

## **GENERAL TERMS AND CONDITIONS**

of 'Dimensys Holding', a private limited liability company, to be referred to below as 'Dimensys'

### **0 General**

- 0.1 The General Terms and Conditions contained in Articles 1 to 15 govern any and all offers from and agreements with Dimensys, including deliveries made and work performed by a third party acting on the instructions of Dimensys,
- 0.2 These Terms and Conditions apply in respect of any and all companies in which Dimensys Holding holds a majority interest.

### **1 Definitions**

In these Terms and Conditions the terms listed below have the following meaning:

- 1.1 Contract for services: as defined in Article 2.4.
- 1.2 Materials: any and all systems, models, schedules, documentation, working instructions, reports and offers, in addition to any materials used to prepare them, that are made available to or by Dimensys in connection with the performance of the agreed work.
- 1.3 Data carriers: any and all forms, diskettes, CD-ROMs and any other means by which data are or can be stored.
- 1.4 Errors or defects: references in these General Terms and Conditions to rights or obligations with respect to errors or defects, errors or defects are taken to mean a failure to comply with explicit specifications that have been agreed in writing or, if such specifications are lacking, the written functional specifications that have been provided to Dimensys in writing; there will be deemed to be an error or defect only if it can be reproduced.
- 1.5 Interoperability: in these General Terms and Conditions interoperability is taken to mean the ability of software to exchange information with other components of a computer system and/or software and to communicate by means of that information.
- 1.6 Hardware: any and all machines and systems, including peripheral equipment, that is used to store or process information contained on data carriers, including the related parts.
- 1.7 Software or standard software: any and all software that has been offered to the principal or that is offered to the principal in the future, including any and all related materials, unless it is explicitly clear that custom-made software is involved and that has been agreed by the parties in writing.
- 1.8 Custom-made software: any and all software that is designed and created based on an order placed by the principal and in accordance with the principal's instructions.
- 1.9 Service processing: the processing of data as described in more detail in the software's participant's data.
- 1.10 Support: the support provided for software in order to ensure that the software in question can be used to produce without any interruption.
- 1.11 Hardware service: the responsibility for ensuring that when breakdowns are reported the hardware is restored to its proper operating mode.
- 1.12 Software on loan: software that Dimensys makes available to the principal on loan, as such software on loan is accepted by the principal.
- 1.13 Reserve copy: a material object on which the software is stored, exclusively for the purpose of replacing the original copy of the software in the event of involuntary loss of possession or

damage. The reserve copy must be an identical copy and must always carry the same labels and indications as the original copy.

## **2 OFFER AND AGREEMENT**

- 2.1 These Terms and Conditions govern any and all offers from and agreements with Dimensys with respect to the performance of work (or having work performed) and/or the supply of products and services (or having products and services provided).
- 2.2 Any and all offers are without engagement, unless the provisions contained in Article 2.3 apply.
- 2.3 An offer will be binding in the event that Dimensys states in writing that a particular offer is binding, indicating in that context a term during which the offer may be accepted. It will be possible to accept such an offer only in writing.
- 2.4 When they execute a contract for services an agreement will be concluded between the principal and Dimensys or a third party acting on the instructions of Dimensys, as indicated in the contract for services, that will be governed by the provisions contained in Articles 1 to 15 in addition to the special provisions contained in these Terms and Conditions with respect to the agreement in question.
- 2.5 Terms and conditions of purchase and other terms and conditions that the principal declares applicable will not be binding on Dimensys unless Dimensys has explicitly accepted them in writing.
- 2.6 The principal will not be entitled to transfer the rights and obligations pursuant to the agreements concluded with Dimensys unless Dimensys has given it permission to do so.

## **3 PRICES**

- 3.1 The prices indicated by Dimensys are exclusive of turnover tax and any and all other levies, rights or charges that are due in connection with the performance of the agreement.
- 3.2 In the event that the prices are laid down in price lists that Dimensys uses, those prices will apply. The price list having the most recent date will be binding in that respect. The parties may agree on prices that derogate from the price list only if they do so explicitly and in writing.
- 3.3 For continuing performance contracts, in principle Dimensys' prices will apply for one calendar year. It will be possible to adjust the prices on the basis of the salary and price levels, in any event as at 1 January.
- 3.4 Dimensys will be entitled at all times to charge on to the principal any increases in prices that third parties charge Dimensys with respect to goods or services to be purchased from third parties.

## **4 PAYMENT**

- 4.1 The principal must pay all invoices in accordance with the payment conditions indicated in the invoice in question.
- 4.2 The term for payment will be a term of 14 days as from the invoice date, unless a specific invoice stipulates a different term.
- 4.3 In the event that the principal has authorised Dimensys to have invoice amounts debited from its bank account, the principal must ensure that there is a sufficient balance in the account to do so. The principal must inform Dimensys immediately with respect to any reverse bookings, which will be without prejudice to the principal's obligation to pay the invoice amounts.

Dimensys will pay credit invoices to the principal immediately unless there are any arrears in payments.

- 4.4 In the event that a term for payment is exceeded Dimensys will be entitled to suspend the execution of the assignments (or to have the execution of the assignments suspended) until payment of all outstanding invoices has been received. In the context of the suspension of the execution of the assignment, Dimensys will be entitled to retain possession of any and all material objects that are related to the execution of the assignment.
- 4.5 The principal must make payment without applying any setoff or suspension of payment, on any grounds whatsoever, even in the event that the principal or Dimensys has been granted a definitive suspension of payments or is declared bankrupt, unless an arbitration award or judicial decision has been rendered pursuant to which the principal has a counterclaim that can be set off or a ground to suspend payment.
- 4.6 In the event that the principal fails to make payment in a timely manner it will owe interest by operation of law, without any demand or notice of default from Dimensys being required; the interest percentage will be based on the percentage that has been set for statutory interest and will be due as from the time at which the term for payment has expired.
- 4.7 In all cases payments made by the principal will be applied first in respect of the oldest debt, even in the event that the amount of a payment is equal to or related to the amount of a later debt as a result of repayment scheme or otherwise. In addition, payments will first be applied in respect of any costs, subsequently in respect of any interest and finally in respect of the principal amount.
- 4.8 In addition to the amounts that the principal owes that are principal amounts and interest, Dimensys will be entitled to claim any and all judicial and/or extrajudicial collection costs that are caused by a failure to make payment in a timely manner.
- 4.9 In the event that Dimensys conducts legal proceedings in order to collect an amount that the principal owes, in addition to the fixed extrajudicial collection costs the principal will also owe a penalty equal to 10% of the principal amount, inclusive of VAT and interest, without that leading to any decrease in the costs of the proceedings that the court awards on the basis of the applicable rate.
- 4.10 In the event that the principal is granted a suspension of payments, is declared bankrupt, assigns its assets or a third party levies an attachment on one of the principal's asset components, any and all amounts that the principal owes Dimensys at that time will be immediately due and payable. In such cases Dimensys will be entitled to terminate any and all agreements effective immediately and any and all obligations that Dimensys has will be suspended. Moreover, in such cases Dimensys will have a right of retention with respect to any and all goods and material objects of the principal's that are in Dimensys' possession at that time until the principal has paid all its debts to Dimensys in full.
- 4.11 In the event that Dimensys is of the opinion that the principal's creditworthiness gives it cause to do so, Dimensys will be entitled to demand that the principal furnish security for the payment of future instalments. In the event that the principal fails to do so Dimensys will be entitled to suspend the further performance of the work that has been assigned to Dimensys and all supplies.

## **5 CONFIDENTIAL INFORMATION**

- 5.1 Each of the parties will take any and all reasonable precautionary measures to ensure that the confidential information received from the other party is kept confidential.

## **6 RETENTION OF TITLE**

- 6.1 All the goods that are delivered to the principal will remain the property of Dimensys until any and all amounts that the principal owes for goods that have been or will be delivered or the work that has been or will be performed in accordance with the agreement, in addition to the amounts referred to in Article 2.3, have been paid to Dimensys in full. In all cases any rights that are granted or, if applicable, transferred to the principal are subject to the condition that the principal has paid the agreed fees in a timely manner and in full.

## **7 DIMENSYS' AND THE PRINCIPAL'S RIGHTS**

- 7.1 The copyright, in addition to any and all other intellectual or industrial property rights in respect of any and all software, hardware or other materials, will vest exclusively in Dimensys or Dimensys' licensors. In that context the principal will receive only the right of use that is explicitly granted in accordance with these Terms and Conditions, unless Dimensys and the principal have explicitly agreed otherwise by means of a written document that they both have signed.
- 7.2 The principal is aware that the software and other materials that are made available contain confidential information and business secrets. The principal undertakes, without prejudice to the provisions contained in Article 5, to keep such software and materials secret and not to disclose them to third parties or allow third parties to use them unless the parties have agreed otherwise. Third parties are also taken to include any and all persons who work in the principal's organisation who do not have to use the software and/or other materials by necessity.
- 7.3 The principal is not permitted to remove or change any marks with respect to copyrights, trademarks, trade names and other intellectual or industrial property rights from, on or in the software, hardware or materials, including any marks with respect to the confidential nature of the software and the duty to keep the software confidential.
- 7.4 Dimensys is entitled to take technical measures in order to protect the software. In the event that Dimensys has secured the software by means of technical security features, the principal will not be permitted to remove or evade such security features. In the event that as a result of the security features the principal is unable to make a reserve copy of the software, Dimensys can make a reserve copy of the software available to the principal at the principal's request.
- 7.5 Dimensys indemnifies the principal against any legal action that is based on the allegation that the software that Dimensys has developed itself infringes a copyright that is valid in the Netherlands. Dimensys will pay the costs and damages that are irrevocably granted by means of a final judgment, provided that the principal immediately notifies Dimensys in writing and leaves the handling of the case exclusively to Dimensys and provides any and all cooperation required in that context. The provisions contained in Article 11 will continue to apply in full. In the event that a legal action is commenced or there is a possibility that a legal action will be commenced, Dimensys will be entitled to replace the software or to change it at its own discretion. This indemnification will not apply in the event that the principal has made any changes or has allowed third parties to make any changes.

- 7.6 The principal will not be permitted to make a reserve copy of the software unless Dimensys has granted explicit permission to do so in writing.
- 7.7 In the event that the principal develops software or a third party develops software for it, or in the event that the principal intends to do so, and it requires information in connection with the interoperability of the software to be developed and the software that Dimensys has made available to it in order to realise that interoperability, the principal will be required to request Dimensys in writing to provide the information required, specifying exactly what information is required. In such cases Dimensys will determine whether and subject to what conditions the principal can be given access to the information that it has requested, including financial conditions and conditions with respect to any third parties to be engaged by the principal.
- 7.8 The principal must notify Dimensys immediately in the event that it discovers any errors or defects.
- 7.9 Dimensys will be entitled to have assignments, or part of assignments, carried out by third parties who are not employed by Dimensys.
- 7.10 The parties will refrain from making any offers to and/or employing each other's employees who are charged with carrying out the assignment unless the parties have consulted in advance and one of the parties has given written permission in that regard.

## **8 THE PRINCIPAL'S COOPERATION**

- 8.1 Due to the necessity of having the principal cooperate with the performance of the agreement, the principal must provide Dimensys with any and all useful and necessary data or explanations in a timely manner.
- 8.2 The principal is responsible for the use and proper application in its organisation of the hardware, software and the services provided by Dimensys, for the administration and calculation methods to be applied and for securing data.
- 8.3 In the event that the performance of the agreement implies that the principal must provide Dimensys with hardware, materials, data carriers, software and/or data, they must be in accordance with the specifications that have been provided or approved by Dimensys. Data to be provided must be free of any errors and, insofar as they are in writing, clearly legible. The principal warrants that no rights of third parties oppose making available or using such hardware, software, materials or data, and it indemnifies Dimensys against any legal action that is based on the allegation that making them available or using them infringes any rights of third parties.
- 8.4 In the event that data that are required in order to perform the agreement are not made available to Dimensys or are not made available in a timely manner and in accordance with the parties' agreements, Dimensys will be entitled to suspend the performance of the agreement (or to have the performance of the agreement suspended) and Dimensys will be entitled to charge the extra costs in accordance with its customary rates.
- 8.5 Dimensys is entitled at all times to request that the principal's space in which Dimensys will perform the work, in which monitoring or tests must be conducted and/or in which goods that have been supplied to which Dimensys' guarantee obligations relate are located are brought in accordance with the requirements that Dimensys stipulates in that respect in terms of the temperature, humidity, absence of draughts, provision of electricity and water, and other environmental requirements, and that those requirements are maintained at all times. The principal is obliged to comply with those instructions.

## **9 TERMS OF DELIVERY**

- 9.1 All the terms indicated by Dimensys (including terms of delivery) will be determined to the best of its knowledge on the ground of the information that was available to Dimensys at the time at which the agreement was entered into, and they will be duly complied with to every extent possible. Dimensys is not bound by any terms (including terms of delivery) that no longer can be met as a result of circumstances that arise after the agreement has been entered into. Dimensys and the principal will consult as quickly as possible in the event that there is a threat that any term will be exceeded. A situation in which terms have been exceeded excessively can be deemed to constitute a ground on which to dissolve the agreement, with due observance of the provisions contained in Articles 10 and 11.

## **10 TERMINATION**

- 10.1 Unless the parties have agreed otherwise the agreement may be terminated only by means of dissolution, which will be possible only in the event that the other party has attributably failed to comply with substantive obligations pursuant to the agreement after having been given proper notice of default. Notice of dissolution must be given by means of a registered letter to the other party; no judicial intervention will be required.
- 10.2 In the event that the principal had already received goods or services in connection with the performance of the agreement at the time at which the agreement was dissolved, the principal will be entitled to dissolve the agreement only in part, in respect of the part of the agreement that Dimensys has not yet carried out. Any amounts that Dimensys has invoiced before the agreement was dissolved in connection with any services that it has provided or goods that it has delivered will remain outstanding in full and will be due and payable immediately at the time at which the agreement is dissolved.
- 10.3 Notwithstanding the provisions contained in Article 10.1, Dimensys will be entitled to terminate the agreement in whole or in part, effective immediately, without any judicial intervention being required, by means of a written notification to the principal in the event that the principal is declared bankrupt, in the event that the principal is granted a provisional or definitive suspension of payments, in the event that the principal is unable to comply with its payment obligations for another reason, or in the event that the principal's business is liquidated or terminated, other than for the purposes of a reconstruction or merger of businesses. Under no circumstances will Dimensys owe any compensation of damage as a result of such a dissolution of the agreement.

## **11 LIABILITY; INDEMNIFICATION**

- 11.1 The supplier's total liability on the ground of an attributable breach in respect of its compliance with the agreement is limited to compensation of direct damage, up to a maximum amount equal to the price that has been stipulated for that agreement (exclusive of VAT) for a term of one year. However, under no circumstances will the total compensation of direct damage exceed EUR 500,000 (in words: five hundred thousand Euros). Direct damage is taken to mean exclusively:
- a. reasonable costs that the client is forced to incur in order to ensure that the supplier's performance is in accordance with the agreement; however, such replacement damage will not be reimbursed in the event that the agreement is dissolved by or based on a claim brought by the client;

- b. reasonable costs that the client is forced to incur in order to keep its old system or systems operational by necessity and related facilities due to the supplier's failure to supply by a delivery date that is of the essence and binding on it, minus any savings as a result of the delayed delivery;
  - c. reasonable costs that are incurred in order to determine the cause and the scope of the damage, insofar as that determination relates to direct damage as defined in these Terms and Conditions; and
  - d. reasonable costs that are incurred in order to prevent or limit damage, insofar as the client demonstrates that those costs have led to limitations of direct damage as defined in these Terms and Conditions.
- 11.2 Under no circumstances will the supplier's liability for damage as a result of death or bodily injury or due to material damage to goods exceed the amount of EUR 1,250,000 (in words: one million two hundred and fifty thousand Euros).
- 11.3 Under no circumstances can the supplier be held liable, on any grounds whatsoever, for indirect damage, consequential damage, loss of profit, lost savings, decrease in goodwill, damage as a result of business interruption, damage as a result of claims brought by the client's contractors, mutilation or loss of data, damage related to the use of goods, materials or software from third parties that the client has stipulated that the supplier must use, damage related to the use of suppliers that the client has stipulated that the supplier must use, and any and all types of damage other than those referred to in Articles 10.1 and 10.2.
- 11.4 The limitations stipulated in the preceding subsections of this Article (10) will not apply if and insofar as the damage is the result of an intentional act or omission or gross negligence on the part of the supplier or its managerial staff.
- 11.5 The supplier's liability on the ground of an attributable breach in respect of its compliance with an agreement will arise in all cases only in the event that the client gives the supplier immediate and proper notice of default in writing, in which context it must stipulate a reasonable term in which to remedy the breach, and the supplier continues to attributable fail to comply with its obligations after that term has expired. The notice of default must contain a description of the breach that is as complete and detailed as possible so that the supplier will be able to respond adequately.
- 11.6 In all cases a condition for any right to compensation of damage to arise is that the client must notify the supplier in writing as quickly as possible after the damage has arisen. Any and all claims against the supplier for compensation of damage will lapse merely as a result of a term of 24 months elapsing after the claim arose.
- 11.7 The client indemnifies the supplier against any and all claims brought by third parties on the ground of product liability as a result of a defect in a product or system that the client supplies to a third party and that consisted in part of hardware, software or other materials that were supplied by the supplier, except if and insofar as the client proves that the damage was caused by that hardware or software or those other materials.
- 11.8 The provisions contained in this Article also apply in favour of any and all natural persons who or legal entities that the supplier uses in connection with the performance of the agreement.
- 11.9 The principal indemnifies Dimensys against any and all damage that Dimensys sustains as a result of claims brought by third parties that are related to the goods or services provided by Dimensys, also including:

- claims brought by third parties, including the principal's employees, who sustain damage that has been caused by a wrongful or unlawful act on the part of Dimensys' employees who have been made available from the principal and who work under its supervision and in accordance with its instructions;
- claims brought by third parties, including Dimensys' employees, who sustain damage in connection with the performance of the agreement that is the result of acts or omissions on the part of the principal or unsafe situations at its place of business; and
- claims brought by third parties that sustain damage that is the result of a defect in products or services supplied by Dimensys that the principal has used, changed or resold with the addition or together with the principal's own products, software or services, unless the principal proves that the use was not the result of misuse, a change or reselling as referred to above.

## **12 FORCE MAJEURE**

- 12.1 Dimensys will not be liable if and insofar as Dimensys is unable to comply with its obligations as a result of a situation involving *force majeure*. *Force majeure* is taken to mean any unusual cause and any circumstance over which Dimensys in all reasonableness has no control. Delays at or breach of contract committed by Dimensys' suppliers, transport difficulties, strikes and a failure of the equipment located at Dimensys' place of business to operate properly are explicitly deemed to constitute *force majeure*.
- 12.2 If and insofar as Dimensys is unable to comply with its obligations as a result of a situation involving *force majeure*, the principal will not be obliged to pay the related portions of the agreed price.
- 12.3 In the event that the situation involving *force majeure* has continued for a term of three months, or in the event that it is manifestly evident that the situation involving *force majeure* will continue longer than three months, both parties will be entitled to terminate the agreement prematurely without being required to observe any notice period, on the understanding that such a premature termination will no longer be possible after the obligation with which it was temporarily impossible to comply as result of the situation involving *force majeure* is subsequently complied with. In the event that the agreement is terminated prematurely due to a situation involving *force majeure*, the principal will be obliged to pay the periodic parts of the agreed price or the parts of the agreed price that must be paid in advance in respect of the period of time before the situation involving *force majeure* arose.

## **13 REPLACEMENT OF PROVISIONS THAT ARE NULL AND VOID**

- 13.1 In the event that any provision contained in these General Terms and Conditions is null and void or is nullified, the other provisions contained in these General Terms and Conditions will continue to apply in full and Dimensys and the principal will consult in order to agree on new provisions to replace the provisions that are null and void or that have been nullified, in which context the intent and purport of the provisions that are null and void or that have been nullified will be taken into consideration to every extent possible.

## **14 DISPUTES**

- 14.1 The agreement with the principal is governed exclusively by Dutch law.

14.2 Any and all disputes will be resolved by the competent Dutch court, on the understanding that both parties are entitled at all times to have any disputes resolved by the District Court of 's-Hertogenbosch, the Netherlands, or in appropriate cases by the President of that Court, insofar as such disputes fall within the scope of the subject matter jurisdiction of the District Court or its President. Insofar as any disputes fall within the scope of the subject matter jurisdiction of the Cantonal Division of the District Court, both parties will be authorised to agree in respect of a dispute that has already arisen that that dispute will be resolved by the Cantonal Division of the District Court of 's-Hertogenbosch. Even if the principal has its registered office abroad and a provision contained in an applicable treaty or convention provides that a foreign court has jurisdiction, both parties will be entitled to apply to a Dutch court in that respect, subject to the same provisions stipulated in the first two sentences of this subsection. However, Dimensys reserves the right to have a dispute with a foreign principal resolved by the foreign court.

## **15 GUARANTEE ON AND MAINTENANCE OF SOFTWARE**

- 15.1 Dimensys will repair any defects to the best of its ability during a term of three months after delivery. Dimensys does not guarantee that the software will operate without any interruption or defects or that it will repair all defects. Only in the event that the parties have concluded a support agreement, the software has been developed for a fixed price or compensation for use is paid in the context of which maintenance is included will such repairs be made free of charge to the best of Dimensys' ability, unless the principal has failed to use the software correctly or there are other causes that cannot be attributed to Dimensys, or in the event that the defects could have been discovered when the acceptance test was conducted. Recovery of lost data does not fall within the scope of the guarantee. The guarantee obligation will lapse in the event that the principal or a third party remedies defects or makes other changes without Dimensys' written permission to do so.
- 15.2 In the event that a support agreement has been concluded in respect of the software or in the event that compensation for use is paid in the context of which maintenance is included, the principal will be required to report to Dimensys, in accordance with Dimensys' customary procedures, the defects that have been discovered in the software. After it receives such a report Dimensys will repair any defects to the best of its ability. The results will be made available in the manner that is customary at Dimensys, depending on the urgency. Dimensys does not guarantee that the software will operate without any interruption or defects or that it will repair all defects.
- 15.3 Dimensys will be entitled to charge the repair costs in the event that the principal has not used the software correctly or there are other causes that cannot be attributed to Dimensys, or in the event that the software has been changed or maintained by parties other than Dimensys. Recovery of lost data does not fall within the scope of the maintenance.
- 15.4 In the event that a support agreement has been concluded Dimensys will make improved versions of the software available to the principal as they become available. Three months after an improved version has been made available Dimensys will no longer be obliged to repair any errors in the old version. Dimensys will be entitled to charge a fee if it makes a version available that has new options and functions. In the event that errors are caused by software that has been licensed to Dimensys, under no circumstances will Dimensys'

guarantee and Dimensys' liability extend any further than the guarantee that the licensor has given Dimensys or the licensor's liability.

### **SERVICE PROCESSING**

The following provisions will apply in the event that the principal makes use of service processing from or through Dimensys

#### **16 TERM OF THE SERVICE PROCESSING AGREEMENT**

- 16.1 The agreement will be entered into for the term stipulated in the contract for services and after that term has expired it will be extended automatically by a term of 24 months.
- 16.2 Either party will be entitled to terminate the agreement by giving the other party written notice of termination by registered letter with due observance of a notice period of 12 months prior to the end of the term in question.

#### **17 PERFORMANCE OF SERVICE PROCESSING ASSIGNMENTS**

- 17.1 Dimensys will perform the service processing with due care and in accordance with the information provided by the principal within the software in question.
- 17.2 The principal must provide the data carriers unambiguously and free of any errors at a time that will ensure that Dimensys will be able to perform the agreed work in a timely manner.
- 17.3 Output will be sent and transported at the principal's risk.
- 17.4 Dimensys will be entitled to make changes to the services provided and the service processing. Dimensys will notify the principal as quickly as possible in that respect. In the event that the principal does not accept the change to the services it will be entitled to terminate the agreement on the date on which the change enters into effect, with due observance of a notice period of six months.

#### **18 TELECOMMUNICATION**

- 18.1 In the event that telecommunication facilities are used, the principal will be responsible for making the correct choice and ensuring that such facilities are available in a timely manner.
- 18.2 Dimensys may provide the principal with access codes in the event that data are processed using telecommunication facilities. Dimensys will handle such codes with due care but it will not be liable for any misuse of them.

#### **19 SERVICE PROCESSING GUARANTEE**

- 19.1 The principal must check the results of the service processing after receipt in order to limit the consequences of any errors. In the event that there are errors in the results of the processing, if possible Dimensys will repeat the processing in order to remedy the errors to the best of its ability, provided that such errors are reported to Dimensys in writing as quickly as possible and in any event with one week after the results have been received. If a repeat is possible it will be performed at Dimensys' expense unless the errors can be attributed to the principal, such as errors as a result of the provision of incorrect or incomplete data, in which case Dimensys will be entitled to charge the extra costs.

#### **20 SERVICE PROCESSING OWNERSHIP RIGHTS AND RIGHTS OF USE**

- 20.1 Dimensys will remain the owner of any and all software, hardware, materials and data carriers.

20.2 Dimensys will grant the principal only the non-exclusive right to use the software.

### **PROVISION OF SERVICES**

The following provisions will apply in the event that Dimensys provides services such as, e.g., organisational and computerisation recommendations, applicability investigations, consultancy, hardware selection, system analyses, information and computerisation planning, system administration and facility management.

### **21 PROVISION OF THE SERVICES**

- 21.1 Dimensys will provide the services with due care, in accordance with the agreements and procedures laid down in writing with the principal if applicable.
- 21.2 In the event that the parties have agreed that the services will be provided in phases, Dimensys will be entitled to postpone the commencement of the services that form part of a subsequent phase until the principal has provided written approval of the results of the phase that preceded it.

### **22 CHANGES AND ADDITIONS TO THE PROVISION OF SERVICES**

- 22.1 The principal accepts that, in the event that the parties have agreed that the service to be provided will be expanded or changed, the time at which the provision of services will be completed may be affected as a result. Dimensys will inform the principal in that respect as quickly as possible.
- 22.2 In the event that the parties have agreed on a fixed price for the provision of services Dimensys will notify the principal in advance in the event that an expansion or change as referred to above will affect the agreed price.

### **SECONDMENT**

The following provisions will apply in respect of secondment in respect of which the principal enters into an agreement with Dimensys.

### **23 IMPLEMENTATION OF SECONDMENT**

- 23.1 Dimensys will make employees available to assist the principal with computerisation projects.
- 23.2 The employees will be made available for a limited period of time, which will not continue longer than is necessary for the employee to complete his or her duties in connection with the computerisation project.
- 23.3 The employee referred to in Article 24 will work for the principal during the entire term and working hours stipulated in the specification. In the event that the employee becomes ill and such illness is expected to last for an extended period of time, Dimensys will endeavour to provide a replacement employee who has the same skills. In the event that Dimensys is unable to replace the employee within 30 days after it has become known that the employee in question will be ill for an extended period of time, the principal will be entitled to terminate the agreement effective as at that date.
- 23.4 Dimensys' employee will perform the work to the best of his or her ability and in accordance with the rules that apply at the principal, provided that that is not contrary to the law or the specification clearly indicates otherwise.

23.5 The principal must check and sign the timesheet that Dimensys' employee submits. The principal must notify Dimensys immediately in the event that any errors are found, after which Dimensys will take adequate measures.

## **24 SPECIFICATION OF THE SECONDMENT**

24.1 Before the work commences Dimensys will provide the principal with a specification for each employee to be made available. That specification will in any event indicate the name of the computerisation project to which the assistance relates; the name, place of residence and position of the employee; the location where the work will be performed; the nature of the work to be performed by the employee to be made available; the daily rate; the duration and working hours per day that the employee will work at the principal; the days' holiday and days off of the employee who is made available; and the expected term of the secondment. After the employee's work commences that specification will form part of the agreement.

## **25 PRICES FOR SECONDMENT**

25.1 The hourly rate does not include the travel and accommodation expenses, including expenses relating to commuting to and from work. Commuting to and from work is taken to mean the distance between the employee's place of residence and the location where the work is performed and vice versa. The principal will be charged separately for travel and accommodation expenses at the price that Dimensys applies in that respect.

25.2 For the work to be performed by Dimensys' employee that the principal assigns in addition to the work listed in the specification, on Dimensys' normal working days a surcharge of 25% of the amount indicated in the specification will apply in respect of the first two hours and a surcharge of 50% of the amount indicated in the specification will apply in respect of the subsequent hours. A 100% surcharge will apply at all other times.

## **CUSTOM MADE SOFTWARE**

The following provisions will apply in the event that the principal has Dimensys develop custom made software.

## **26 DEVELOPMENT OF CUSTOM MADE SOFTWARE**

26.1 The parties will specify in writing what custom made software will be developed and the manner in which that will be done. Dimensys will develop the software with due care on the basis of the information to be provided by the principal. The principal warrants that that information will be correct and complete.

26.2 In the event that the parties agree that the software will be developed in phases, Dimensys will be entitled to postpone the commencement of the work that forms part of a subsequent phase until the principal provided written approval of the results of the phase that preceded it.

## **27 CHANGES AND ADDITIONS TO CUSTOM MADE SOFTWARE**

27.1 The principal accepts that, in the event that the parties have agreed that the work to be performed will be expanded or changed, the time at which the work will be completed may be affected as a result. Dimensys will inform the principal in that respect as quickly as possible.

27.2 In the event that the parties have agreed on a fixed price for the work, Dimensys will notify the principal in advance in the event that an expansion or change as referred to above will affect the agreed price.

## **28 DELIVERY AND ACCEPTANCE OF CUSTOM MADE SOFTWARE**

- 28.1 Dimensys will deliver the custom made software to be developed to the principal in accordance with the specifications that have been laid down in writing. The delivery will be deemed to have been completed after the custom made software has been made available to the principal or, if the parties have so agreed, after the custom made software has been installed at the principal's place of business.
- 28.2 The custom made software will be deemed to have been accepted after it has been delivered. In the event that the parties have agreed in writing that an acceptance test will be performed, the custom made software will be deemed to have been accepted after it has been accepted by the principal or one month after delivery in the event that the principal has not informed Dimensys of any errors within one month after delivery in accordance with the provisions contained in Article 28.5 or after the errors that have been reported have been remedied.
- 28.3 In the event that a written agreement between the parties provides for acceptance of the custom made software by the principal, the principal will be entitled to test the custom made software for a term of one month after it has been delivered.
- 28.4 The principal must notify Dimensys in writing and in as much detail as possible in the event that while the acceptance test is being performed it appears that errors that are discovered in the custom made software are impeding the progress of the acceptance test, in which case the test period of 14 (fourteen) days will be interrupted until the custom made software essentially operates in accordance with the specifications that have been laid down in writing.
- 28.5 In the event that while the acceptance test is being conducted it appears that the custom made software has defects as a result of which it is not in compliance with the written specifications, the principal will be obliged to notify Dimensys in writing and in as much detail as possible with respect to the defects immediately after the test period has ended, in which case Dimensys will repair the defects that have been reported to the best of its ability within a reasonable term. The repair work will be free of charge in the event that the custom made software has been developed for a fixed price. The principal will be deemed to have accepted the custom made software in the event that it essentially operates in accordance with the specifications that have been laid down in writing.

## **29 OWNERSHIP OF AND RIGHT TO USE CUSTOM MADE SOFTWARE**

- 29.1 The principal will receive the right to use the software in its company, as agreed with Dimensys in writing. In the event that no such agreement has been concluded, the right of use described in Article 30 will apply. The source code in respect of that software will be provided to the principal only if the parties have so agreed in writing, in which case the principal will be permitted to make changes to that software.

### **STANDARD OR OTHER SOFTWARE**

The following provisions apply in respect of the supply of standard or other software by Dimensys.

### **30 RIGHT OF USE**

- 30.1 Dimensys will grant the principal only a non-exclusive right to use standard or other software. Unless the parties have explicitly agreed otherwise in writing and without prejudice to the other provisions stipulated in these General Terms and Conditions, the right of use that Dimensys grants the principal comprises solely the right to load and view the standard or other software or to correct errors in the standard or other software.
- 30.2 The principal may use the standard or other software only within its own company, on the processing unit in respect of which the right of use has been granted. If the parties have not concluded an agreement in that respect, the processing unit for which the right of use has been granted will be deemed to be the principal's processing unit on which the standard or other software was first used. In the event of a breakdown the standard or other software may be used temporarily on another processing unit, but it may be used only to replace the original materials that have become unusable and must always carry the same labels as the original materials.
- 30.3 The right of use may not be transferred to third parties without Dimensys' written permission to do so. The principal is not permitted to sell, lease or dispose of the standard or other software or transfer it as security, or to make it available to any third party in any other manner whatsoever. The principal may not change the standard or other software, allow third parties to use it or use it for the benefit of third parties. The source code of the standard or other software will not be made available to the principal.

### **31 DELIVERY AND ACCEPTANCE OF THE STANDARD OR OTHER SOFTWARE**

- 31.1 Delivery will be made at the time that the parties have agreed in writing.
- 31.2 The time of delivery will be scheduled based on the expectation that the circumstances after that date will not change.
- 31.3 In the event that circumstances change, regardless of whether they could have been expected, and the change results in a delay, the agreed time of delivery will be adjusted accordingly.
- 31.4 If the parties have so agreed in writing, Dimensys will install the standard or other software on the hardware that the principal makes available for the purpose. The hardware in question must be in accordance with the specifications stipulated by Dimensys with the related system software.
- 31.5 The principal will be deemed to have accepted the standard or other software on the date on which it is installed or, in the event that the principal installs the standard or other software itself, on the first day following the date on which the software is delivered.

### **SUPPORT**

The following provisions apply in respect of software in respect of which the principal has entered into a support agreement with Dimensys.

### **32 PROVISION OF THE SUPPORT**

- 32.1 After the guarantee has been given Dimensys will be obliged to remedy any defects in the software and the related documentation to the best of its ability.
- 32.2 Dimensys will be required to make any required changes to the software to the best of its ability in the event that it is necessary to do so as a result in a change to the operating system

named in the agreed specifications, provided that such changes ensue from unavoidable developments of the operating system.

- 32.3 Dimensys is required to provide support by telephone to the best of its ability, such as answering questions about the use of support software and providing recommendations with respect to problems that arise during the use of that software.
- 32.4 Dimensys must provide the principal with the new versions and/or updates and the related documentation for the support software that are available, provided that the change constitutes a substantive improvement in the existing functionality, such at the discretion of Dimensys. General updating of the software does not fall within the scope of the support contract, such at the discretion of Dimensys. Dimensys is not required to include all the functional aspects of the existing version in a new version. The amount set by Dimensys' supplier will be charged for the provision of updates and new versions of standard software supported by Dimensys that has been supplied by third parties.

### **33 DIMENSYS'S OBLIGATIONS WITH RESPECT TO SUPPORT**

- 33.1 Dimensys will inform the principal in a timely manner with respect to an intention to make new versions of the software available.
- 33.2 Dimensys will inform the principal in writing with respect to new versions of the software, after which the principal must inform Dimensys whether it wishes to use the new version. In the event that the principal does not wish to use the new version, Dimensys reserves the right to stop maintaining the existing software.
- 33.3 In the event that the principal decides to use the new version of the software, Dimensys will make the new version available to it.
- 33.4 Support will be provided during Dimensys' customary business hours.

### **34 THE PRINCIPAL'S OBLIGATIONS WITH RESPECT TO SUPPORT**

- 34.1 The Principal must inform Dimensys immediately with respect to any defects in the software. The principal must provide Dimensys with a written statement containing as many details as possible that show what the defects are.
- 34.2 The principal must make available to Dimensys sufficient materials, data carriers and computer time in order to perform the work intended to resolve defects.
- 34.3 While the work is being performed, the principal will be obliged, at Dimensys' request, to ensure that there is at least one staff member present who has the skills required for that purpose.
- 34.4 In the event that it appears that the support has been provided as a result of errors or defects in the hardware or circumstances that can be attributed to the principal, the principal will be required to reimburse the related costs at the customary rates charged by Dimensys.
- 34.5 In the event that any changes have been made to the software by parties other than Dimensys or without Dimensys' written permission to do so, all of Dimensys' obligations pursuant to the agreement will lapse.

### **35 PRICES FOR SUPPORT**

- 35.1 The annual fee for the support will be indicated in the support agreement, with due observance of the provisions contained in Article 3.

35.2 The costs of the data carriers on which the software or a new version of the software is supplied will be charged separately.

### **36 TERM OF THE SUPPORT**

36.1 The support agreement will be entered into for the term stipulated in the contract for services.

36.2 The agreement will enter into effect at the time at which the software is delivered to the principal. In the event that the principal already has the software in its possession, the agreement will enter into effect at the time at which the agreement is entered into by means of the contract for services.

36.3 The agreement will be entered into for the term stipulated in the support agreement, after which it will be extended automatically for a term of 24 months.

36.4 Either party will be entitled to terminate the agreement by giving notice of termination to the other party in writing by means of a registered letter to the other party with due observance of a notice period of 12 months prior to the end of the term in question. However, the annual fee that has already been paid will not be refunded.