GENERAL TERMS AND CONDITIONS

These General Terms and Conditions were filed with the Amsterdam District Court under number 1/2009 on 6 January 2009.

I.   GENERAL PROVISIONS

1.   Definitions, offer and agreement

1.1   In these general terms and conditions:

"Agreement"   means an agreement under which FP-development B.V. agrees to supply goods and/or services of whatever nature;

"Customer"   means the party with whom FP-development B.V. has entered into an Agreement;

"FP-development B.V." means FP-development B.V. - also trading under the name MXFserver - giving effect to these General Terms and Conditions.

1.2   These General Terms and Conditions shall apply to all offers, legal relationships and Agreements under which FP-development B.V. supply goods and/or services of whatever nature to the Customer. Deviations from and additions to these General Terms and Conditions shall only be valid if they have been expressly agreed in writing.

1.3   All offers and similar statements by FP-development B.V. shall be without obligation, unless FP-development B.V. expressly indicates otherwise in writing. The Customer warrants the accuracy and completeness of the measurements, requirements, performance specifications and other data on which FP-development B.V. bases its offer and which have been stated by or on behalf of the Customer to FP-development B.V.

1.4   The application of the Customer's purchasing or other terms and conditions is expressly rejected.

1.5   If any provision of these General Terms and Conditions is null and void or annulled, the other provisions of these General Terms and Conditions shall remain in full force and effect.

1.6   FP-development B.V. may always state additional requirements concerning communication between the Parties or performance of legal acts by e-mail.

1.7   In the event of any conflict or inconsistency between the Dutch-language version of these General Terms and Conditions and any translation hereof, the Dutch text shall prevail.

2.   Price and payment

2.1   All prices shall be exclusive of turnover tax (VAT) and other levies imposed by the government.

2.2 If the Customer must make regular payments, FP-development B.V. shall be entitled to adjust the applicable prices and rates by providing written notice at least three months in advance. If the Customer does not wish to agree to such an adjustment, the Customer shall, within thirty days after the notice, be entitled to terminate the Agreement before the date on which the adjustment would have become effective.

2.3 The Parties shall record in the Agreement the date or dates on which FP-development B.V. shall charge the Customer the fee for the agreed performance. The Customer shall pay invoices in accordance with the payment conditions stated on the invoice. In the absence of a specific provision, the Customer shall pay within thirty days after the invoice date. The Customer shall not be entitled to set off or to suspend a payment.

2.4 If the Customer does not pay the amounts owed in a timely manner, the Customer shall owe legal interest on the outstanding amount, without any written demand or notice of default being necessary. If the Customer still does not pay the claim after a written demand or notice of default, FP-development B.V. can pass on the claim for collection, in which event the Customer shall, in addition to the total amount owed then, be obliged to pay for all court and out-of-court expenses, including expenses charged by external experts in addition to the costs determined at law. The Customer shall also owe the expenses incurred by FP-development B.V. in regard to unsuccessful mediation if the Customer is ordered by a judgment to pay the outstanding amount in full or in part.

3.   Confidential information, taking over employees and privacy

3.1 Each of the Parties warrants that all the information received by the Other Party which is known to be or should be known to be confidential in nature shall remain secret, unless a legal obligation mandates disclosure of that information. The Party receiving the confidential information shall only use it for the purpose for which it has been provided. Information shall in any event be considered confidential if it is designated by either of the Parties as such.

3.2 During the term of the Agreement and for one year after it is terminated, each of the Parties shall not, unless it receives prior written permission from the other Party, directly or indirectly, employ or otherwise have work for it, employees of the Other Party who are or were involved in executing the Agreement. As the occasion arises, FP-development B.V. shall not withhold the permission concerned if the Customer has offered appropriate compensation.

3.3 The Customer shall indemnify FP-development B.V. against claims by persons whose personal data has been recorded or processed about a register of persons maintained by the Customer or for which the Customer is responsible under law or otherwise, unless the Customer proves that the facts underlying the claim are solely imputable to FP-development B.V.

4.   Retention of title and rights, specification and possessory lien

4.1 All objects delivered to the Customer shall remain FP-development B.V.' property until all amounts owed by the Customer for the objects delivered or to be delivered or work performed or to be performed under the Agreement, as well as all other amounts which the Customer owes due to a breach of its payment obligation, have been paid fully to FP-development B.V. A Customer acting as a reseller may sell and re-deliver all items subject to FP-development B.V.' retention of title insofar as that is common in connection with its normal business operations.

If the Customer creates a new object wholly or partly from the objects delivered by FP-development B.V., the Customer shall create that object solely for FP-development B.V. and the Customer shall hold the newly created object for FP-development B.V. until the Customer has paid all amounts owed under the Agreement; in that event, FP-development B.V. shall possess all rights as the owner of the newly created object until the time the Customer makes full payment.

4.2   As the occasion arises, rights shall always be granted or transferred to the Customer on the condition that the Customer pays the agreed fees fully and in a timely manner.

4.3   Notwithstanding any delivery obligation, FP-development B.V. may maintain possession of the objects, products, proprietary rights, information, documents, databases and interim or other results of FP-development B.V.' services which have been received or generated in connection with the Agreement until the Customer has paid all amounts owed to FP-development B.V.

5.   Risk

5.1   The risk of loss or theft of or damage to objects, products, software or data which are the subject of the Agreement shall pass to the Customer at the time they have been placed at the actual disposal of the Customer or an assistant used by the Customer.

6.   Intellectual or industrial property rights

6.1   All intellectual and industrial property rights to software, websites, databases, equipment or other materials developed or provided under the Agreement, such as analyses, designs, documentation, reports, offers, as well as preparatory materials in that regard, shall be held solely by FP-development B.V., its licensors or its suppliers. The Customer shall only acquire the rights of use expressly granted in these Terms and Conditions and by law. Any other or more extensive right of the Customer to reproduce software, websites, databases or other materials shall be excluded. A right of use to which the Customer is entitled shall be non-exclusive and non-transferable to third parties.

6.2   If, in deviation from Article 6.1, FP-development B.V. is prepared to undertake to transfer an intellectual or industrial property right, such an obligation may only be entered into expressly in writing. If the Parties expressly agree in writing that intellectual or industrial property rights regarding software, websites, databases, equipment or other materials specifically developed for the Customer shall be transferred to the Customer, this shall not affect FP-development B.V.' right to apply and to use, either for itself or for third parties, the parts, general principles, ideas, designs, documentation, works, programming languages and the like underlying that development, without any limitation on other purposes. Nor shall a transfer of intellectual or industrial property rights affect FP-development B.V.' right to undertake developments for itself or third parties which are similar to those done for the Customer.

6.3   The Customer shall not be allowed to remove or modify any notice concerning the confidential nature or concerning copyrights, trademarks, business names or other intellectual or industrial property rights from the software, websites, databases, equipment or materials.

6.4 FP-development B.V. shall be allowed to take technical measures to protect the software or with a view to agreed restrictions in the duration of the right to use the software. The Customer shall not be allowed to remove or evade such a technical measure. If security measures result in the Customer being unable to make a back-up copy of software, FP-development B.V. shall provide the Customer with a back-up copy upon request.

6.5 Unless FP-development B.V. provides a back-up copy of the software to the Customer, the Customer may make one back-up copy of the software, which may only be used to protect against involuntary loss of possession or damage. The back-up copy may only be installed after involuntary loss of possession or damage. A back-up copy must have the same labels and copyright notices as are present on the original version (see Article 6.3).

6.6 Subject to the other provisions of these General Terms and Conditions, the Customer shall be entitled to correct errors in software provided to it, if that is necessary for the intended use of the software. In these General Terms and Conditions, "errors" shall mean a substantial failure to meet the functional or technical specifications stated in writing by FP-development B.V. and, in the event of custom made software and websites, the functional or technical specifications expressly agreed between the Parties in writing. An error shall only exist if the Customer can prove it and if it can be reproduced. The Customer shall be obliged to notify FP-development B.V. of errors immediately.

6.7 FP-development B.V. shall indemnify the Customer against any third-party cause of action based on the claim that software, websites, databases, equipment or other materials developed by FP-development B.V. itself infringe an intellectual or industrial property right existing in the Netherlands, on the condition that the Customer shall immediately inform FP-development B.V. in writing about the existence and substance of the cause of action and let FP-development B.V. handle the matter completely, including with respect to agreeing to any settlements. To that end, the Customer shall provide the necessary powers of attorney, information and cooperation to FP-development B.V. to defend - if necessary, in the Customer's name - against these causes of action. This indemnification obligation shall lapse if the alleged infringement relates (i) to materials provided by the Customer to FP-development B.V. for use, adaptation, processing or incorporation, or (ii) to changes the Customer has made or caused third parties to make to the software, website, databases, equipment or other materials. If it has been established in court as an incontrovertible fact that the software, websites, databases, equipment or other materials developed by FP-development B.V. itself infringe any intellectual or industrial property right held by a third party or if, in FP-development B.V.' judgment, it is likely that such infringement will occur, FP-development B.V. shall, if possible, ensure that the Customer can continue to have undisturbed use of the delivered objects, or functionally equivalent other software, websites, equipment or the other materials concerned, for example, by modifying the infringing parts or by acquiring a right of use for the Customer. If, in its exclusive judgment, FP-development B.V. cannot ensure or cannot ensure except in a manner that is unreasonably burdensome (financially or otherwise) for it that the Customer can continue to have undisturbed use of the delivered objects, FP-development B.V. shall take back the delivered objects, with crediting of the acquisition costs minus a reasonable user's fee. FP-development B.V. shall not make its choice in this regard until after the Customer has been consulted.

Any other or more extensive liability or indemnification obligation on FP-development B.V.' part due to the infringement of a third party's intellectual or industrial property rights shall be completely excluded, including liability and indemnification obligations on FP-development B.V.' part for infringements caused by using the software, websites, databases, equipment and/or materials delivered (i) in any form not modified by FP-development B.V., (ii) in connection with objects or software not delivered or provided by FP-development B.V. or (iii) in another manner besides that for which the equipment, software, websites, databases and/or other materials were developed or intended.

6.8 The Customer warrants that there are no third-party rights which are inconsistent with providing FP-development B.V. with equipment, software, materials intended for websites (visual material, text, music, domain names, logos etc.), databases, or other materials, including draft material, intended for use, adaptation, installation or incorporation (for example, in a website). The Customer shall indemnify FP-development B.V. against any action based on the claim that such provision, use, adaptation, installation or incorporation infringes a third-party right.

7. Cooperation by the Customer; telecommunications

7.1 The Customer shall always provide FP-development B.V. in a timely manner with all data or information which is useful and necessary to execute the Agreement properly and provide full cooperation, including giving access to its buildings. If the Customer utilizes its own employees in cooperating in the execution of the Agreement, these employees shall possess the necessary know-how, experience, abilities and qualities.

7.2 The Customer shall bear the risk of selecting, using and applying in its organization the equipment, software, websites, databases and other products and materials and the services to be provided by FP-development B.V., and shall also be responsible for the monitoring and security procedures and proper system management.

7.3 If the Customer provides software, websites, materials, databases or data to FP-development B.V. on a data carrier, this carrier shall meet the specifications prescribed by FP-development B.V.

7.4 If the Customer does not provide FP-development B.V. with the data, equipment, software or employees necessary to execute the Agreement, or does not provide this in a timely manner or in accordance with the agreements made, or if the Customer otherwise does not fulfil its obligations, FP-development B.V. shall be entitled to suspend execution of the Agreement in whole or in part, and it shall be entitled to charge the relating expenses in accordance with its usual rates, all of this without prejudice to FP-development B.V.' right to exercise any other legal right.

7.5 In the event that employees of FP-development B.V. perform work on-site at the Customer's, the Customer shall provide the facilities reasonably desired by those employees free of charge, such as a working space with computer and telecommunications facilities. The working space and facilities shall comply with all applicable statutory and other requirements and provisions concerning working conditions. The Customer shall indemnify FP-development B.V. against claims by third parties, including FP-development B.V.' employees, who, in executing the Agreement, suffer injury which is the result of acts or omissions by the Customer or of unsafe situations in its organization. The Customer shall timely inform the deployed FP-development B.V.' employees of the prevailing company and security rules used within its organization.

7.6   If, in executing the Agreement, telecommunications facilities, including the Internet, are used, the Customer shall be responsible for properly selecting these and making them available in a timely and sufficient manner, except for those faculties directly used and managed by FP-development B.V. FP-development B.V. shall never be liable for damage, loss or expenses due to transmission errors, malfunctions or the non-availability of these facilities, unless the Customer proves that this damage, loss or expenses resulted from intentional acts or omissions or gross negligence on the part of FP-development B.V. or its managers. If telecommunications facilities are used in executing the Agreement, FP-development B.V. shall be entitled to assign access or identification codes to the Customer. FP-development B.V. may change the assigned access or identification codes. The Customer shall treat the access codes as confidential and with due care and shall only disclose them to authorized employees. FP-development B.V. shall never be liable for damage, loss or expenses resulting from misuse of access or identification codes.

8.   Delivery periods

8.1   All delivery and other periods stated or agreed by FP-development B.V. have, to the best of its knowledge, been determined based on data known to FP-development B.V. when it entered into the Agreement. FP-development B.V. shall properly use its best efforts to observe agreed delivery and other periods as much as possible. The mere fact that a stated or agreed delivery or other period has been exceeded shall not cause FP-development B.V. to be in default. In any event, hence, even if the Parties have expressly agreed on a firm date in writing, FP-development B.V. shall not be in default because of a time period being exceeded until the Customer has provided it with a written notice of default. FP-development B.V. shall not be bound by firm or non-firm delivery or other periods which can no longer be met on account of circumstances beyond its control which have occurred after the Agreement was concluded. Nor shall FP-development B.V. be bound by firm or non-firm delivery periods if the Parties have agreed to modify the substance or scope of the Agreement (additional work, change in specifications etc.). If any period threatens to be exceeded, FP-development B.V. and Customer shall consult with each other as soon as possible.

9.   Termination of the Agreement

9.1   Each of the Parties shall only be entitled to rescind the Agreement if the Other Party imputably fails to perform material obligations under the Agreement – in any event, after having received a proper written notice of default which is as detailed as possible and in which it has been given a reasonable time frame to remedy the breach.

9.2   If an agreement which, by its nature and substance, will not end when certain conditions, acts or the like are fulfilled, has been entered into for an indefinite period of time, each of the Parties may terminate the Agreement by written notice after proper consultation and with a statement of reasons. If the Parties have not agreed on an express notice period, a reasonable notice period must be observed in terminating the Agreement. The Parties shall never be liable for damages for terminating the Agreement.

9.3   In deviation from what has been provided for by statute in this regard by mandatory law, the Customer may only terminate a services agreement in the events stated in these Terms and Conditions.

9.4   Each of the Parties may partly or completely terminate the Agreement in writing with immediate effect and without a notice of default if the Other Party is granted a provisional or non-provisional suspension of payments, if a petition for liquidation is filed with regard to the Other Party or if the Other Party's business is wound up or terminated for other reasons besides a business reconstruction or merger. FP-development B.V. shall never be obliged on account of this termination to refund funds already received or to pay damages. In the event of the Customer's liquidation, the right to use software provided to the Customer shall terminate by operation of law.

9.5   If, at the time of the rescission referred to in Article 9.1, the Customer has already received performance in connection with execution of the Agreement, this performance and the related payment obligation shall not be cancelled, unless the Customer proves that FP-development B.V. is in default with regard to that performance. Amounts which FP-development B.V. has invoiced before the rescission in connection with what it has already properly performed or delivered to execute the Agreement shall, subject to the provisions in the preceding sentence, continue to be owed in full and shall be immediately payable at the time of rescission.

10.   FP-development B.V.' liability; indemnity

10.1   FP-development B.V.' total liability for imputably failing to perform the Agreement shall be limited to compensating direct damage or loss, up to at most the amount of the price (exclusive of VAT) stipulated for that Agreement. If the Agreement is primarily a continuing performance agreement with a term exceeding one year, the price stipulated for the Agreement shall be set at the total of the fees (exclusive of VAT) stipulated for one year. The total compensation for direct damage or loss shall not, however, in any event exceed EUR 100,000 (hundred thousand euros). "Direct damage or loss" shall exclusively mean:

(a)   reasonable expenses which the Customer would have to incur to make FP-development B.V.' performance conform to the Agreement; this alternative damage or loss shall not be compensated, however, if the Agreement is rescinded by or at the suit of the Customer;

(b)   reasonable expenses which the Customer has incurred out of necessity to keep its old system or systems and related facilities operating longer because FP-development B.V. did not provide delivery on a firm delivery date which was binding for it, minus any savings resulting from the delay in delivery;

(c)   reasonable expenses incurred to assess the cause and scope of the damage or loss, insofar as the assessment relates to direct damage or loss within the meaning of these Terms and Conditions;

(d)   reasonable expenses incurred to prevent or mitigate damage or loss, insofar as the Customer demonstrates that these expenses resulted in mitigation of direct damage or loss within the meaning of these Terms and Conditions.

10.2   FP-development B.V.' liability for injury or damage as a result of death or bodily injury or because of material damage or loss to objects shall never exceed EUR 1,250,000 (one million two hundred and fifty thousand euros).

10.3 FP-development B.V.' liability for consequential damage, consequential loss, lost profits, lost savings, loss of goodwill, damage or loss through business interruptions, damage or loss ensuing from claims by the Customer's customers, mutilation or loss of data, damage or loss relating to the use of objects, materials or software of third parties prescribed by the Customer for FP-development B.V., damage or loss relating to engagement of suppliers prescribed by the Customer for FP-development B.V. and all other forms of damage, loss or injury besides those mentioned in Article 10.1 and 10.2, on any account whatsoever, shall be excluded.

10.4 The limitations mentioned in the preceding paragraphs of this Article 10 shall not apply if and insofar as the damage, loss or injury is the result of intentional acts or omissions or gross negligence by FP-development B.V. or its managers.

10.5 FP-development B.V.' liability because of an imputable failure to perform an Agreement shall in any event only arise if the Customer immediately and properly provides a written notice of default to FP-development B.V., with a reasonable time period for remedying the failure being given and FP-development B.V. still imputably failing to perform its obligations after that period as well. The notice of default must contain a description of the breach which is as complete and specific as possible, so that FP-development B.V. can respond adequately.

10.6 As a condition for any right for damages to arise, the Customer must always report the damage, loss or injury to FP-development B.V. in writing as soon as possible after it occurs. Any claim for damages against FP-development B.V. shall lapse by the mere expiration of 24 months after the claim arises.

10.7 The Customer shall indemnify FP-development B.V. against all third-party claims because of product liability ensuing from a defect in a product or system which has been delivered by the Customer to a third party and which partly consisted of equipment, software or other materials delivered by FP-development B.V., except if and insofar as the Customer proves that the damage, loss or injury was caused by that equipment, software or other materials.

10.8 The provisions in this Article shall also apply for the benefit of all legal and natural persons utilized by FP-development B.V. in executing the Agreement.

11. Force Majeure

11.1 A Party shall not be obliged to perform any obligation if it is prevented from doing so by a situation of force majeure. "Force majeure" shall also include a situation of force majeure for FP-development B.V.' suppliers, improper performance of obligations by suppliers prescribed by the Customer for FP-development B.V., as well as defects in objects, materials or software of third parties which the Customer has required FP-development B.V. to use.

11.2 If a situation of force majeure lasts for more than 90 days, the Parties shall be entitled to terminate the Agreement by rescinding it in writing. What has already been performed pursuant to the Agreement shall in such event be settled proportionately, without the Parties otherwise owing each other anything.

12. Applicable law and disputes

12.1 The Agreement shall be governed by and construed in accordance with the laws of the Netherlands. The applicability of the Vienna Convention of 11 April 1980 on the International Sale of Goods is expressly excluded.

12.2 Any and all disputes arising from the Agreement shall be submitted in first instance, and to the exclusion of any other court of law, to the competent court in Amsterdam, the Netherlands. FP-development B.V. reserves the right, however, to file action against the Customer before the court of its place of domicile.

12.3 In order to attempt to achieve an amicable resolution of an existing or potential future dispute, either Party may always initiate IT mediation pursuant to the IT Mediation Regulations of the Foundation for the Settlement of Automation Disputes in The Hague. IT mediation pursuant to these Regulations shall be based on mediation by one or more mediators. This procedure shall not result in a judgment which is binding on the Parties. Participation in this procedure shall be voluntary. The provisions in this paragraph of this Article shall not preclude a Party which so desires from skipping the IT mediation procedure and immediately pursuing the court proceedings mentioned in Article 12.2.

II. COMPUTER SERVICES

In addition to the General Provisions (Chapter I) of these General Terms and Conditions, the provisions set forth in this Chapter II "Computer Services" shall apply if FP-development B.V. provides services in the area of computer services, including automated processing of data using software and equipment managed by FP-development B.V.

13. Term

13.1 If the Agreement relates to providing computer services periodically or regularly, the Agreement shall be entered into for the term agreed between the Parties, in the absence of which a one-year term shall apply. The term of the Agreement shall be tacitly extended each time by the length of the original period, unless the Customer or FP-development B.V. terminates the Agreement in writing with due observance of a notice period of three months before the end of the period concerned.

14. Performance of the work

14.1 FP-development B.V. shall only provide the computer services at the Customer's instruction. If FP-development B.V. provides computer services pursuant to an authorized order from a government body regarding information of the Customer or its employees, all related expenses shall be charged to the Customer. FP-development B.V. shall provide the computer services with due care in accordance with the procedures and agreements recorded in writing with the Customer.

14.2 All data to be processed by FP-development B.V. shall be prepared and delivered by the Customer in accordance with the conditions to be stated by FP-development B.V. The Customer shall bring the data to be processed to and pick up the results of the processing at the location where FP-development B.V. performs the computer services. Transport and transmission, in whatever manner, shall occur at the Customer's expense and risk, even if they have been carried out or arranged by FP-development B.V.

14.3 The Customer warrants that all materials, data, software, procedures and instructions provided by it to FP-development B.V. to perform the computer services shall always be correct and complete and that all data carriers provided to FP-development B.V. shall meet FP-development B.V.' specifications.

14.4 All equipment, software and other objects used by FP-development B.V. for the computer services shall remain FP-development B.V.' property or the subject of FP-development B.V.' intellectual and industrial property, even if the Customer pays a fee for FP-development B.V. to develop or acquire them. FP-development B.V. may maintain possession of the products and data received from the Customer and the results generated from the processing until the Customer has paid all amounts owed to FP-development B.V.

14.5 FP-development B.V. may modify the substance or scope of the computer services. If such modifications result in a change in the procedures applicable at the Customer's, FP-development B.V. shall inform the Customer as soon as possible and the Customer shall be responsible for the costs of this change. The Customer may terminate the Agreement in such event by providing written notice no later than the date on which the modification becomes effective, unless this modification relates to changes in relevant legislation or other rules provided by competent authorities or FP-development B.V. assumes the costs of this modification.

14.6 FP-development B.V. shall, to the best of its ability, do its utmost to ensure that the software used by it to perform the computer services is adapted in a timely manner to amendments in the Dutch laws and regulations observed by it in connection with its services. Upon request, FP-development B.V. shall advise the Customer at its usual rates with regard to the effects of these adaptations for the Customer.

15.   Security, privacy and retention periods

15.1 FP-development B.V. shall comply with the statutory obligations which it has as a processor concerning its processing personal data. FP-development B.V. shall provide appropriate technical and organizational measures to protect personal and other data against loss or against any form of unlawful processing.

15.2 The Customer warrants that all statutory provisions concerning processing personal data, including provisions in or under the Personal Data Protection Act, have been strictly observed and that all prescribed registrations have been carried out and all required consents to process personal data have been obtained. The Customer shall provide FP-development B.V. immediately in writing with all requested information in this respect.

15.3 The Customer shall indemnify FP-development B.V. against all third-party claims which may be filed against FP-development B.V. because of a violation of the Personal Data Protection Act and/or other laws concerning processing personal data which is not imputable to FP-development B.V.

15.4 The Customer shall indemnify FP-development B.V. against all claims of third parties, including government bodies, which may be filed against FP-development B.V. because of a violation of the laws concerning the statutory retention periods.

16.   Guarantee

16.1   FP-development B.V. shall not be responsible for checking the accuracy and completeness of the results of the computer services. The Customer shall check these results itself after receiving them. FP-development B.V. does not warrant that the computer services shall be provided without errors or without interruptions. If defects in the results of the computer services are a direct consequence of products, software, data carriers, procedures or operating actions for which FP-development B.V. is expressly responsible under the Agreement, FP-development B.V. shall repeat the computer services in order to fix these imperfections to the best of its ability, provided the Customer notifies FP-development B.V. of these imperfections in writing and in detail as soon as possible, but no later than within one week after receiving the results of the computer services. Repetition shall only be done free of charge if the defects in the computer services are imputable to FP-development B.V. If the defects cannot be imputed to FP-development B.V. and/or are the result of errors or imperfections on the Customer's part, such as providing incorrect or incomplete information, FP-development B.V. shall charge the costs of any repetition to the Customer according to its usual rates. If fixing the defects imputable to FP-development B.V. is not technically or reasonably possible, FP-development B.V. shall credit the amounts owed by the Customer for the computer services concerned, without further or otherwise being liable to the Customer. The Customer shall not have any other rights because of defects in the computer services besides those described in these guarantee provisions.

III.   SERVICES

In addition to the General Provisions (Chapter I) of these General Terms and Conditions, the provisions set forth in this Chapter III "Services" shall apply if FP-development B.V. provides services, such as giving advice, feasibility studies, consultancy, study programs, courses, training sessions, support, secondment, hosting, the design, development, implementation or management of software, websites or information systems and services regarding networks. These provisions shall not affect the provisions included in these General Terms and Conditions concerning specific services, such as computer services, development of software and maintenance.

17.   Performance

17.1   FP-development B.V. shall, to the best of its ability, do its utmost to perform the services with due care and, where appropriate, in accordance with the agreements and procedures recorded in writing with the Customer. All of FP-development B.V.' services shall be performed on the basis of a best efforts obligation, unless and insofar as FP-development B.V. has expressly promised a result in the written Agreement and the result concerned has also been described with sufficient definiteness. Any agreements concerning a service level must always be expressly agreed in writing.

17.2   If it has been agreed that the services shall be provided in stages, FP-development B.V. shall be entitled to postpone the start of the services which are part of a stage until the Customer has approved the results of the preceding stage in writing.

17.3   In performing the services, FP-development B.V. shall only be obliged to follow timely and sensible instructions of the Customer if this has been expressly agreed in writing. FP-development B.V. shall not be required to follow instructions which change or supplement the substance or scope of the agreed services; if such instructions are followed, however, the work in question shall be compensated pursuant to Article 18.

17.4   If a services agreement has been entered into with a view to performance by a particular person, FP-development B.V. shall always be entitled to replace this person after consultation with the Customer with one or more other persons with the same qualifications.

17.5   In the absence of an expressly agreed invoicing schedule, all amounts relating to services provided by FP-development B.V. shall be owed once every calendar month in arrears.

18.   Modification and additional work

18.1   If, at the request of or with prior consent from the Customer, FP-development B.V. has performed work or rendered other performance which goes beyond the substance or scope of the agreed services, the Customer shall pay for that work or performance according to FP-development B.V.' usual rates. Expanding or modifying a system analysis, a design or specifications shall also constitute additional work. FP-development B.V. shall never be obliged to satisfy such a request, and it may require that a separate written agreement be concluded.

18.2   The Customer accepts that work or performance as referred to in Article 18.1 may affect the agreed or expected time of completion of the services and the mutual

responsibilities of the Customer and FP-development B.V. The fact that additional work (or the demand for it) arises during execution of the Agreement shall never be a ground for the Customer to rescind or terminate the Agreement.

18.3   Insofar as a set price has been agreed for the services, FP-development B.V. shall, upon request, inform the Customer in writing in advance about the financial consequences of the extra work or performance.

19.   Study programs, courses and training sessions

19.1   Insofar as the services by FP-development B.V. consist of providing a study program, course or training session, FP-development B.V. may always demand payment of the amount owed before it begins to provide these services. FP-development B.V.' normal rules shall govern the consequences of cancellation of participation in the study program, course or training session.

19.2   If the number of registrations justifies doing so in FP-development B.V.' judgment, FP-development B.V. shall be entitled to combine the study program, course or training session with one or more other study program, courses or training sessions, or to have them take place at a later date or a later time.

20.   Secondment

20.1   There shall be secondment within the meaning of these Terms and Conditions if FP-development B.V. makes an employee (hereinafter: "the Seconded Employee") available to the Customer in order to have this Employee perform work under the Customer's supervision, management and/or direction.

20.2   FP-development B.V. shall use its best efforts to ensure that the Seconded Employee remains available for the term of the Agreement, notwithstanding the provisions in Article 17.4 concerning replacement.

20.3   The Customer shall be entitled to request replacement of the Seconded Employee (i) if the Seconded Employee demonstrably does not meet expressly agreed quality requirements and the Customer provides written notice of this to FP-development B.V. within three working days after the work commences, or (ii) if the Seconded Employee experiences a long-term illness or leaves FP-development B.V.' employment. FP-development B.V. shall immediately address the request, making it a priority. FP-development B.V. does not warrant that replacement shall always be possible. If replacement is not or not immediately possible, the Customer's claims for further performance of the Agreement as well as all claims of the Customer on account of non-performance of the Agreement shall lapse. The Customer's payment obligations concerning the work performed shall continue to exist.

20.4   FP-development B.V. shall be obliged to make timely and complete payment of the wage tax and social security contributions (including advance contributions) to be paid for the Seconded Employee in connection with the Agreement. FP-development B.V. shall indemnify the Customer against all statutory claims by the Tax Authorities or social insurance agencies regarding taxes and social security contributions directly relating to FP-development B.V.' making the Seconded Employee available ("liability for using external personnel"), provided the Customer allows FP-development B.V. to handle the claims concerned completely, cooperates fully with it and provides it with all necessary information and, if FP-development B.V. desires, powers of attorney to conduct legal proceedings.

20.5   FP-development B.V. shall not accept any liability for the selection of the Employee or for the results of the work arising under the Customer's supervision, management and/or direction.

IV.   DEVELOPMENT OF SOFTWARE

In addition to the General Provisions (Chapter I) of these General Terms and Conditions and the specific provisions in the Chapter III "Services", the provisions set forth in this Chapter IV "Development of Software" shall apply if FP-development B.V. develops software at the Customer's instruction and possibly installs it. The Chapter V "Software Use and Maintenance" shall also apply to this software, except insofar as this Chapter IV provides differently. The rights and obligations referred to in this Chapter IV shall pertain solely to computer software in a form which is readable for a data processing machine and recorded on material which is readable for such a machine, as well as to the related documentation. Where this Chapter IV mentions "software", this shall also refer to websites.

21.   Development of software

21.1   If specifications for or a design of the software to be developed were not already given to FP-development B.V. when the Agreement was concluded, the Parties shall in consultation specify in writing which software shall be developed and in which manner this shall occur. FP-development B.V. shall develop the software with due care based on data to be provided by the Customer, the correctness, completeness and consistency of which the Customer shall warrant. If the Parties have agreed to use a development method which is characterized by the design and/or development of software parts being subject to a further setting of priorities to be determined during execution of the Agreement, this setting of priorities shall always occur in consultation between the Parties.

21.2   FP-development B.V. shall be entitled, but not required, to examine the correctness, completeness or consistency of the data, specifications or designs given to it and, if any imperfections are discovered, to suspend the agreed work until the Customer has eliminated the imperfections concerned.

21.3   Subject to the provisions in Article 6, the Customer shall only acquire the right to use the software in its own company or organization. The software's source code and the technical documentation created in developing the software may only be made available to the Customer if and insofar as expressly agreed in writing, in which event the Customer shall be entitled to make changes to this software. If FP-development B.V. is obliged at law to make the source code and/or technical documentation to the Customer, FP-development B.V. may demand a reasonable fee.

22.   Delivery, installation and acceptance

22.1   FP-development B.V. shall deliver the software to be developed to the Customer and install it as much as possible in accordance with the specifications recorded in writing, with installation only occurring if installation by FP-development B.V. has been agreed in writing. In the absence of express agreements in this regard, the Customer itself shall install, set up, design parameters for and tune the software and, if necessary, adjust the equipment and user environment used in this connection. Unless expressly otherwise agreed, FP-development B.V. shall not be required to convert data.

22.2   If an acceptance test has been agreed, the test period shall be 14 days after delivery or, if installation by FP-development B.V. has been agreed in writing, after the installation is completed. The Customer shall not be allowed to use the software for productive or operational purposes during the test period. FP-development B.V. may always require, hence, even if this has not been expressly agreed, that the Customer conduct a proper test of sufficient scope and depth using sufficiently qualified employees as to interim or other results of the development work and that the test results be reported to FP-development B.V. in writing and in a well-organized and comprehensible manner.

22.3   The software shall be considered accepted by the Parties:

(a)   if an acceptance test has not been agreed between the Parties: at the time of delivery or, if installation by FP-development B.V. has been agreed in writing, when the installation is completed, or

(b)   f an acceptance test has been agreed between the Parties: on the first day after the test period, or

(c)   if FP-development B.V. receives a test report as referred to in Article 22.5 before the end of the test period: at the time that the errors within the meaning of Article
6.6 mentioned in that test report have been fixed, notwithstanding the existence of imperfections which do not preclude acceptance under Article 22.6. In deviation from this, if the Customer makes any use of the software for productive or operational purposes before express acceptance, the software shall be considered fully accepted as from the start of that use.

22.4   If, when the agreed acceptance test is conducted, it turns out that the software contains errors which impede the progress of the acceptance test, the Customer shall proven written, detailed notice to FP-development B.V., in which event the test period shall be interrupted until the software has been adjusted in such a manner that this impediment is eliminated.

22.5 If, when the agreed acceptance test is conducted, it turns out that the software contains errors within the meaning of Article 6.6, the Customer shall inform FP-development B.V. about the errors through a written and detailed test report no later than on the last day of the test period. FP-development B.V. shall do its utmost to fix the aforementioned errors to the best of its ability within a reasonable time period, with FP-development B.V. being entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software.

22.6 Acceptance of the software may not be withheld on other grounds besides those relating to the expressly agreed specifications between the Parties nor because of the existence of minor errors, that is, errors which do not reasonably preclude putting the software to operational or productive use, notwithstanding FP-development B.V.' obligation to fix these minor errors under the guarantee provisions of Article 25, if applicable. In addition, acceptance may not be withheld with regard to aspects of the software which can only be evaluated subjectively, such as the design of the user interfaces.

22.7 If the software is delivered and tested in stages and/or parts, the non-acceptance of a particular stage and/or part shall not affect any acceptance of an earlier stage and/or another part.

22.8 Acceptance of the software in one of the ways referred to in Article 22.3 shall have the effect that FP-development B.V. is fully discharged for performing its obligations concerning developing and providing the software and, if installation by FP-development B.V. has also been agreed in a particular case, its obligations concerning installing the software. Acceptance of the software shall not in any way impair the Customer's rights under Article 22.6 regarding minor defects and Article 25 regarding the guarantee.

22.9 In the absence of an expressly agreed invoicing schedule, all amounts pertaining to development of the software shall be owed when the software is delivered or, if installation by FP-development B.V. has also been agreed in a particular case, when the installation is completed.

V. SOFTWARE USE AND MAINTENANCE

In addition to the General Provisions (Chapter I) of these General Terms and Conditions, the provisions set forth in this Chapter V "Software Use and Maintenance" shall apply to all software provided by FP-development B.V. The rights and obligations referred to in this Chapter V shall pertain solely to computer software in a form which is readable for a data processing machine and recorded on material which is readable for such a machine, as well as to related documentation, all of this including any new versions to be provided by FP-development B.V. Where this Chapter V mentions "software", this shall also refer to websites.

23. Right of use

23.1 Subject to the provisions in Article 6, FP-development B.V. shall grant the Customer the non- exclusive right to use the software. The Customer shall always strictly comply with the use restrictions agreed between the Parties. Subject to the other provisions in these General Terms and Conditions, the Customer's right of use shall only include the right to load and run the software.

23.2   The Customer may only use the software in its own company or organization on the one processing unit and for a specific number or type of users or terminals for which the right of use has been granted. Insofar as not otherwise agreed, the Customer's processing unit on which the software is used for the first time and the number of terminals connected to that processing unit at the time of initial use shall be considered the processing unit and number of terminals for which the right of use has been granted. In the event, there is a malfunction in the aforementioned processing unit, the software can be used on another processing unit for the duration of the malfunction. The right of use may pertain to multiple processing units insofar as this is expressly apparent from the Agreement.

23.3   The right of use shall not be transferable. The Customer shall not be allowed to sell, lease, sub-license or alienate the software and data carriers on which it has been recorded, grant restricted rights to this software or these data carriers or provide them to a third party in any manner or for any purpose whatsoever, give a third party remote or non-remote access to the software or place the software with a third party for hosting, not even if the third party in question will only use the software for the Customer's benefit. The Customer shall not modify the software except in connection with fixing errors. The Customer shall not use the software to process data for third parties ("timesharing"). The software's source code and the technical documentation generated in developing the software shall not be made available to the Customer, not even if the Customer is prepared to pay financial compensation for making them available. The Customer acknowledges that the source code is confidential in nature and that it includes FP-development B.V.' trade secrets.

23.4   The Customer shall immediately return all copies of the software in its possession to FP-development B.V. after the right to use the software ends. If the Parties have agreed that the Customer shall destroy the copies concerned when the right of use ends, the Customer shall provide written notice of such destruction to FP-development B.V. immediately.

24.   Delivery, installation and acceptance

24.1   FP-development B.V. shall deliver the software to the Customer on the agreed type and format of data carriers and, if installation by FP-development B.V. has been agreed in writing, shall install the software at the Customer's. In the absence of express agreements in this regard, the Customer itself shall install, set up, design parameters for and tune the software and, if necessary, adjust the equipment and user environment used in this connection. Unless expressly otherwise agreed, FP-development B.V. shall not be required to convert data.

24.2   If an acceptance test has been agreed between the Parties in writing, the provisions in Articles 22.2 to 22.7 shall apply by analogy. If the Parties have not agreed on any acceptance test, the Customer shall accept the software in the condition in which it is at the time of delivery, hence, with all apparent and non-apparent errors and other defects, without prejudice to FP-development B.V.' obligations under the guarantee of A r t i c l e 25. The provisions in Article 22.8 shall apply fully in all events.

24.3   In the absence of an expressly agreed invoicing schedule, all amounts pertaining to making the software available and the right to use the software shall be owed when the software is delivered or, if installation by FP-development B.V. has also been agreed in writing in a particular case, when the installation is completed.

25. Guarantee

25.1   FP-development B.V. shall do its utmost to fix errors in the software within the meaning of Article 6.6 to the best of its ability within a reasonable time period if they have been reported in writing and in detail to FP-development B.V. within three months after delivery or, if an acceptance test has been agreed between the Parties, within three months after acceptance. FP-development B.V. does not warrant that the software shall operate without interruption, errors or other defects or that all errors and other defects shall be corrected. Repairs shall be performed free of charge, unless the software has been developed at the Customer's instruction other than for a set price, in which event FP-development B.V. shall charge the repair costs according to its usual rates. FP-development B.V. may charge the repair costs according to its usual rates if there have been operating errors or improper use on the Customer's part or other causes not imputable to FP-development B.V. or if the errors could have been ascertained when the agreed acceptance test was conducted. The guarantee shall not include fixing mutilated or lost data. The guarantee obligation shall lapse if the Customer makes changes or has changes made to the software without FP-development B.V.' written permission, which permission shall not be withheld on unreasonable grounds.

25.2   Errors shall be fixed at a location to be determined by FP-development B.V. FP-development B.V. shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software.

25.3   FP-development B.V. shall not have any obligations concerning fixing errors reported after the expiry of the guarantee period referred to in Article 25.1, unless the Parties have concluded a maintenance agreement which includes such a duty to fix.

26. Maintenance

26.1   If a maintenance agreement has been concluded for the software or if the user's fee for the software includes maintenance, the Customer shall provide detailed notice to FP-development B.V. of the errors observed in the software in accordance with FP-development B.V.' usual procedures. After receiving the notice, FP-development B.V. shall, to the best of its ability, do its utmost to fix errors within the meaning of Article 6.6 and/or to make improvements in later, new versions of the software. Depending on the urgency, the results shall be provided to the Customer in the manner and within the time period to be determined by FP-development B.V. FP-development B.V. shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software. In the absence of express agreements in this regard, the Customer itself shall install, set up, design parameters for and tune the corrected software or the new version provided and, if necessary, adjust the equipment and user environment used in this connection. Unless expressly otherwise agreed, FP-development B.V. shall not be required to convert data.

26.2   FP-development B.V. does not warrant that the software shall operate without interruption, errors or other defects or that all errors or other defects shall be corrected.

26.3   FP-development B.V. may charge the repair costs according to its usual rates if there have been operating errors or improper use on the Customer's part or other causes not imputable to FP-development B.V. or if the software has been modified by others besides FP-development B.V. Maintenance shall not include fixing mutilated or lost data.

26.4   If a maintenance agreement has been concluded, FP-development B.V. shall provide improved versions of the software to the Customer when they become available. FP-development B.V. shall no longer be required to fix any errors in the old version or to provide support regarding an old version three month after an improved version becomes available. In providing a version with new options and functions, FP-development B.V. may require the Customer to enter into a new agreement with FP-development B.V. and to pay a new fee for this version being made available.

26.5   If the Customer does not enter into a maintenance agreement with FP-development B.V. at the same time that the agreement to provide the software is concluded, FP-development B.V. cannot be required to enter into a maintenance agreement at a later time.

26.6   In the absence of an expressly agreed invoicing schedule, all amounts pertaining to maintaining software shall be owed before the maintenance period commences.

27.   Software from FP-development B.V.' FP-development B.V.

27.1   If and insofar as FP-development B.V. provides software from third parties to the Customer, those third parties' terms and conditions shall replace the provisions in these Terms and Conditions and shall apply with regard to that software, provided that FP-development B.V. notifies the Customer in writing. The Customer shall accept the aforementioned third-party terms and conditions. These terms and conditions shall be available for the Customer's inspection at FP-development B.V.' and FP-development B.V. shall send these terms and conditions free of charge to the Customer at its request. If and insofar as the aforementioned third-party terms and conditions are deemed or declared inapplicable to the relationship between the Customer and FP-development B.V. for whatever reason, the provisions in these General Terms and Conditions shall fully apply.

VI.   SALE OF EQUIPMENT

In addition to the General Provisions (Chapter I) of these General Terms and Conditions, the provisions set forth in this Chapter VI "Sale of Equipment" shall apply if FP-development B.V. sells equipment to the Customer. Insofar as the purport of the following provisions is not inconsistent with this, the term "equipment" shall also include separate equipment parts.

28.   Selection of equipment, delivery and risk

28.1   The Customer shall bear the risk of selecting the equipment purchased. FP-development B.V. shall not warrant that the equipment is appropriate for the use intended by the Customer, unless the intended uses have been clearly specified without reservation in the written purchase agreement between the Parties.

28.2   The equipment sold by FP-development B.V. to the Customer shall be delivered to the Customer at the site of FP-development B.V.' warehouse. FP-development B.V. shall deliver the equipment sold to the Customer or have this delivered at a location to be designated by the Customer only if this has been agreed in writing. FP-development B.V. shall inform the Customer before delivery in as timely a manner as possible of the time which it or the carrier used intends to deliver the equipment. The delivery times indicated by FP-development B.V. shall always be indicative.

28.3   Equipment shall be delivered at the agreed location for the agreed purchase price. Unless expressly otherwise agreed, the equipment's purchase price shall not include the costs of transport, insurance, rigging and hoisting, leasing temporary facilities and the like.

28.4   The risk of loss and theft of and damage to the equipment shall pass to the Customer when it is delivered to the Customer. If a carrier is used for the delivery (whether or not at the Customer's request or instruction), the risk of loss, theft and damage shall, however, already pass to the Customer when the equipment is delivered to the carrier.

28.5   FP-development B.V. shall package the equipment in accordance with the usual standards it applies. If the Customer desires a specific manner of packaging, it shall bear the related additional costs. The Customer shall handle the packaging released with the products delivered by FP-development B.V. in a manner that is consistent with the applicable government regulations. The Customer shall indemnify FP-development B.V. against third- party claims based on non-compliance with such regulations.

29.   Environment requirements and installation

29.1   The Customer shall ensure an environment which meets the requirements specified by FP-development B.V. for the equipment in a particular case (for example, concerning temperature, humidity, technical environment requirements and the like).

29.2   If the Parties have expressly agreed on this in writing, FP-development B.V. shall install the equipment or have it installed. Any requirement by FP-development B.V. to install equipment shall not include the requirement to install software or to convert data.

29.3   If FP-development B.V. has undertaken to perform installation, the Customer shall provide a suitable installation site with all necessary facilities, such as cable work and telecommunications facilities, before delivery of the equipment and follow all instructions of FP-development B.V. necessary for the installation.

29.4   To enable FP-development B.V. to perform the necessary work, the Customer shall give FP-development B.V. access to the installation site during FP-development B.V.' normal working days and hours.

30.   Guarantee

30.1   FP-development B.V. shall do its utmost to fix, to the best of its ability, any defective material and manufacturing defects in the equipment, as well as in parts delivered by FP-development B.V. in connection with the guarantee or maintenance within a reasonable time period and free of charge, if these have been reported, with a detailed description, to FP-development B.V. within three months after delivery. If, in FP-development B.V.' reasonable judgment, repairs are not possible, will take too long or will entail disproportionately high costs, FP-development B.V. shall be entitled to replace the equipment free of charge with other, similar, but not necessarily identical, equipment. The guarantee shall not include data conversion which is necessary due to repairs or replacement. All parts replaced shall be the property of FP-development B.V. The guarantee obligation shall lapse if the defective material or manufacturing defects result in whole or in part from incorrect, careless or incompetent use, from external causes such as fire or water damage, or if, without FP-development B.V.' permission, the Customer makes changes or causes changes to be made to the equipment or to the parts delivered by FP-development B.V. in connection with the guarantee or maintenance. FP-development B.V. shall not withhold such permission on unreasonable grounds.

30.2   FP-development B.V. shall charge work and repair costs falling outside the scope of this guarantee in accordance with its usual rates.

30.3   FP-development B.V. shall not have any obligations concerning fixing errors reported after the expiry of the guarantee period referred to in Article 30.1, unless the Parties have concluded a maintenance agreement which includes such a duty to fix.

31.   The equipment of FP-development B.V.' supplier

31.1   If and insofar as FP-development B.V. provides equipment from third parties to the Customer, those third parties' terms and conditions shall replace the deviating provisions in these Terms and Conditions and shall apply with regard to that equipment, provided that FP-development B.V. notifies the Customer in writing. The Customer shall accept the aforementioned third-party terms and conditions. These terms and conditions shall be available for the Customer's inspection at FP-development B.V.' and FP-development B.V. shall send these terms and conditions free of charge to the Customer at its request. If and insofar as the aforementioned third-party terms and conditions are deemed or declared inapplicable to the relationship between the Customer and FP-development B.V. for whatever reason, the provisions in these General Terms and Conditions shall fully apply.

VII.   MAINTENANCE OF EQUIPMENT

In addition to the General Provisions (Chapter I) of these General Terms and Conditions, the provisions set forth in this Chapter VII "Maintenance of Equipment" shall apply if FP-development B.V. and the Customer have concluded an agreement for maintenance of equipment.

32.   Duration of the maintenance obligation

32.1   The agreement to maintain equipment shall be entered into for the term agreed between the Parties, in the absence of which a one-year term shall apply.

32.2   The term of the Agreement shall be tacitly extended each time by the length of the original period, unless the Customer or FP-development B.V. terminates the Agreement in writing with due observance of a notice period of three months before the end of the period concerned.

33.   Maintenance

33.1   The substance and scope of the maintenance services to be provided by FP-development B.V. and any related service levels shall be recorded between the Parties in a written agreement. In the absence of such an agreement, FP-development B.V. undertakes to do its utmost to remedy, to the best of its ability and within a reasonable time period, malfunctions which have been properly reported to FP-development B.V. by the Customer. In this Chapter, "malfunction" shall mean not meeting the equipment's specifications expressly made known by FP-development B.V. in writing, or not meeting these specifications without interruption. A malfunction shall only exist if the Customer can demonstrate it and it can be reproduced.

33.2   The maintenance shall be performed during FP-development B.V.' normal working days and working hours.

33.3   FP-development B.V. reserves the right to suspend its maintenance obligations during the time that, in FP-development B.V.' judgment, there are circumstances at the site where the equipment is to be set up which entail risks to the safety or health of FP-development B.V.' employees.

33.4   FP-development B.V. shall ensure that its expertise concerning the equipment is kept up-to- date. FP-development B.V. shall register and record in its administration all relevant data concerning the work performed on the equipment. Upon request, FP-development B.V. shall allow the Customer to examine the data recorded.

33.5   Parts shall be replaced if this is necessary in FP-development B.V.' judgment to fix or prevent malfunctions. The parts replaced shall be or remain FP-development B.V.' property.

34.   Maintenance and use terms and conditions

34.1   The Customer shall immediately inform FP-development B.V. after a malfunction occurs in the equipment by having one of its employees with expertise in this area draw up a detailed description of the malfunction. FP-development B.V. shall be obliged to give access to FP-development B.V.' employees or third parties designated by FP-development B.V. to the site of the equipment, to provide all other necessary cooperation, and to make the equipment available to FP-development B.V. for the maintenance work.

34.2   At FP-development B.V.' request, an employee of the Customer with expertise in this area shall be present during the maintenance work for consultation. The Customer shall be entitled to be present during all work to be performed for the Customer.

34.3   The Customer shall not be entitled to connect equipment and systems not delivered by FP-development B.V. to the equipment sold to the Customer and to install software not delivered by FP-development B.V. on it. The Customer shall be responsible for the costs of examining and remedying malfunctions which occur through connecting equipment not delivered by the Customer or installing software not delivered by FP-development B.V.

34.4   If, in FP-development B.V.' judgment, maintenance of the equipment requires that the equipment's connections be tested with other systems or equipment, the Customer shall provide these other systems or this other equipment, as well as the relevant test procedures and data carriers, to FP-development B.V.

34.5   Test material necessary for maintenance work which is not part of FP-development B.V.' normal equipment shall be provided by the Customer.

34.6   The Customer shall arrange for the technical, spatial and telecommunications facilities which are necessary to allow the equipment to operate. "Maintenance" shall expressly not include the aforementioned facilities and terminals.

34.7   The Customer shall bear the risk of loss or theft of or damage to the equipment during the period that FP-development B.V. has the equipment in its possession for the maintenance work. The Customer shall be responsible for insuring this risk. Before the equipment is provided to FP-development B.V. for maintenance, the Customer shall ensure that a proper and complete back-up copy has been made of all software and data recorded in the equipment.

34.8   FP-development B.V. shall not accept any maintenance obligations for equipment not set up in The Netherlands, unless expressly otherwise agreed in writing.

34.9   In the absence of an expressly agreed invoicing schedule, all amounts relating to maintenance of equipment shall be owed when the maintenance period commences.

35. Exclusions

35.1 Work to examine or repair malfunctions which arise from improper use of the equipment or external causes, such as defects in communication lines or in the power supply, or connections with and/or use of equipment, software or materials not covered by the Agreement, shall not be part of FP-development B.V.' obligations under the Agreement, and shall be charged to the Customer separately at the usual rates.

35.2 The maintenance price shall not include:
   (a) replacing consumer goods, such as, for example, magnetic storage media and printer ribbons;
   (b) replacement costs for parts as well as maintenance services for remedying malfunctions which are
   (c) caused in whole or in part by attempts to repair made by others besides FP-development B.V.;
   (d) work to service the equipment in whole or in part;
   (e) equipment modifications;
   (f) moving, relocating or reinstalling equipment or work resulting from this.