

aumatics

WHEN **IT** MATTERS

GENERAL CONDITIONS

Aumatics B.V.

Version 2018



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1. GENERAL

1.1 Applicability

- 1.1.1 These conditions are applicable to all proposals and agreements and/or other legal relationships between Aumatics and Customer.
- 1.1.2 Aumatics can modify the General Conditions of Aumatics. The modified General Conditions of Aumatics will become applicable unless objections against any modifications are made in writing within 30 (thirty) days of the notification date of the change.
- 1.1.3 Changes in and additions to the General Conditions of Aumatics and/or the agreements made between Aumatics and Customer, are only valid when laid down by Aumatics in writing.
- 1.1.4 If the trade name that Customer uses refers to more than one entity or organisation, each will be responsible for the entire fulfilment of the obligations that may flow forth from the agreement with Aumatics.
- 1.1.5 The headings above the articles of these conditions are only intended to increase the legibility of this document. The content and scope of the article included under a specific heading is not limited to content and scope of the heading.

1.2 Definitions

- 1.2.1 In the General Conditions of Aumatics, the following words and terms capitalised. Any of the following words and terms used in the singular shall have the same meaning in the plural and vice versa.
- 1.2.2 Third Party General Conditions:
Third Party General Conditions are understood to include the conditions that apply to Third Party Products and Services.
- 1.2.3 Application Software:
The application that offers functionality to users. This can be a (software) Aumatics Product, (software) Third Party Product or software of Customer or a third party licensed to Customer.
- 1.2.4 Aumatics:
Aumatics B.V. and its legal successors or a company or partner affiliated with Aumatics B.V. that will enter into the legal relationship with Client and has declared the General Conditions of Aumatics to be applicable.
- 1.2.5 Aumatics Infrastructure:
That portion of the Infrastructure that is administered and/or delivered by Aumatics and over which Aumatics can exercise direct control and that is located in Data Centre) to be specified by Aumatics
- 1.2.6 Aumatics Products and Services:
All products and services provided by Aumatics and the resulting provisions and the related activities that do not originate from third parties and whose intellectual property rights, industrial property rights and other rights are held by Aumatics.
- 1.2.7 Backup:
Spare copies of digital data and/or files.
- 1.2.8 Data Centre:
A facility in which servers can be connected to networks, primarily the Internet. A portion of the Infrastructure is located in one or more Data Centres.
- 1.2.9 Third Party Infrastructure:
The portion of the Infrastructure that is administered and/or delivered by third parties and on which Aumatics in principal cannot exert influence and which Aumatics can offer Customer for the purpose of Hosting. This is a Third Party Product and Service.
- 1.2.10 Third Party Products and Services:
All products and services provided by Aumatics, the resulting provisions and the related activities originating from third parties and whose intellectual property rights, industrial property rights and other rights, in principal, are not held by Aumatics.
- 1.2.11 Documentation:
The further (functional) description of Products and Services delivered or provided to Customer.
- 1.2.12 Fair Use:
The reasonable use of the Products and Services by Customer.
- 1.2.13 Fixed Price:
As further described in Article 6.3.
- 1.2.14 Errors:
The reproducible failure to (fully) of Products and Services to comply with the Documentation.
- 1.2.15 Warranty:
As further described in Article 5.9.
- 1.2.16 Feasibility Study:
As further described in Article 5.1.1.
- 1.2.17 Hosting:
Offering, conducting Maintenance and providing access to web space for saving information, images or Application Software on the Aumatics Infrastructure which is placed in Data Centres.
- 1.2.18 Identification Codes:
Usernames, passwords, address codes and/or other codes.
- 1.2.19 Infrastructure:
The totality of systems, services, hardware, software, network components and connections that are used for Hosting.
- 1.2.20 Subsequent Calculation:
As further described in Article 6.4.
- 1.2.21 Object Code:
The computer programming code in binary format. After processing, the Object Code is immediately executable by a computer, but without reverse engineering, compilation or assembly.
- 1.2.22 Maintenance:
Maintenance on Application Software and/or Maintenance on the Aumatics Infrastructure.
- 1.2.23 Maintenance on Application Software
Actually carrying out preventive, constructive and corrective maintenance on Application Software for Customer.
- 1.2.24 Maintenance on Aumatics Infrastructure
The right to, and the actual implementation of, preventive, constructive and corrective maintenance on the Aumatics Infrastructure and on the services linked directly to that infrastructure in the Data Centre that are used during Hosting.
- 1.2.25 Client:
Anyone that requests or issues an assignment for the provision of Products and Services.
- 1.2.26 Process Data:
The data entered by Customer and/or third parties as part of the Hosting.
- 1.2.27 Products and Services:
All of the Aumatics Products and Services and/or Third Party Products and Services provided by Aumatics, the resulting provisions and the corresponding activities. Hosting falls under Products and Services.
- 1.2.28 Source Code:
The computer programming code that can be displayed in a format legible and understandable for a programmer of average skill. This includes related Source Code system



documentation, comments and procedural codes. The Source Code does not include the Object Code.

1.2.29 Support:

As further described in Article 3.2.

1.2.30 Advance:

As further described in Article 6.5.

1.2.31 Working Days:

Normal Dutch working hours (8:00 a.m. - 5:30 p.m. CET) and days (Monday through Friday), excluding national holidays.

1.3 Confirmation

1.3.1 Verbal agreements, assignments or other expressions of whatever nature by employees of Aumatics are only valid and binding when they have been confirmed in writing by authorised representatives of Aumatics.

1.4 Offers

1.4.1 All offers are without commitment, unless the offer indicates otherwise in writing.

1.4.2 Offers are based on the data, information and/or requirements made known by Customer as set out in Article 1.6.

1.5 Agreements

1.5.1 An agreement between Aumatics and Customer, for which no further contract and/or term has been agreed, has a term of 1 (one) year if the delivery concerns a Service for which a periodic fee is charged. If this agreement is not terminated or not timely terminated, it shall be extended repeatedly in increments of 1 (one) year.

1.5.2 Termination of the agreement occurs by means of a registered letter, which must be received by the other party no later than 40 (forty) days before the extension of the agreement takes effect.

1.5.3 Each party has the right to terminate the agreement wholly or partially without judicial intervention by means of a signed registered letter. This can be done if, after notifying the breaching party in writing of a failure to fulfil its obligations, the breaching party then fails to meet the aforesaid obligations within a reasonable period of time.

1.5.4 Moreover, Aumatics has the right to immediately terminate the agreement, wholly or partially, without judicial intervention through means of a non-judicial declaration and/or withdraw and/or annul an offer if Customer is a person and becomes deceased, if Customer submits a legal request for debt restructuring, if bankruptcy or suspension of payment has been filed for Customer, if Customer is in a state of bankruptcy or suspension of payment has been granted or if Customer's company is liquidated or ended for any reason other than reconstruction or company merger, or if a substantial portion of Customer's capital is seized before judgement and/or seized under a warrant of execution or if Customer's company loses free disposal of his or her capital. In these cases, any claim by Aumatics against Customer shall be due immediately and in full and does not make Aumatics liable to pay compensation to the other party in connection with this termination.

1.5.5 After the end of the agreement, for whatever reason, Customer cannot derive any further rights from the agreement, without prejudice to the

continued obligations of the parties that, by their nature, are intended to continue after the end of the agreement, such as but not limited to the obligations regarding (intellectual) property rights, confidentiality and the competition clause.

1.6 Cooperation/Information Requirements for Customer

1.6.1 All assignments are carried out by Aumatics on the basis of data, information, requests and/or requirements made known to Aumatics by Customer.

1.6.2 Customer shall provide all necessary cooperation to Aumatics and shall make known all useful and necessary data and/or other information required for an adequate execution of the agreement promptly. Customer shall ensure the accuracy of this data and/or other information. Client shall vouch for the accuracy of this data and/or other information.

1.6.3 Furthermore, if data, information and/or requirements necessary for implementation of the agreement are not provided, not timely provided and/or not provided in accordance with the agreement, or if Customer fails to meet its obligations in any other way, then Aumatics has in any case the right to terminate or dissolve the agreement or to suspend execution of the agreement and Aumatics has the right to charge the costs incurred at its usual rates.

1.6.4 If changes and/or new facts arise in regard to data, information, requests and/or requirements previously provided, Aumatics will always be fully justified, in consultation with Customer, to adjust the agreement to these new circumstances or to dissolve or annul the agreement.

1.6.5 If Customer makes functional improvements or any other adjustments in the Products and Services (after first having received written permission from Aumatics, as further described in Article 2.1.4), Customer is obliged to report such adjustments to Aumatics, in the event that Aumatics provides Support or other services with regard to Products and Services provided to Customer.

1.6.6 In the event that Aumatics carries out activities at a location other than its own, Customer shall provide the facilities reasonably desired by Aumatics free of charge, such as a working space and telecommunication facilities.

1.7 Confidentiality/Non-Competition

1.7.1 Aumatics and Customer mutually commit themselves to the confidentiality of all data and information concerning each other's organisation, clients, files and Products and Services, of which they become aware while working for each other or for the Customer's clients. Data and information may only be used to implement the agreement concluded between the parties.

1.7.2 Aumatics shall be entitled to place the name and logo of Customer or their clients to whom rights to the Products and Services have been granted on the Aumatics website and/or a reference list and to make these available to third parties for information purposes.

1.7.3 For the period during and 12 (twelve) months following the termination or dissolution of the agreement, neither Customer nor his clients shall



enter into any financial, business, employment or other similar relationships with any Aumatics employee, except with the written consent of Aumatics. Customer must ensure that his clients shall comply with the above-mentioned obligation.

- 1.7.4 In the event that Customer breaches the provisions in Article 1.7.3, Customer will be charged, without further notification required, a fine of €50,000 (fifty thousand euros) for each breach, undiminished the right of Aumatics to claim full compensation for damages incurred.

1.8 Liability

- 1.8.1 The total liability of Aumatics shall be limited, in accordance with Article 1.8.2 and 1.8.3, to compensation for direct damage and to a maximum of the amount of the compensation (excluding VAT) that Aumatics has received from Customer with a maximum of €250,000 (two hundred fifty thousand euros), whereby a sequence of events is regarded as one event.

- 1.8.2 If the agreement also consists of a continuing performance agreement, with a duration of more than 1 (one) year and the liability of Aumatics arises under this continuing performance agreement, the agreed price shall be set at the total of the compensation (excluding VAT) actually paid by Customer to Aumatics based on the continuing performance agreement for 1 (one) year (being the year in which the damage occurred) with a maximum of €250,000 (two hundred fifty thousand euros).

- 1.8.3 The total liability of the parties due to an attributable failure to observe a guarantee obligation and/or indemnification offered is an exception to that which is specified in Articles 1.8.1 and 1.8.2: this is limited to twice the total of the compensations (excluding VAT) that Aumatics has received from Customer for 2 (two) years, with a maximum of €350,000, (three hundred fifty thousand euros), whereby a series of related events shall be considered as one event

- 1.8.4 Aumatics has insured itself against damage. In any event, Aumatics is not liable for further damage and also will not compensate this further damage that Customer suffers pursuant to the agreement entered into with Aumatics, however caused, including claims of third parties against Customer, other than those covered by this insurance and actually compensated, plus Aumatics' deductible, unless there is question of intent or deliberate recklessness.

- 1.8.5 The total liability of Aumatics for damage as a result of death or bodily injury shall not in any event total more than €1,000,000 (one million euros), a series of connected events being considered a single event.

- 1.8.6 Direct damage is exclusively understood to refer to:
- The reasonable costs incurred to determine the cause and the extent of the damage;
 - The reasonable costs incurred to prevent or limit damage, insofar as the Customer demonstrates that these costs have led to minimising damage.
 - The reasonable costs incurred to repair damage, insofar as Customer demonstrates that these costs have led to the repair of damage *and* Aumatics itself has been unable to offer a timely solution for repair of

damage following written request to do so.

- 1.8.7 The liability of Aumatics for indirect damage, including consequential damage, loss of profit, lost savings, damage or loss of files and/or data, loss due to delays, loss incurred, damage caused by the faulty supply of information and/or cooperation by Customer, damage due to business interruption or claims of third parties against Customer, is expressly excluded.

- 1.8.8 Other than in the case referred to in Article 1.8, Aumatics shall not be liable in any way whatsoever to pay damage, irrespective of the grounds of an action to secure damages.

- 1.8.9 The liability of Aumatics arises only if Customer immediately and properly serves Aumatics a notice of default, allowing the latter a reasonable period to remedy any failure in the performance, and if Aumatics continues to fail in the performance of its obligations after this period. The notice of default must contain a description of the breach which is as detailed as possible, so that Aumatics can respond automatically.

- 1.8.10 Any right to compensation is always conditional upon Customer notifying Aumatics of the damage in writing by registered letter within 60 (sixty) days of the occurrence of the damage and takes the necessary measures to limit the damage as much as possible.

- 1.8.11 Customer indemnifies Aumatics against all claims of third parties on account of liability due to a defect in a product, system or service which has been supplied or delivered by Customer and to a third party and which product, system or service consisted partly in that which has been supplied by Aumatics.

- 1.8.12 Aumatics does not accept any liability whatsoever for any damage or loss of whatever nature that may ensue from Products and Services that Aumatics has delivered to Customer. If possible, Aumatics will transfer its rights for damage compensation from the supplier of the Third Party Product in question to Customer.

- 1.8.13 Unless a service level agreement is agreed upon that stipulates otherwise, Aumatics is not liable for damage of any kind resulting from the failure to promptly provide Support, Maintenance and/or a Guarantee.

1.9 Transfer

- 1.9.1 The agreement entered into between Aumatics and Customer and the rights and obligations arising from this agreement cannot be transferred to a third party without prior written consent from Aumatics.

- 1.9.2 Customer grants Aumatics the right in advance, without requiring express permission from Customer, to transfer the entire agreement or portions thereof to:

- holding, sister and/or subsidiary companies;
- a third party in the event of a merger or acquisition of Aumatics.

If this happens, Aumatics shall inform the Customer of this.

1.10 Non-imputable Failure ("force majeure")

- 1.10.1 Neither party is obliged to fulfil any obligation if they are prevented from doing so as a result of a circumstance which can be considered beyond their fault, and for which a party cannot be held



accountable for by law, legal act or generally accepted practices. The aforementioned circumstances also include circumstances that are beyond Aumatics' power as well as business risks of Aumatics, these include but are not limited to failure to perform by a supplier of Aumatics, the late or non-availability of required information and specifications and/or changes in such information, incorrect functional specification of Third Party Products and Services and/or products delivered by a third party, bad weather conditions, fire, explosions, electricity failures, (D)DOS attacks, hacking, cracking or any downtime or unavailability due to wrongful acts of third parties, the destruction, damaging or rendering inoperative of any automated activity or any work for telecommunication by any person, causing a disruption in the course or in the functioning of such work, or the prevention by anyone safety measure taken with regard to such work, network failures, floods, illness, lack of staff, strike or other employment conflicts, accidents, actions by the government, not being able to obtain required licenses and/or permits, lack of materials, theft, traffic disruptions and/or transportation problems.

1.10.2 If the force majeure is of a temporary nature, Aumatics has the right to suspend the agreement until the relevant situation no longer exists, without any obligation to compensation for damages.

1.10.3 Aumatics reserves the right, in a case of force majeure, to collect payment for obligations already fulfilled before the force majeure situation was known.

1.10.4 In the event that the force majeure of either party surpasses a three month period, either party has the right to terminate the agreement without being obliged to any form of damage compensation regarding such termination.

1.11 Nullity

1.11.1 If one or more provisions (or part of a provision) of the agreement are nullified, declared to be nullified, annihilable or have lost their validity in another way, the other terms (or part of the term in question) of this agreement will remain in force undiminished.

1.11.2 In regard to provisions (or part of a provision) that are nullified, declared to be nullified, annihilable or lose their validity in another way, the parties shall consult with each other to try to reach a substitute arrangement within which the parties shall strive for the maintenance of this agreement (or the remainder of the term in question) in its totality.

1.12 Applicable Law and Dispute Resolution

1.12.1 All agreements entered into by Aumatics with the Customer shall be subject to Dutch law, unless agreed otherwise between the parties in writing. The parties expressly declare that the United Nations Convention on Contracts for the International Sale of Goods (CISG) is not applicable.

1.12.2 Disputes between the parties that cannot be settled amicably will be solved through arbitration of the Stichting Geschillenoplossing Organisatie en Automatisering (SGOA) (the Dutch arbitration court (foundation) for ICT-related matters), in accordance with the SGOA's regulations for arbitration. With the mutual agreement of both parties, the parties may

try to solve their disagreement through other provisions offered by the SGOA for the settlement of disputes prior to arbitration.

1.12.3 If the SGOA declares itself to not have jurisdiction or if the parties so agree, disputes will be to the District Court in The Hague, The Hague subdistrict venue.

1.12.4 Without prejudice to any right, the foregoing shall not constitute an obstacle for the parties to take protective pre-judgment measures and/or to bring an action or to start a recovery procedure at the District Court in The Hague, The Hague subdistrict venue.

2. AUMATICS PRODUCTS AND SERVICES

2.1 Right of Use of the Software

2.1.1 Aumatics grants Customer the non-exclusive right to the use of the Products and Services.

2.1.2 User rights are limited to the use of the Products and Services for your own use on the CPU agreed upon with Aumatics and the number of users, servers and/or workstations agreed upon with Aumatics. If no limitations have been agreed upon, user rights will be limited to the CPU on which the Products and Services were first installed and the number of users, servers and/or workstations will be limited to 1 (one).

2.1.3 The right of use for software Products and Services is limited to the Object Code. Rights to the Source Codes, and the Source Codes themselves, shall not be issued unless expressly agreed otherwise in writing.

2.1.4 It is prohibited for Customer themselves and/or through a third party to copy, duplicate or alter the Products or Services in any way, without first having received the written approval of Aumatics.

2.1.5 Customer is allowed to make one cold back-up copy of the Products and Services made available, if a back-up is not made available by Aumatics. The back-up made may not be used for operational purposes without prior written permission from Aumatics.

2.1.6 The right of use to the Products and Services is not transferable to third parties (third parties shall also be understood to refer to holding, sister and/or subsidiary companies of Customer).

2.1.7 Customer does not have the right to make the Products and Services available, under any title or in any way whatsoever to third parties (third parties shall also be understood to refer to holding, sister and/or subsidiary companies of Customer).

2.1.8 Reverse engineering or decompilation of the Products and Services by Customer is prohibited, unless that is explicitly permitted pursuant to mandatory law.

2.1.9 The user right will go into effect after Customer has made the required payments and fulfilled its other obligations.

2.1.10 The scope of the user right on Third Party Products and Services is specified by the General Conditions Third Party, as set out in Article 4. Insofar as Third Party General Conditions are not deviated from in the foregoing, the foregoing shall apply mutatis

mutandis.

2.2 Delivery and Supply of Infrastructure

- 2.2.1** After effectuation of the agreement, Aumatics shall deliver or supply the requested environment as quickly as possible within the Aumatics Infrastructure and/or Third Party Infrastructure.
- 2.2.2** Customer shall provide all documents, data, information, information carriers necessary for delivery or supply, as well as all other materials required for implementation completely, correctly and promptly to Aumatics

2.3 Installation and Implementation Application Software and supplementary products

- 2.3.1** If the agreement between the parties relates to the Hosting of Application Software, Aumatics will install and implement the Application Software in the delivered Aumatics Infrastructure and/or provided Third Party Infrastructure, unless otherwise agreed upon.
- 2.3.2** Before installation and/or implementation can take place, Aumatics will ensure, at Customer's expense, that all conditions specified by or by means of Aumatics are fulfilled, in order to achieve a successful installation and/or implementation.
- 2.3.3** Customer is responsible for and shall ensure that the required Third Party General Conditions are received to enable the installation and the Maintenance can be carried out legitimately and consistently on the Application Software, not being an Aumatics Product or a Third Party Product.
- 2.3.4** Customer is responsible for ensuring that the Application Software functions in conformance with specifications for the environment within the Aumatics Infrastructure or Third Party Infrastructure. If Aumatics must – and is prepared to – carry out activities to enable the Application Software to function, Aumatics can carry out these activities immediately as Additional Work approved by Customer in conformance with Article 3.4.2.
- 2.3.5** If, due to intervention by Customer, it has not been possible to ensure the installation and/or implementation was carried out within the agreed upon time, Customer shall make payments as though the installation and/or implementation had been carried out, without prejudice to the obligations of Aumatics to effect installation and/or implementation at a later date to be determined.

2.4 Hosting General

- 2.4.1** Hosting shall be carried out exclusively at a location approved by Aumatics and on the equipment approved by Aumatics.
- 2.4.2** Aumatics can, at its own discretion, offer Customer the option to implement modifications, expansions and/or changes themselves in the Hosting provided. If this option is offered to Customer, Customer shall be responsible and liable for all modifications, expansions and/or changes and the resulting effects.
- 2.4.3** In the context of the access to and the use of the Hosting, Customer shall have direct or indirect access to equipment and software that satisfies the standards and/or requirements specified by Aumatics and communicated directly or indirectly to

Customer. Customer is also required to maintain compliance with the conditions set out in this clause. If and as long as equipment and/or software do not meet these conditions, the obligation resting with Aumatics to provide access to the Hosting and the use thereof is suspended by Aumatics.

- 2.4.4** Customer shall give Aumatics the opportunity to check whether the standards and/or requirements specified in Article 2.4.3 of this agreement are complied with.

- 2.4.5** If after completing the check specified in Article 2.4.4 Customer still does not fulfil the standards and/or requirements indicated in Article 2.4.3, Aumatics has the right to terminate or annul the agreement entirely or partially without prior written notice of default and/or judicial intervention.

- 2.4.6** Customer is obliged to follow all instructions from Aumatics concerning the Hosting.

- 2.4.7** Aumatics shall have the right to view logfiles and so on with the goal of analysing the use of the Hosting. The results of such an analysis will not be made available to third parties (third parties do not include holding and/or subsidiary companies affiliated with Aumatics). This does not apply for figures and data relating to the use of the Hosting that are not directly traceable to the use by Customer.

- 2.4.8** In the event Customer signals a malfunction, Customer must immediately report this to Aumatics. After Customer has notified Aumatics of the malfunction, Aumatics will take the necessary steps which will lead to or could lead to a solution.

- 2.4.9** The costs of repairing a malfunction will be borne by Customer if it appears that the malfunction is the result of improper use or due to Customer's act or failure to act in accordance with the agreement.

- 2.4.10** Aumatics will inform Customer prior to the commencement of intended Maintenance with regard to Hosting if this Maintenance will lead to problems with regard to gaining access to Hosting or the non-availability of Hosting. In that case, Maintenance will be carried out on Thursday between 8:00 p.m. and midnight (CET). Aumatics can offer the possibility to have the specified maintenance carried out on Saturday between 7:00 a.m. and 10:00 a.m. (CET). For this, Customer will be charged a fee to be agreed upon, unless otherwise agreed upon in writing. Other Maintenance will be carried out during Working Days.

2.5 Obligations of Aumatics Hosting

- 2.5.1** Aumatics shall ensure the provision of the Hosting. Aumatics will, on a best effort basis and where influential by Aumatics, strive for a further to be indicated availability of Hosting.

- 2.5.2** If an availability rate is agreed upon with Customer, this percentage will be measured over a calendar year. This does include the time for Maintenance.

- 2.5.3** Aumatics will strive to provide all useful and necessary measures to ensure adequate operability and continuity of the Hosting. Aumatics makes use of the most recent and most commonly used virus protection programs on the market.

- 2.5.4** Aumatics will strive, in accordance with the most current technology available, to provide adequate physical and logical security measures against unauthorised access by third parties to computer

systems or computer programs used by Aumatics and/or stored Process Data, in light of the provisions provided for under the agreement.

2.5.5 Aumatics does not have any obligations with regard to availability, reliability and/or other performance requirements with regard to the telephone lines, the Internet and/or other networks and the resulting provisions.

2.5.6 Aumatics does not guarantee, amongst others, that the telephone lines, the Internet and/or other networks will offer optimal use and access.

2.6 Use of the Hosting

2.6.1 Customer is not permitted to resell and/or re-let the Hosting, unless agreed otherwise in writing.

2.6.2 Customer is not permitted to use equipment or software, as a result of which damage to Hosting can occur, to Aumatics or to a third party, or as a result of which a disruption in the Hosting can occur.

2.6.3 Customer must request a change to or relocation of Hosting from Aumatics. Aumatics will be entitled to charge costs in case of a change and relocation of Hosting.

2.7 Browser

2.7.1 Customer can access Hosting by means of a browser or a Remote Desktop Protocol Customer. Aumatics will inform Customer of the browsers for which the Hosting Services were optimised at the time the agreement was established.

2.7.2 Aumatics is not required to keep the access to the Hosting optimal by means of the browsers specified in Article 2.7.1. Aumatics shall have the right, without being bound to pay any form of compensation, to make changes to the Hosting that can have an impact on the browsers used by Customer and/or recommended by Aumatics.

2.7.3 If an incident as described in Article 2.7.2 should arise, Aumatics will make reasonable efforts to enable Customer to make the transition to another browser. Costs incurred by Customer are for his or her own account.

2.8 Use of Identification Codes

2.8.1 Aumatics will make Identification Codes solely available to Customer for the use of Products and Services. Customer will use these Identification Codes with care. Customer will notify Aumatics in the event of loss, theft and/or other forms of unauthorised use in order to enable parties to take the proper actions.

2.8.2 Customer carries all responsibility, liability and costs related to the use of Identification Codes, used and/or distributed by Customer. Aumatics cannot be held liable for the misuse and/or wrongful use of the Identification codes.

2.8.3 If it can be reasonably suspected that misuse or unlawful use has been made of Customer's Identification codes, Aumatics can give Customer instructions that must be carried out.

2.8.4 If it is determined that misuse has been made of Identification Codes or if Customer ignores instructions given as set out in Article 2.8.3,

Customer will be immediately in default.

2.9 Changes in the Hosting

2.9.1 Aumatics is entitled, after a reasonable notification period and without any compensation to Customer, to make adjustments to and/or changes in the Hosting offered such as but not limited to:

- a) system-access procedures, such as:
 - procedures relating to operational rules;
 - security requirements.
- b) the changing of a third-party provider/supplier, location, hardware, software and other facilities that are relevant to making the Hosting available.

2.9.2 If the changes have such a demonstrably large negative change on the approach of Customer's business and/or the functionality of the Hosting, after first demonstrating the deterioration in writing, Customer shall ask Aumatics in writing to provide an alternative. If Aumatics then does not offer a reasonable alternative, Customer has the right to terminate the use of the Hosting without Aumatics being required to pay any damage compensation or restitution of monies paid.

2.10 Customer Data Traffic

2.10.1 Aumatics has no control over and/or insight into the contents of the data traffic from and/or to Customer. Aumatics merely serves as a conduit. Aumatics provides no guarantees pertaining to the contents of data, pertaining to reliability and completeness, among other things.

2.10.2 Customer is responsible for the content of data traffic originating from Customer. Insofar as applicable, the code of conduct, as described in Article 2.13, are applicable for Customer and his or her users.

2.10.3 Customer indemnifies and shall hold Aumatics harmless from any claim, accusation or procedure of a third party in connection with (the content of) the data traffic or the information originating from Customer.

2.10.4 Contrary to the provisions in Article 7, Process Data remains the (intellectual) property of Customer. Customer grants Aumatics, at no charge, the perpetual user right and processing right to Process Data. Process Data can only be distributed to a third party if not directly traceable to Customer.

2.10.5 Aumatics shall cooperate in transferring Process Data and/or other data to another application if requested to do so by Customer. Aumatics never guarantees that the Process Data and/or other data can be transferred to another application during the agreement and/or after the end of the agreement.

2.10.6 All of the costs connected to transferring Process Data and/or other data upon request from Customer to another application shall be borne fully by Customer.

2.11 Obligations of Customer Hosting

2.11.1 If by means of the Hosting personal data and/or other information/data is transported or if commercial and/or other activities are carried out by means of the Hosting, Customer indemnifies Aumatics against all liability, costs or damage as a result of claims by third parties if this personal data and/or other information/data is exported or commercial and/or other activities are carried out

that are in conflict with the relevant (privacy) legislation and/or other legislation in this regard.

2.11.2 Customer shall inform Aumatics immediately and in writing regarding changes that are relevant to the proper implementation of the Hosting.

2.11.3 Customer shall follow instructions from Aumatics relating to Fair Use. If Customer fails to follow Aumatics' instructions, Aumatics will be entitled through technical means to reduce the overload or in the case of a continuous overload to stop the provision of the Hosting to Customer. Aumatics shall never bear liability for any damage that may be suffered by Customer or third parties as a result of the measures taken by Aumatics and/or third parties.

2.12 Privacy Information

2.12.1 Pursuant to the Personal Data Protection Act [*Wet Bescherming persoonsgegevens, Wbp*], Customer is responsible for protecting (privacy) information that is sent and/or processed by the equipment and/or software programs of Aumatics on behalf of Customer.

2.12.2 Customer indemnifies Aumatics against any allegations as a result of the violation of any person's privacy.

2.12.3 Insofar as Customer is authorised to do so, Customer shall expressly agree with the registration of (privacy) data of users in the privacy registration of Aumatics for administrative and management purposes. Among other things, this privacy registration contains Identification Codes and Process Data and is accessible only for Aumatics. This information shall not be passed on to third parties, except in those instances in which Aumatics is required by law or a judicial decision to do so.

2.12.4 In exception to that which is specified in Article 2.12.1, Aumatics as the 'processor' pursuant to the Wbp will be responsible for the protection of privacy related information of which its use is necessary by Aumatics for the proper performance of its obligations under the agreement and will indemnify Customer against allegations of a private person as a result of an act or failure to act of Aumatics. Aumatics as 'processor' will comply with all of the relevant obligations of the Wbp.

2.13 Code of Conduct

2.13.1 Customer will make use of the Hosting and/or facilities offered in a responsible manner. It is prohibited to use the Hosting and/or other facilities offered in a manner that will result in:

- a) damage in the system of Aumatics and/or third parties;
- b) interference with its use.

2.13.2 Customer shall ensure that such damage and/or disruptions are not the result of misconfiguration on his or her part.

2.13.3 It is not permitted to use the Hosting and/or facilities offered for activities that are illegal and/or in violation with the agreement. The foregoing includes amongst others the following activities:

- c) the violation of a third parties rights or making it possible to violate the rights of third parties, such as but not limited to intellectual property rights and privacy rights;
- d) the noncompliance with law and/or other regulations

- e) applicable; spamming (un-requested distribution – or enabling distribution by third parties – of advertisement and/or other messages);
- f) storage/distribution of (child) pornography;
- g) sexual intimidation, discrimination and/or harassment of individuals in any other manner;
- h) distribution or the making available to third parties of obscene, insulting and tormenting material and/or other material of similar nature;
- i) threats;
- j) storage and distribution of viruses, worms and/or other destructive activities;
- k) unauthorised access (hacking) of accounts and systems of third parties and/or networks of third parties and/or Aumatics and/or performing and/or refraining from performing any other activities that make hacking possible.

2.13.4 Aumatics reserves the right, at its own discretion, and if required to do so by law or court decision, and/or if a third party alerts Aumatics and/or there is reasonable suspicion that the rights of a third party are being violated by means of the Hosting, activities are being carried out that are in conflict with the provisions of the Aumatics General Conditions and/or the agreement and the obligations deriving from the agreement in this regard are not properly or not fully being complied with, to stop access to Hosting and/or other facilities offered, to remove the information in question and to recover any damage from customer until the obligations have been complied with.

2.13.5 Aumatics and/or third parties will never be liable for damage of whatever nature that is incurred by Customer and/or third parties as a result of the measures taken by and/or on behalf of Aumatics pursuant to Article 2.13.4. The obligations relating to the payment of the agreed upon amounts shall continue to apply in full during the measures by and/or on behalf of Aumatics pursuant to Article 2.13.4.

2.13.6 If the seriousness of the action and/or inaction of Customer justifies this and/or if the action persists despite the measures by and/or on behalf of Aumatics, as set out in Article 2.13.4, pursuant to Article 1.5.3, Aumatics shall have the right to terminate the agreement, without Aumatics being required to pay any damage compensation or restitution of monies paid.

2.14 Verification

2.14.1 Aumatics is entitled to incorporate technical limitations and control mechanisms in the Products and Services in order to prevent and/or verify that the actual number of users, servers, data capacity and/or workstations does not surpass the agreed upon number of users, servers, data capacity and/or workstations.

2.14.2 Furthermore, Aumatics is entitled, through use of a third party, as long as Customer makes use of the Products and Services, to make unannounced verification visits at the locations where the Products and Services are used. Customer will provide all necessary cooperation and access. In the event Customer refuses cooperation and/or access, Aumatics will be entitled to terminate the agreement immediately. In this case Customer will no longer be entitled to use the Products and Services and will be

obligated to return or destroy any copies made thereof within 30 (thirty) days upon the first request of Aumatics.

- 2.14.3** If it appears based on the above-mentioned checks or otherwise that the actual number of users, servers, data capacity and/or workstations exceeds the agreed upon number of users, servers, data capacity and/or workstations, Customer must immediately purchase the missing number of user, server and/or workstation licences plus a fine of 25% on top of the additional amount to be paid. Customer shall be charged the amounts owed for Maintenance and Support for the missing user, server and/or workstation licences retroactively to the time of the latest delivery of the previously agreed upon number of users, servers and/or workstations. Aumatics also retains the right to file a report with the Software Alliance (BSA).

2.15 Maintenance

- 2.15.1** Depending on the Aumatics Product, Aumatics offers Customer the option to purchase Maintenance.
- 2.15.2** Maintenance on the Aumatics Products and Services shall be carried out based on further to be specified conditions. Insofar as not deviated from the further to be specified conditions, that stipulated in Article 2.15 shall apply.
- 2.15.3** Maintenance on the Application Software includes the provision of updates and documentation of the licensed Products and Services delivered to Customer which either contain a qualitative (Error fix) or a functional improvement of the Aumatics Product that has been made available. Aumatics is not obliged to actively keep Customer up to date concerning possible updates of the Products and Services.
- 2.15.4** If Maintenance results in a functional improvement, Aumatics shall have the right to charge additional costs to compensate for this functional improvement.
- 2.15.5** Aumatics has the right to refuse to carry out Maintenance on the Application Software if the Aumatics Products and Services and/or the environment in which the above-mentioned Aumatics Products and Services operate is changed in any form or by any means by Customer.
- 2.15.6** If Customer refuses to install new updates offered by Aumatics to Customer, Aumatics reserves the right to terminate the agreement or to adjust the agreement in accordance with the refusal to install updates.

3. ADDITIONAL AUMATICS PRODUCTS AND SERVICES

3.1 Advice

- 3.1.1** All Products and Services that can be considered advice or which can be described as advice, such as but not limited to Support (Article 3.2) and Feasibility Study (Article 5.1) will only be given to the best of Aumatics' knowledge and capability.
- 3.1.2** Aumatics is not responsible and/or liable if the activities that follow forth from an advice result in a failure to carry out a project for Customer within

allocated budgets, time schedules and other agreed upon conditions.

- 3.1.3** Aumatics will provide advice based on the conditions required by Aumatics and information received from Customer as mentioned in Article 1.6. If it appears that not all relevant information has been received and/or other problems and/or insights may arise, such as but not limited to incompatibility problems (products are unable to interoperate with each other) the advice provided can be adapted to the new circumstances.

3.2 Support

- 3.2.1** Support consists of providing verbal (telephonic) and written (e-mail) advice concerning the use and operation of the Products and Services. In principal, Support is provided based on a periodic Advance. Based on this periodic advance, Customer shall have the right to make use of the Helpdesk at any time if the discussion does not exceed a time limit of 10 (ten) minutes.
- 3.2.2** If the time limit specified in Article 3.2.1 is exceeded, the applicable hourly rate will be charged.
- 3.2.3** Aumatics will exclusively offer Support on the most recent updates of the Aumatics Products and Services. Aumatics is entitled, at its sole discretion, to provide Support on older versions, releases, etc. of the Aumatics Products and Services.

3.3 Custom Work

- 3.3.1** All assignments consisting wholly or partially of custom work are billed on the basis of Fixed Price or Subsequent Calculation.
- 3.3.2** Parties shall specify in writing what Aumatics Product will be developed and how this shall be done. Aumatics will carry out the Product development activities with due care on the basis of information provided by Customer, for which information Customer ensures the accuracy, completeness and consistency.
- 3.3.3** Aumatics is authorised, but not obliged, to investigate the correctness, completeness and/or consistency of the data or specifications provided to it and, in case it is determined that there is inaccuracy, incompleteness or inconsistency, to suspend activities until such time as Customer has remedied the deficiencies.
- 3.3.4** Excesses over the fees on which the price is based by up to 10% shall be considered to be accepted and do not need to be notified as such to and/or approved by Customer.
- 3.3.5** Intellectual property rights, industrial property rights or other rights of custom work remain at all times with Aumatics, as described in Article 7.1.

3.4 Additional Work

- 3.4.1** If in the opinion of Aumatics a change request of Customer is in fact a request for additional work, Aumatics will notify Customer thereof prior to performing additional work. Upon request of Customer, the notification will be followed by a specification of the price and additional conditions. Customer will decide as soon as possible whether to carry out the proposed additional work.
- 3.4.2** It will be assumed that Customer has agreed to the performance of additional work and the connected

costs if Customer has allowed additional work to take place without raising objections in writing prior to the commencement of additional work.

3.5 Installation and Implementation

- 3.5.1 Only if agreed upon in writing will Aumatics install and/or implement the Products and Services or have them installed and/or implemented.
- 3.5.2 Prior to installation and/or implementation Customer will see to it at its own expense that all conditions required by Aumatics have been met in order to ensure a successful installation and/or implementation.
- 3.5.3 Customer will ensure and is entirely responsible for acquiring the proper Third Party General Conditions in order to let installation and/or implementation take place legally.
- 3.5.4 If, due to intervention by Customer, it has not been possible to ensure the installation and/or implementation was carried out within the agreed upon time, Customer shall make payments as though the installation and/or implementation had been carried out, without prejudice to the obligations of Aumatics to effect installation and/or implementation at a later date to be determined.

3.6 Back-ups

- 3.6.1 To the extent possible, Customer will be responsible for making Back-ups on time. Upon Customer's request, Aumatics will inform Customer of the procedures and security measures necessary regarding securing data and the realisation of Back-ups.
- 3.6.2 If it is not possible for Customer to make Back-ups (and it is possible for Aumatics to make Back-ups) or if it is agreed upon that Aumatics will provide partially or entirely for the provision of Back-ups, Aumatics will make the Back-ups. Under no circumstance shall Aumatics be liable for these Back-ups for so far as but not limited to the complete or partial loss of these Back-ups and/or errors in the Back-ups or any other loss data or data being rendered unusable.

3.7 Activities

- 3.7.1 All of the activities, Maintenance, Support and other services will take place without interruption on Business Days and under normal working conditions.
- 3.7.2 For every continuous period within which Aumatics carries out activities for less than 3 (three) hours at a location other than Aumatics' place of business, Aumatics will be entitled to charge Customer for a minimum of 3 (three) hours. A continuous period exists if the period in which no activities are performed, in between the one period and the next period in which activities are performed, does not exceed more than 1 (one) hour.
- 3.7.3 Activities that are carried out outside of Business Days are considered as overtime. The applicable rate will be increased by 50% for overtime after or before Business Days. The applicable rate will be increased with 100% for overtime on Sundays and public holiday.
- 3.7.4 If it has been agreed that work will be carried out in phases, Aumatics will be entitled to postpone the

start of the work that is part of a future phase until Customer has approved the results of the previous phase in writing.

- 3.7.5 Aumatics will only be obligated to follow timely and reasonable instructions given by Customer when performing activities if agreed upon explicitly in writing. Aumatics is not obliged to comply with instructions that amend or supplement the content or scope of the agreed services; however, if it complies with such instructions, the associated work will be reimbursed based on Subsequent Calculation.
- 3.7.6 Aumatics is entitled, without the explicit consent of Customer, to make use of third parties when carrying out activities.

4. THIRD PARTY PRODUCTS AND SERVICES

4.1 Third Party Products and Services

- 4.1.1 Aumatics has the right to deliver Third Party Products and Services or make use of Third Party Products and Services in fulfilling its obligations flowing forth from the agreement. Aumatics is not responsible for Third Party Products and Services, unless agreed upon otherwise in writing.
- 4.1.2 If Aumatics delivers Third Party Products and Services to Customer, the Third Party General Conditions will be applicable to the agreement in addition to these Aumatics General Conditions.
- 4.1.3 Aumatics will deliver rights for Third Party Products and Services under the same conditions as indicated in the Third Party General Conditions.
- 4.1.4 No Maintenance, Support or other services will be carried out by Aumatics on Third Party Products and Services, unless agreed upon otherwise in writing.
- 4.1.5 With respect to the delivered Third Party Products and Services, Aumatics shall provide:
 - l) The service on Third Party Products and Services, under a maximum of the same conditions presented in the Third Party General Conditions.
 - m) The guarantee of the time period and under a maximum of the same conditions as laid down in the Third Party General Conditions.

4.2 Third Party General Conditions

- 4.2.1 Third Party General Conditions that are declared applicable in these General Conditions Aumatics shall, when available to Aumatics, be provided on request. Third Party General Conditions will be delivered in the same format and language as received by Aumatics.
- 4.2.2 The General Conditions Aumatics have priority over Third Party General Conditions unless indicated otherwise. When there is conflict between the General Conditions Aumatics and Third Party General Conditions, Aumatics has the right to declare the conflicting terms of the Third Party General Conditions inapplicable or applicable.

5. DELIVERY

5.1 Feasibility Study

- 5.1.1 A Feasibility Study is an investigation which can be carried out by Aumatics prior to delivery. The aim of

the Feasibility Study is to inform Customer at an early stage regarding the feasibility of the assignment.

5.1.2 Based on the findings that arise from the Feasibility Study, Aumatics shall issue either a positive delivery recommendation or a negative delivery recommendation regarding the feasibility of the assignment. A positive delivery recommendation usually means that Aumatics will make delivery. A negative delivery recommendation means that Aumatics will refuse to make delivery stating reasons and will propose an alternative as soon as possible.

5.1.3 The costs of the Feasibility Study will always be borne by Customer, regardless of the result of the Feasibility Study.

5.2 Delivery Dates

5.2.1 All delivery dates which may be named by and may be applicable to Aumatics are determined to the best of Aumatics' knowledge on the basis of information made known to Aumatics and will be taken into consideration as much as possible.

5.2.2 Delivery dates shall therefore not be considered to be absolute delivery dates within which must be delivered, but a time period within which Aumatics shall strive with best efforts to deliver what has been agreed to. If it is not possible to keep to the delivery date, then Aumatics and Customer will consult with each other to agree on a substitute delivery date.

5.2.3 Exceeding a given delivery date which may be applicable never constitutes an attributable shortcoming by Aumatics. Aumatics does not accept liability under any circumstances in cases in which the delivery date may be exceeded.

5.3 Reservations

5.3.1 Aumatics shall commence execution of the agreement between Aumatics and Customer only after a signed copy of the agreement drawn up by Aumatics has been received by Aumatics and/or having received payment of all amounts due fully and on time. Should Aumatics commence execution of the agreement prior to receiving a signed copy of the agreement and/or having received payment of all amounts due fully and on time, Aumatics reserves the right to suspend execution of the agreement pending receipt of a signed copy of the agreement and/or payment of all amounts due fully and on time.

5.3.2 Customer's rights, such as but not limited to the transfer of Products and Services, are provided under the suspended condition that Customer pays the agreed compensations fully and on time. In case of failure to pay, Customer must return the Products and Services to Aumatics at Customer's expense within one week of receiving the instruction from Aumatics to do so. All other remedies in law remain applicable.

5.3.3 If Customer fabricates a new product, on the basis of the Products and Services delivered by Aumatics, this will be done on behalf of Aumatics and Customer will keep the new product for Aumatics until all amounts due on the basis of the agreement have been paid on time and in full. Aumatics will maintain all the rights as owner of the new product until the moment payments have been made on time and in

full.

5.4 Risk

5.4.1 From the moment of delivery Customer will bear the risk of the Product delivered even if possible ownership and user rights have not yet been transferred. As a result Customer will be held accountable for the (purchase) price regardless of the situation that the Products delivered have perished or that their value has declined due to circumstances for which Aumatics cannot be held accountable.

5.4.2 The aforementioned will also be applicable from the moment at which Customer does not make it possible for Aumatics to make a delivery.

5.5 Delivery, Installation and Acceptance Procedure

5.5.1 Aumatics shall deliver the Products and Services to Customer in accordance with the specifications established in writing by Aumatics and, if desired by Customer, install them.

5.5.2 Delivery of the Products and Services takes place when they are made available to Customer at Aumatics' warehouse or the Data Centre used by Aumatics.

5.5.3 The delivery of services by or through Aumatics takes place at the places and time that the services are carried out.

5.5.4 Only in cases in which installation is carried out by Aumatics will there be an acceptance period immediately following completion of the installation. The acceptance period for Customer runs for a period to be agreed upon, with a maximum of 14 (fourteen) days following completion of the installation. During the acceptance period, Customer is not permitted to use the Products and Services for production and/or operational purposes.

5.5.5 The Products and Services shall be considered by both parties as accepted:

- a) at delivery if no acceptance period applies, or
- b) if an acceptance period applies: on the first day following the acceptance period, or
- c) if Aumatics receives a Test Report before the end of the acceptance period (Article 5.6): At the moment that the Errors (Article 5.7) identified in that Test Report have been repaired, notwithstanding the presence of small Errors which according to Article 5.7.4 do not hinder acceptance.

5.5.6 If the Products and Services are delivered in phases, and/or parts are delivered and tested, the non-acceptance of a particular phase and/or part will not delay the acceptance of an earlier phase and/or another part.

5.5.7 In deviation to the foregoing, the Products and Services shall be considered as accepted when Customer uses the Products and Services in any manner before the moment of acceptance for productive or operational purposes, from the beginning of such use.

5.6 Test Report

5.6.1 If it becomes apparent during the acceptance period that the Products contain Errors, as described in Article 5.7, which hinder the progress of the

acceptance test, Customer shall inform Aumatics no later than the last day of the acceptance period in a written and as detailed as possible Test Report of the Errors, in which case the still remaining acceptance period will be interrupted until such time as the Product is so modified that the Errors are removed.

5.7 Errors

5.7.1 Error(s) means the failure to fulfil the functional specifications set down in writing by Aumatics and, in cases of developing custom work Aumatics Products and Services, to the functional specifications expressly agreed upon in writing. An Error only exists where such can be demonstrated and reproduced. The Customer is required to immediately report possible Errors to Aumatics.

5.7.2 Every right to repair of Errors lapses if the Products and Service delivered by Aumatics are altered in any way or form.

5.7.3 The repair of Errors shall take place at the location to be determined by Aumatics. Aumatics is entitled to install temporary solutions, emergency solutions, detours and/or other problem-avoiding restrictions.

5.7.4 Acceptance of the Products and Services may not be withheld on grounds other than those which are related to specifications which have been expressly agreed upon between the parties nor, furthermore, to the presence of small Errors which do not reasonably impede putting the Products and Services into productive or operational use.

5.8 Replacement Performance

5.8.1 Aumatics is permitted to deliver alternative Products and Services than those Products ordered by Customer if the performance and operation of such alternative Products and Services is essentially no different from the Products and Services ordered.

5.8.2 If the agreement is concluded with the objective of having activities carried out by a particular individual, Aumatics will be entitled to replace this person at any time with one or more other people with the same qualifications.

5.9 Warranty

5.9.1 The Warranty offered on Third Party Products and Services is in any event limited to the Third Party General Conditions used by the suppliers of Third Party Products and Services, as specified in Article 4.

5.9.2 Aumatics is entitled to invoice its usual prices and the costs for repair, modification or replacement of the Products and Services if the Error may be said to be mistakes made in a general sense by the Customer, the result of improper and non-careful use by the Customer, the result of other causes that may not be attributed to Aumatics or if Customer could have reasonably detected the Error during the acceptance period.

5.9.3 The Warranty does not cover the reconstruction and/or repair of mutilated and/or lost files and/or data. Aumatics does not warrant that the Products and Services shall function without interruption or without Errors, are suitable for every intended use of Customer and/or will lead to results desired by Customer during or after the Warranty period. The

Warranty obligation is void if the Customer alters the Products and Services, or has them altered, without the written permission of Aumatics, as required in Article 2.1.4

5.9.4 After termination of the Warranty period, Aumatics shall not be bound to repair its Errors or to modify and/or replace the Products and Services, unless parties have agreed otherwise.

6. PRICES/PAYMENTS

6.1 Prices and Payments

6.1.1 All prices exclude VAT and any other levies imposed by the government. The amounts invoiced to Customer will include applicable VAT and any other levies possibly imposed by the government.

6.1.2 Aumatics will invoice the amount monthly, appropriately itemised, owed by Customer on a monthly basis and/or within another period specified in the agreement to Customer. Customer will pay all amounts owed within 14 (fourteen) days of the invoice date. These payments will not be subject to compensation or deduction other than when permitted by law.

6.1.3 Should Customer fail to fulfil any obligation, Customer is in breach without any further notification of breach being required. Customer shall pay Aumatics for all incurred costs, including judicial and extra-judicial expenses, with regard to the collection of that which Customer owes to Aumatics. Extra-judicial collection costs amount to 15% of the debt, with a minimum of €500 (five hundred euros). In any case Customer will be charged interest on a monthly basis on the amount owed, at the legal percentage rate, increased by 3% on all outstanding debts starting from the date of failure to pay.

6.1.4 Until full payment has been made, Aumatics has the right to suspend all services and obligations to Customer. Customer's obligation to meet his or her commitments remains unchanged.

6.1.5 If Aumatics is unable to make a delivery in time due to default on the part of Customer, Aumatics will have the right to charge a 1.5% interest reimbursement on a monthly basis over the indebted amount.

6.1.6 Compensation for Maintenance, Support, Hosting and any other annual or periodic amounts are due in Advance at the moment of realisation of the agreement between the parties, and shall be billed to Customer, appropriately and itemised prior to each year or other period that the agreement between parties continues.

6.1.7 The amount due in Article 6.1.1 can be increased with any ordering costs, delivery costs and third party costs necessary. An increase can also take place in the event that activities must be carried out for Customer outside of Aumatics' office. In the event that activities must take place outside of Aumatics' office, hourly rates, travel and waiting-time compensations, actual travel and/or kilometre compensation, hotel expenses and any other costs connected to such services will be charged. The travel and waiting-time compensation amounts to 50% of the current hourly rate. The mode of transport will be determined by Aumatics. The

above also applies for activities that will be carried out outside the Netherlands.

- 6.1.8** The aforementioned provisions leave the other rights accruing to Aumatics in connection with a shortcoming in the performance of Customer unimpaired.

6.2 Price Changes

- 6.2.1** Aumatics is entitled to increase its prices annually. In case of change to one or more of the cost prices (e.g. Third Party Products and Services) and/or change in the exchange rate, change in the Consumer Price Indices (CPI) or the Statistics Netherlands (CBS) Service Price Index (6202 Computer Consultancy), Aumatics will be entitled to adjust the prices based on the change(s). At least once a year, on 1 January, Aumatics will increase its prices based on the figures published by the CBS on 1 January (based on third-quarter figures, if applicable) in the 'CBS Price Index 6202 Computer Consultancy'. Changes will be rounded upwards in increments of €2.50.

- 6.2.2** Aumatics will offer Customer the opportunity to become familiar with possible changes in prices. If Customer does not agree with a price change, Customer will only be permitted to terminate the agreement from the date the change in price becomes applicable, if the total price increase during 1 (one) year exceeds the annual inflation rate of the current year (or previous year for price increases announced for the next year) as published by the CBS by 5%.

6.3 Fixed Price

- 6.3.1** In the case of a Fixed Price agreement, activities will be carried out on the basis of a prior agreed upon price.

- 6.3.2** Unless Aumatics can appeal to Article 1.6.4, extra hours will not be charged if a Fixed Price agreement applies.

6.4 Subsequent Calculation

- 6.4.1** When charges are to be based on Subsequent Calculation, this means that prior to Aumatics commencing the activities agreed to, a global estimate can be made of the expected costs. On conclusion of the activities carried out, all costs actually incurred related to the activities will be charged. Customer is, then aware that there is a possibility that the estimate made earlier could be lower than the costs actually incurred. If no agreements have been made regarding billing, activities will be carried out based on Subsequent Calculation.

6.5 Advance

- 6.5.1** Aumatics has the right to charge payments in Advance. If full payment of the Advance is not made, Aumatics has the right, undiminished its other rights that may flow forth from the agreement, to suspend all its obligations and all amounts owed by Customer will be immediately due.

6.6 Payment Terms

- 6.6.1** Unless agreed upon otherwise, the following

payment terms will apply to Customer:

- n) First instalment, 30% of the amount owed must be paid as an Advance;
- o) Second instalment, 40% of the amount owed must be paid monthly in equal parts between the moment of entering into the agreement and the expected delivery of the agreed upon Product;
- p) Third instalment, 30% or the remainder of the amount owed must be paid immediately upon delivery.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Rights of Aumatics and Customer

- 7.1.1** Aumatics has the exclusive right to further develop the Aumatics Products and Services and place them at the disposal of third parties by means of licenses.

- 7.1.2** Except where Third Party Products and Services are concerned, all intellectual property rights, industrial property rights and other rights resulting from all activities carried out by Aumatics regardless of where and when carried out, and regardless of whether it concerns the delivery of an existing Product or a still-to-be-developed Product, rest with Aumatics.

- 7.1.3** Customer acknowledges that all present and future intellectual property rights, industrial property rights, other rights and the registration and/or application of the foregoing rights and/or similar rights for the whole term thereof and all renewals or extensions thereof, now or at any time in the future worldwide at all times shall be and are hereby assigned or will be transferred to Aumatics.

- 7.1.4** Customer is not permitted to remove or alter any designation concerning intellectual property rights, industrial property rights, other rights, trademarks and trade names from the Products, or to have such changes made by third parties.

- 7.1.5** The intellectual property rights, industrial property rights or other rights of a Product, or a part thereof, can only be transferred to Customer by means of a written deed if Aumatics has these rights.

- 7.1.6** In the event that Aumatics, Customer or a third party makes functional improvements or other adjustments in the Products and Services, the intellectual property rights, industrial property rights and other rights vested in the improved or adjusted Products and Services will remain unchanged with Aumatics or the rightful third party. If the above-mentioned rights do not belong to Aumatics or the rightful third party, Customer will cooperate in transferring the above-mentioned rights to Aumatics or the rightful third party.

- 7.1.7** Aumatics retains all intellectual property rights, industrial property rights and other rights regarding documentation that is provided. The Customer is explicitly not permitted to duplicate and/or transfer such to a third party for permanent or temporary use. Customer must ensure that his or her employees and/or third parties comply with the above-mentioned obligations.

7.2 Indemnification

- 7.2.1** Aumatics shall protect Customer from any allegation to the effect that the Aumatics Products and Services violate a copyright valid in the Netherlands. Aumatics shall pay the damages, expenses, and

court costs that Customer is ordered to pay by the final court ruling, provided that Customer:

- a) notifies Aumatics immediately, but no later than within 10 (ten) days, after Customer becomes aware of the infringement or could have become aware of the infringement in writing of the existence of the allegation of infringement; and
- b) gives the case completely over to Aumatics, including all negotiations and arrangements that might lead to a settlement.

In case of any such allegation or possible allegation, Aumatics reserves the right to obtain a license or sublicense on the Aumatics Product in question or to change or replace the Aumatics Product in such a way that the Aumatics Product will no longer infringe a copyright valid in the Netherlands. If at Aumatics' sole judgment the foregoing remedies are not a reasonable option, Aumatics has the right to take the Aumatics Product back in return for reimbursement of payments made for the Aumatics Product in question, minus a reasonable compensation for having made use of the Aumatics Product.

7.2.2 Aumatics shall not indemnify Customer against an action in the event that:

- a) such is based on the fact that the Third Party Products and Services provided to Customer violate an intellectual property right, industrial property right or other right valid in the Netherlands or elsewhere;
- b) that which is provided by Customer is part of or is delivered in conjunction with a Product and this combination infringes upon an intellectual property right, industrial property right or other right valid in the Netherlands or elsewhere;
- c) Customer has made a change in or to the Product.

7.2.3 If Aumatics and Customer agree that the intellectual property rights, industrial property rights or any other rights of an Aumatics Product, or a part thereof, shall be transferred to Customer, Customer will indemnify Aumatics against any action insofar as such is based on the fact that the Product, or a part thereof, violates an intellectual property right, industrial property right or other right belonging to a third party.


8. Personal details/Processor agreement

8.1 Personal details/Processor agreement

- 8.1.1** Insofar as the Customer is authorised to do so, Customer shall expressly agree with the registration of (privacy) data of users in the privacy registration of Aumatics for administrative and management purposes. Among other things, this privacy registration contains Identification Codes and Process Data and is accessible only for Aumatics. This information shall not be passed on to third parties, except in those instances in which Aumatics is required by law or a judicial decision to do so.
- 8.1.2** The following provisions apply as the processor agreement pursuant to the General Data Protection Regulation (AVG), unless the Parties enter into a separate processor agreement that prevails in that case.
- 8.1.3** The following terms have the meaning as defined in Article 4 AVG: Personal Details, Processing (being Aumatics), the Party Responsible for Processing (being the Customer), Party(ies) Involved, Processing, Third Party, Recipient, Permission from

the involved party, Infringement in connection with personal details (hereinafter: Data Breach). Notification Requirement: the obligation to report a Data Breach pursuant to Art. 33 AVG.

- 8.1.4** Aumatics processes Personal Details exclusively based on written instructions from the Customer under the conditions and for the purpose as specified in the quotation, Framework Agreement and/or General Conditions of Aumatics. The Customer has been adequately informed beforehand on the processing operations relating to this processing. Aumatics shall not carry out processing for any purpose other than that agreed upon.
- 8.1.5** Aumatics will not make any Personal Details available to a third country or an international organisation, unless Aumatics is required to carry out that processing due to a legal provision of EU law or a legal provision of a Member State. Aumatics will inform the Customer of that legal provision in advance of the processing, unless that legislation prohibits this based on important grounds of public interest.
- 8.1.6** Aumatics has the right to engage a sub-Processor in the processing, as long as the provisions in Art. 28, paragraph 2 and 4 AVG are followed.
- 8.1.7** Aumatics is expressly not responsible and/or liable for Processing for purposes not reported to Aumatics by the Customer, Processing by third parties and/or for other purposes.
- 8.1.8** Aumatics will ensure that all persons authorised to process personal details have committed themselves in writing towards them to observe confidentiality.
- 8.1.9** The Customer guarantees that the purposes of Processing will at all times fit within the AVG and that a legal basis exists for the Processing. Aumatics shall not carry out processing for any purpose other than that agreed upon.
- 8.1.10** Personal details to be processed remain the property of the Customer and/or Involved Parties. The control over the Personal Details that are provided under the Agreement will never be transferred to Aumatics.
- 8.1.11** The Customer guarantees Aumatics that the content, the use and the assignment to process Personal Details as specified in the Agreement, is not unlawful and does not infringe upon any right of Third Parties and the Customer indemnifies Aumatics for all liability towards Third Parties in this respect.
- 8.1.12** In return for remuneration of the reasonable costs of Aumatics, if possible, Aumatics will grant the Customer assistance with ensuring compliance with the obligations pursuant to Article 35 (personal details impact assessment) and 36 (prior consultation with supervisory authority) AVG.
- 8.1.13** The Customer can monitor compliance by Aumatics pursuant to the AVG by means of audits carried out at the Customer's expense carried out by an independent expert to be appointed by the Customer.
- 8.1.14** If and when the relationship between Aumatics and the Customer ends and as a result Aumatics no longer processes personal details for the Customer, Aumatics will either return the personal details within one month after the termination of that relationship, no longer retain that information or



destroy that information.

8.2 Security measures

- 8.2.1** Bearing in mind the state of the art in technology terms, the implementation costs as well as the nature, the scope, the context and the processing purposes as well as various risks in terms of probability and seriousness to the rights and freedoms of individuals, Aumatics will take suitable technical and organisational measures to protect Personal Details against loss or any other form of wrongful processing, including the measurements required pursuant to Article 32 AVG, if those are applicable. The measures will be further described in writing, for example, in the Service Level Agreement. The Customer declares that the measures taken in the given circumstances are suitable.
- 8.2.2** If the Customer wishes to have additional technical or organisational measures other than those taken by Aumatics, those measures will be taken by Aumatics in return for compensation by the Customer of the costs required for that.
- 8.2.3** Aumatics does not guarantee that the security measures will be effective under all circumstances.

8.3 Data breaches

- 8.3.1** Upon detecting a Data Breach, Aumatics will inform the Customer of this without unreasonable delay and in principle within 48 hours after discovery, indicating the information specified in Art. 33, paragraph 3 AVG, specifically – in summary: a. the nature of the Data Breach, b. the information of the data protection officer, c. the probably consequences of the Data Breach and d. the measures taken and to be taken to deal with the Data Breach.
- 8.3.2** Aumatics will never be held liable to report a Data Breach an Involved Party(ies) and/or the supervisory authorities. This is the sole responsibility of the Customer.

8.4 Rights of involved parties

- 8.4.1** In so far as possible and in return for compensation of Aumatics's reasonable expenses, Aumatics will assist the Customer in fulfilling their responsibility to request exercising of the rights of the Involved Parties as specified in Chapter III AVG. If Aumatics receives a request for improvement, addition, change or screening of personal details as specified in Article 16 AVG, Aumatics will forward the request to the Customer while simultaneously informing the Involved Parties, and the Customer will handle the request – if necessary in consultation with Aumatics.
- 8.4.2** Customer indemnifies Aumatics against any claims of third parties, including Involved Parties as a result of the violation of any person's privacy.

8.5 Secrecy and confidentiality

Except with express prior written permission from the Customer, all of the Customer's Personal Details that Aumatics processes are subject to a

confidentiality obligation towards Third Parties. If the provision of the information to Third Parties is logically necessary considering the nature of the Agreement or if a legal obligation exists to provide the information to a Third Party, this will be done in accordance with the AVG.