regulations exclude a limitation to the liability of the Licensor for damages resulting from an intentional act or omission, willful misconduct or gross negligence, Licensor, its legal

- representatives, employees and persons employed in performing its obligations is only liable for damages as described in the following paragraphs of this Article 11.
- 11.2 In the event of physical injury, irrespective of whether this injury results in death, the liability of the Licensor is in any case limited to an amount of EUR 500,000 per damage causing incident. In the event of property damage the liability of the Licensor is in any case limited to an amount of EUR 50,000 per damage causing incident. In both cases a series of related events is considered a single incident.
- 11.3 The Licensor is never liable for indirect damages, including but not limited to, lost profits, missed savings, reduced goodwill, damages resulting from operational stagnation, damages resulting from the Licensee not complying with the System Requirements, damages resulting from claims by the Licensee's clients, corruption or loss of data, damages associated with the use of third-party items, materials or software prescribed to the Licensor by the Licensee, damages associated with the deployment of suppliers prescribed to the Licensor by the Licensee, consequential losses, irrespective of the nature of the action [breach of contract, unlawful act or otherwise], even if the Licensor was notified of the possibility of such damages. Some countries and/or states and jurisdictions do not allow the exclusion or limitation of special, indirect, incidental or consequential damages, so the above limitation and exclusion may not apply to all Licensees. In that case the liability of the Licensor is limited to the maximum extent possible by law.
- 11.4 Insofar as the Licensor can not invoke the liability exclusions or limitations described in this Article 11.1, Article 11.2 and Article 11.3, the Licensor's liability at any time will be limited to an amount equal to 50% of all amounts, exclusive of VAT, invoiced on the basis of an Agreement with the Licensee in the twelve [12] months preceding the default after the notice of default. If and to the extent that an agreement provides for periodical payments the Licensor will never owe more than 50% of all amounts invoiced in the six [6] months preceding the default. Insofar as the Licensor is also unable to invoke the limitation referred to here above in paragraph 4 of this Article 11, the liability of the Licensor is in any case limited to EUR 10,000. The Licensor will deduct the amount of any credit notes to the Licensee from the amounts referred to in paragraph 4 of this Article 11.
- 11.5 The Licensee acknowledges and accepts that the license fee for the Software has been determined with due observance of the liability limitation referred to in this Article 11 and the provisions referred to in Article 9 of the Subscription Agreement.
- 11.6 The Licensee acknowledges and accepts that the Software can never be perfect or be 100% free of Defects and that Licensor may not be able to remedy all Defects. Without prejudice to the provisions in Article 9 of the Subscription Agreement the Licensee accepts the Software in the condition it is in on the date of delivery ['as is'].
- 11.7 The Licensee indemnifies the Licensor, its legal representatives, employees and persons employed in performing its obligations, against claims from third parties resulting from or related to the Agreement, unless the Licensee is able to enforce these claims against the Licensor with due observance of the provisions in this Article 11 as if the Licensee had suffered the damage himself.

- 11.8 Liability on the part of the Licensor with regard to attributable shortcomings in the fulfillment of an Agreement with the Licensee will in any case only exist if the Licensee serves the Licensor with proper notice of default forthwith, whereby a reasonable period must be given for the Licensor to remedy the breach, and the Licensor remains in breach of his obligations even after this period. The notice of default must contain the most complete and detailed description of the breach possible, allowing the Licensor to respond adequately.
- 11.9 A claim for compensation cannot be considered unless written notice of the loss has been given to the Licensor as soon as possible after it occurs. Any claim for compensation against the Licensor lapses by the mere lapse of time 12 months after the damage has manifested itself.
- 11.10 Any right to compensation becomes void in any case if the Licensee has neglected to take measures to (I) limit the damage immediately after it occurs; or (II) prevent any other or further damage.
- 11.11 The above limitations and exclusions apply to their full extent insofar as the applicable law allows, even if the Licensor is unable to remedy problems with the Software.

EXCLUSION/ DISCLAIMER

Article 12

With the exception of provisions that have been expressly included in the Agreement the Licensor does not make any other or further guarantees, promises or conditions in respect of the Software, Documentation, materials or services supplied to the Licensee, and the Licensor hereby rejects all other guarantees, promises or conditions, either explicit, implicit or in pursuant to the law (including but not limited

to guarantees or conditions relating to salability, non-infringement of other rights or suitability for a specific purpose or resulting from a specific use or commercial use) in respect of the Software, Documentation, materials and services.

Some countries and/or states and jurisdictions do not allow the exclusion or implied warranties; thus, the above exclusion may not apply to all Licensees. In that case the minimum warranties as prescribed by the applicable law apply.

The warranties contained in the Agreements give Licensee specific legal rights, and Licensee MAY also have other rights, which vary from state to state or jurisdiction to jurisdiction.

INTELLECTUAL PROPERTY RIGHTS

Article 13

13.1 All copyrights, patent rights, trade name rights, trademark rights, other intellectual and industrial property rights, as well as all similar rights for the protection of information in respect of the Software and Documentation are the exclusive property of the Licensor or its licensor(s). None of the provisions in the Agreement can be interpreted in such a way that it results in the full or partial transfer of these rights to the Licensee and no such transfer is aimed, meant or may be understood.

13.2 The Licensee is prohibited from changing, removing or making unrecognizable any notice in respect of the intellectual property rights of the Licensor on or in the Software or Documentation. The Licensee is prohibited from registering any brand, design or domain name of the Licensor or a similar name that could be associated with the Licensor in any venue anywhere in the world.

- 13.3 The Licensor indemnifies the Licensee against any compensation and all costs and expenses the Licensee may be ordered to pay as a result of a third-party legal claim for the infringement or assumed infringement of valid patents, copyrights, brands or other rights of third parties in respect of licensed Software issued pursuant to an Agreement or any part thereof that is the result of the Licensee's use of the Software in accordance with the provisions in the Agreement and the Documentation, provided the Licensee notifies the Licensor in writing of such a legal claim as soon as it is filed and provides the Licensor with all the relevant information.
- 13.4 If an injunction is imposed on the Licensee prohibiting the use of the Software because of an infringement within the meaning of the previous paragraph or if, in the opinion of the Licensor, there is a chance that the Software will become the subject of a successful claim for infringement, the Licensor is entitled, at its own discretion and own expense, to (I) a obtain the right for the Licensee to continue to use the Software as per the Subscription Agreement; (II) replace the Software or adjust it in such a way that it no longer constitutes an infringement, provided the functionality of the Software remains materially unchanged; or (III) if options (I) and (II) are not reasonably feasible, to terminate the Subscription Agreement together with any rights to the infringing Software that were granted pursuant to the Subscription Agreement and to reimburse the Licensee an amount of money for the infringing Software on the understanding that the amount to be reimbursed is maximum to the total license fees paid by the Licensee for the Software, which total Subscription fees are depreciated on a straight-line basis over a period of three (3) years, commencing on the effective date of the Agreement or from another starting date expressly agreed in writing between the Licensor and the Licensee, which method takes into account the fact that the Licensee effectively used the Software during the period in question.
- 13.5 Without prejudice to the provisions in Article 13.3, pursuant to this Article 13 the Licensor is not liable toward the Licensee insofar as a claim is based on (I) use of the Software in conjunction with data, equipment or software that was not supplied by the Licensor, whereby the Software would, in itself, not constitute an infringement or otherwise be the subject of the claim; (II) incorrect use of the Software, or use of the Software in a manner not described in the Documentation; (III) an amendment to the Software implemented by a natural person or legal entity other than the Licensor; or (IV) the Licensor's compliance with strict instructions from the Licensee. The Licensee indemnifies and holds the Licensor harmless against claims as described in points (I) through (IV) of this Article 13.5.
- 13.6 The Licensee acknowledges and accepts that the full and exclusive liability of the Licensor in respect of infringements of patents, copyrights, brands or other intellectual property rights reads as the provisions in this Article 13 and Article 11.
- 13.7 The Licensor is entitled to make and maintain technical provisions for the purpose of protecting (the intellectual property rights of) the Software and/or Documentation or with a view to enforcing the agreed restrictions in the use of the Software. The Licensee is prohibited from circumventing or removing such technical provisions.

CHECKING AND INSPECTION

Article 14

The Licensor is entitled to perform a check and/or inspection or have such a check and/or inspection performed in order to determine whether the Licensee is complying with the provisions in an Agreement and the General Terms & Conditions, provided such a check and/or inspection is performed during normal office hours, in such a way that the Licensee's operational activities are not unreasonably obstructed. Such an inspection will be performed by an expert chosen and deployed by the Licensor. This expert will submit a summary outlining his findings in respect of the inspection of the reports delivered by the Licensee and the Licensee's compliance with the provisions in the Agreements and the General Terms & Conditions, but will never provide the Licensor with any other information apart from the information he becomes aware of during the check and/or inspection. The costs associated with this inspection are at the expense of the Licensor, unless the inspection proves that the Licensee is not complying with the provisions in the Agreements or the General Terms & Conditions, in which case the costs are at the expense of the Licensee.

FORCE MAJEURE

Article 15

15.1 Neither party is obliged to comply with a contractual obligation resulting from an Agreement, with the exception of payment obligations, if such compliance is prevented by a situation of force majeure. Force majeure includes but is not limited to: military actions, government actions, the elements, unavailability of or disruptions in telecommunication and Internet

connections, delays or inadequacies in the compliance with obligations on the part of suppliers of the Licensor, transport problems and strikes.

- 15.2 If, at the time the force majeure occurs, the Licensor has already partially met its obligations, or can only partially meet its obligations, the Licensor is entitled to invoice the supplied performance and/or the part of the performance that can be supplied separately, and the other party or the Licensee is obliged to pay this invoice as if it concerns a separate agreement.
- 15.3 Throughout the duration of the circumstances of force majeure, Licensor shall be entitled to suspend the fulfilment of its obligations. If this period lasts for more than three months, Licensor shall be entitled to dissolve the agreement without any obligation to pay the opposite party damages.

TELECOMMUNICATION

Article 16

If the Licensor uses telecommunication facilities for the Maintenance and/or Support Services for the Software or other services, all parties are responsible for the selection and prompt installation of the telecommunication equipment or facilities, including Internet connections. The Licensor is not liable for errors in, interception of or loss of data or process results during the transmission of this data through its telecommunication facilities.

NON-COMPETITION CLAUSE

Article 17

- 17.1 For the duration of the Agreement and a period of 1 (one) year thereafter, each party will refrain from employing or hiring employees or third parties who/that were involved in the execution of an Agreement in the preceding twelve (12) months without prior written consent from the other party. This Article 17.1 ceases to apply if either party is declared bankrupt or if either party is granted a suspension of payments.
- 17.2 By violating the provisions in Article 17.1 (and without prejudice to the wronged party's right to seek other forms of compensation) the contravening party is, without any notification, notice of default and/or judicial intervention being required, obliged to pay the other party a penalty of EUR 50,000 in compensation for the investment the other party has made and lost in the training and expertise of the employee or third party in question, notwithstanding the Licensor's right to seek reimbursement for the full damages suffered.

APPLICABLE LAW AND DISPUTES

Article 18

- 18.1 The Agreement, including these General Terms & Conditions, is governed by Dutch law only. The provisions of the Vienna Sales Convention (CISG) do not apply. However if the Software was acquired by and/or supplied to the Licensee outside the Netherlands, and if local law prohibits the use of Dutch law, local law may apply.

- 18.2 Any and all disputes, disagreements or claims resulting from or associated with the Agreement, or with the non-compliance, termination or invalidity thereof shall be submitted to the competent court in Rotterdam. However if the Software was acquired by and/or supplied to the Licensee outside the Netherlands and this clause is not valid under local law any dispute, disagreement or claim arising out of or relating to the Agreements, or the breach, termination or invalidity thereof, shall be submitted to the adjudication of the competent court in the capital of the country where the Software was acquired by or supplied to the Licensee, by sole discretion of the Licensor.
- 18.3 The application of part or all of any purchase conditions or other terms and conditions of the Licensee is explicitly rejected, unless the Licensor has explicitly accepted such terms and/or conditions.

THIRD-PARTY SUPPLIER: GENERAL TERMS & CONDITIONS AND LIABILITY

Article 19

- 19.1 If and to the extent that the Licensor's Software contains software from a third party (for instance Microsoft), or if software of a third party is [sub]licensed to the Licensee, the terms and conditions that apply between the Licensor and the third party in question will also apply between the Licensor and the Licensee. At the Licensee's first request the Licensee will be provided with a copy of the general terms and conditions in question (for instance Microsoft End-User License Agreements) free of charge. The Licensee declares he has been able to take note of said general terms and conditions in full and in good time.

19.2 More specifically, the terms and conditions of the third party referred to in this Article 19 in respect of [the limitation of] liability and guarantees will apply between the Licensor and the Licensee. It must be stated first and foremost that the Licensor accepts no liability for any damages whatsoever resulting from errors and/or defects in the software of the third party supplier.

PRIVACY
Article 20

- 20.1 Insofar as with the use of the Software personal data are processed this is done at the full responsibility and liability of the Licensee. The Licensor will only process personal data on the instructions of the Licensee and in accordance with the Licensee's instructions, also including the provisions in the Agreements. The Licensee guarantees that he will process the personal data in accordance with the law.
- 20.2 The Licensee indemnifies the Licensor against any claims by third parties relating to an Agreement and/or data processed by the Licensee in the scope of an Agreement as a result of an infringement of the [Dutch] Personal Data Protection Act and/or other legislation related to the processing of personal data that is not attributable to the Licensor.

OTHER PROVISIONS
Article 21

- 21.1 The Licensor is entitled to transfer or outsource his rights or obligations pursuant to the Agreement to a Subsidiary or to another third party the Licensor has contracted for this purpose. In the event of the transfer or outsourcing these General Terms & Conditions continue to apply to the Licensee.
- 21.3 If any provision in an Agreement or in these General Terms & Conditions is completely or partially void, voidable or conflicts with any law, it is deemed to be isolated and not applicable. In such a case the parties will consult with each other in order to replace the provision in question by a provision with a similar purport that is not completely or partially void, voidable or in conflicts with any law. The other provisions in the Agreement or these General Terms & Conditions remain in full force.
- 21.4 Delays or omission on the part of the Licensor in respect of enforcing any rights the Licensor has against the Licensee pursuant to the Agreement never constitutes a waiver of the Licensor's right. If a party waives any right it has pursuant to the Agreement this does not mean that the party in question will or can be obliged to waive this right or any other rights in a subsequent matter.
- 21.5 The Licensor is permitted to include the name of the Licensee on internal customer lists of the Licensor.
- 21.6 The Agreement fully reflects everything that has been agreed between the parties and replaces all earlier and concurrent, explicit or implied agreements, contracts, declarations and guarantees, both written

and verbal. With the exception of the provisions in Article 7.5 of the Subscription Agreement and Article 2.3 and Article 2.2 of the General Terms & Conditions the Agreement can only be amended by means of a written agreement signed by both the Licensee and the Licensor.

- 21.7 In the event of any disagreement or difference of opinion about or obscurity in respect of the provisions in these General Terms & Conditions and/or an Agreement, the Dutch text prevails over the translation. [in case the T&C are translated from English to another language, the English text prevails over the translation] The most recently filed version shall always apply, or, as the case may be, the version valid at the time the Agreement was concluded.

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