

General Purchase Conditions for Alfen

Chapter A: General Provisions for Goods and Services

Article 1 - Definitions

Alfen:	Alfen B.V., Alfen ICU B.V., and Alfen Belgie B.V.
Address:	Hefbrugweg 28, 1332 AP Almere, The Netherlands
Business Days:	any day which is not a Saturday, a Sunday or a public holiday in the Netherlands
Business Hours	the hours from 8.00 a.m. to 17.00 on a Business Day
Site:	Hefbrugweg 28, 1332 AP Almere or any other site where Alfen has ordered the Goods or the Services to be delivered.
Supplier:	the party to whom Alfen sends a request for an offer, a purchase order or with whom Alfen enters into an Agreement
Agreement:	this document including the Alfen purchase order

Article 2 - Applicability

1. These purchase conditions shall apply to any request, offer, and agreement relating to the delivery of goods or the provision of Services by Supplier to Alfen, unless otherwise agreed upon in writing. The Agreement does not become effective until the Supplier receives the Alfen purchase order.
2. The applicability of the general terms and conditions of the Supplier is expressly rejected.

Article 3 - Transfer of obligations

1. The Supplier can only transfer any obligation arising from the Agreement, or his legal relationship with Alfen, to a third party after prior written consent by Alfen.

Article 4 - Prices

1. Prices are fixed and shall be expressed in EURO, unless agreed upon otherwise in writing. Prices are excluding VAT.
2. Prices shall include all costs relating to the Supplier's compliance with the obligations under this Agreement.

Article 5 - Packing and dispatch

1. Any goods not requiring special packaging or marking shall be packed in a reliable manner in packaging designed for commercial usage, suitable for carriage, storage and transfer, and labeled on the outside of the packaging stating the following data, insofar as applicable: the Alfen purchase order number, article name, manufacturer's article number, production date, and the name of the Alfen contact.
2. Alfen will at all times be entitled to return the packaging materials to the Supplier at the Supplier's expense. After fulfilling his obligations, the Supplier will take any waste and packaging materials with him at his cost.

Article 6 – Delivery and delays

1. Partial deliveries will only be allowed if they are explicitly stated in the purchase order from Alfen.
2. The delivery and/or the Services will take place at the Alfen Address, indicated above, at a time as agreed upon, according to the Incoterm Delivered Duty Paid ("DDP"). Time shall be of essence for the delivery.
3. Without prejudice to any other right Alfen may have under the Agreement or applicable law, the Supplier will immediately notify Alfen in writing as soon as he knows or suspects that he will not be able to comply with the agreed delivery date.
4. Alfen shall be entitled to liquidated damages, without any need of further notice or judicial intervention, for delayed delivery of (any part of) an Order, at the rate of 1% of the price of the delayed items of the Order per each commencing calendar day of delay, with a maximum of 15 % of the price of the delayed items of the Order.
5. Alfen shall be entitled to payment of the penalty without prejudice to all its other rights or claims, including its right to claim performance of the obligation in conformity with the Agreement or its right to terminate the Agreement. Alfen shall have the right to claim damages to the extent that the damages exceed the amount of the penalty.
6. Alfen may set off the amount of the penalty against any amount payable by Alfen to the Supplier.
7. If the Supplier has been in delay for more than 15 days, Alfen may, not limiting any other legal remedy under this Agreement or law, cancel the delayed Order and/or this Agreement, without the Supplier being entitled to any compensation thereof.
8. Alfen may at any time instruct the Supplier to suspend the delivery of all or part of the goods or services. Any costs related to the suspension and resumption of the delivery shall be minimized by the Supplier and need the prior written approval of Alfen.

Article 7 - Inspections and checks

1. Alfen will at all times be entitled to carry out (or order to carry out) inspections, checks and/or tests before, during or after the delivery and ask for a proof of quality from the Supplier free of any charge.

2. On demand, the Supplier will, in due course, give Alfen access to the locations where the goods are manufactured, stored, or processed during regular Business Hours. The Supplier will cooperate with the inspections, checks, and/or tests free of any charge.
3. If, in the event of an inspection, check and/or test before, during or after delivery, the goods are wholly or partly rejected by Alfen, Alfen will notify Supplier to that effect. Such notification will constitute a notice of default. Alfen may offer the Supplier the opportunity to remedy the default by delivering in accordance with the order, within a reasonable term. If the Supplier fails to avail himself of that opportunity, Alfen will be entitled to freely terminate the order without any further notice of default.
4. If Alfen should reject the goods during or after the delivery or following a check, the ownership and risk of the goods will be deemed to remain with the Supplier, and therefore not to have been transferred to Alfen.

Article 8- Transfer of risk and ownership

1. The ownership and risk for the goods will be deemed to be transferred to Alfen when they are delivered and Alfen signs the delivery statement following receipt of the goods at the place of delivery, such without prejudice to Alfen's entitlement to reject the goods in accordance with Article 7.
2. During transport, ownership and risk will remain with the Supplier.

Article 9 - Auxiliary materials of Alfen

1. Any materials, drawings, models, instructions, specifications, software, tools and other means provided by Alfen to the Supplier, fulfilling any supporting function for the Supplier for the purpose of the goods and/or Services to be delivered (the "Auxiliary Materials"), will remain in the ownership of Alfen.
2. The Supplier will be obliged to maintain the Auxiliary Materials in a proper manner, and to insure them for all risks for the account of the Supplier, for as long as the Supplier acts as a holder of the Auxiliary Materials for Alfen.
3. The Supplier shall return the Auxiliary Materials immediately to Alfen at the Alfen Address on first demand of Alfen.
4. The Supplier may only use the Auxiliary Materials for, and in the framework of the delivery to Alfen. Any deviation from this stipulation will be subject to written consent by Alfen.
5. Any alterations to, or deviations from, the Auxiliary Materials provided by Alfen will only be allowed after prior written approval by Alfen.
6. The Supplier will be liable for any damage to or resulting from its use or loss of the Auxiliary Materials as of the time at which they are put at the Supplier's disposal.
7. The Supplier will be obligated to notify Alfen of any unsuitability or defects of the goods and/or methods provided by, or on behalf of, Alfen, insofar as the Supplier knows this or can be reasonably expected to know this.

Article 10 - Documents

1. The Supplier shall be obligated to provide documents, intended for the proper use of the goods or the services, to Alfen, prior to, or simultaneously with, the delivery.
2. Alfen will be entitled to use and/or copy these documents for its own use.

Article 11 - Spare parts

The Supplier will be obligated to keep a stock of spare parts, components, special tools and/or measuring devices, for the duration of the average product lifetime of the goods concerned, also if the goods concerned are no longer being manufactured for a period of five years after discontinuation of the goods. The Supplier will be obligated to inform Alfen, in advance and as soon as possible, when the goods or spare parts will no longer be manufactured.

Article 12 - Invoicing and payment

1. After Supplier has delivered the Services or the goods and Alfen has signed the delivery statement for the goods, the Supplier may invoice Alfen pursuant to the stipulations of Article 4.
2. The invoice, including VAT, will be paid within 60 (sixty) days after the invoice has been received unless the goods or the services have been rejected by Alfen.
3. The invoice shall be sent to the invoice address stated on the purchase order. The invoice will be drawn up in accordance with the purchase order and shall at least include the following data:
 - Purchase order number from Alfen;
 - The Services or the product article description(s);
 - Delivery date and address;
 - delivered number of each different article;
 - Price/ prices per unit;
 - VAT;
 - Discounts, if applicable;
 - Total amount charged.
4. Alfen shall be in no way obligated to pay if:
 - a. Alfen has not received the invoice at the agreed address;

- b. the invoice does not state the number and date of the purchase order;
 - c. the invoice does not state the other data mentioned in paragraph 3 of this Article;
 - d. the documents required for the order have not been enclosed.
5. Alfen will be entitled to deduct (offset) from the amount of the invoice any amounts, whether or not arising from the Agreement, which the Supplier owes Alfen from the amount of the invoice. The Supplier is not entitled to deduct any amounts Alfen owes the Supplier, except for amounts stemming from undisputed or finally adjudicated claims.
 6. Payment by Alfen will not constitute a waiver of any of its rights.

Article 13 - Quality and warranty

1. The Supplier warrants that the goods delivered meet the requirements stipulated in the Agreement and will therefore be, among other things, unused (, free from defects, free from encumbrances, suitable for their agreed or ordinary purpose, comply with the applicable legal requirements and government regulations, as well as with the safety and quality standards of the sector concerned.
2. The Supplier will as soon as possible repair any fault or defect, reported by Alfen at the expense of the Supplier, and the Supplier will be liable for any additional costs in this regard.
3. The approval of and/or agreement by Alfen to drawings, specifications, diagrams and other information will not affect the Supplier's responsibility to ensure that the goods and Services conform to the stipulations of the Agreement.

Article 14 Changes to the Agreement

For any alterations, modifications or additions to the scope of the Agreement, not covered by the purchase order, a new Alfen purchase order is necessary.

Article 15 - Non-attributable failures & Force Majeure

1. Insofar as a failure in the performance of an obligation cannot be attributed to the Supplier, he shall without undue delay notify Alfen of the failure and its cause in writing and thereby submit the required evidence.
2. A Force Majeure means an exceptional event or circumstance: (a) which is beyond a Party's control, (b) which such Party could not reasonably have provided against before entering into the Contract, (c) which, having arisen, such Party could not reasonably have avoided or overcome, and (d) which is not substantially attributable to the other Party.
3. If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 Days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure. The Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.
4. Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.
5. If the Supplier is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given and suffers delay and/or incurs cost by reason of such Force Majeure, the Supplier shall only be entitled to an extension of time for any such delay, if completion is or will be delayed.

Article 16- Confidentiality

1. The Supplier undertakes to observe confidentiality with respect to any information he has obtained, directly or indirectly, about or from Alfen, the confidentiality of which is established, and/or the confidential nature of which he can be reasonably expected to acknowledge.
2. The Supplier will impose the same obligation of confidentiality on any third party he engages for the execution of the Agreement and will oblige such parties to sign a confidentiality statement.
3. The Supplier will not be allowed to publicize the execution of the Agreement in any form or publicize that it is a Supplier of Alfen, nor to contact, directly or indirectly, the client(s) of Alfen without prior written consent from Alfen.
4. The Supplier will not be allowed to reproduce, or to let any third parties view any documents, such as drawings, diagrams and similar matters, without written permission from Alfen.
5. The Supplier will not be allowed to use or sell any goods and/or Services created jointly with Alfen for third parties without written permission from Alfen.

Article 17 - Intellectual and industrial property rights

1. The goods to be delivered by the Supplier pursuant to this Agreement shall be free from any restrictions, also when combined

with other goods and/or Services, ensuing from patents, copyrights or any other intellectual property rights. The Supplier will indemnify and hold Alfen harmless against any claims from third parties for any damage, costs and losses resulting from any infringement of such intellectual property rights.

2. Insofar as an intellectual property right or any other right of third parties is vested in the goods or the Services to be delivered, the Supplier grants Alfen, free of any charge, a non-exclusive transferable right of use.
3. In the event that third parties hold Alfen liable for an infringement of intellectual property rights Alfen will be entitled to terminate this Agreement wholly or partly, out of court, and in writing, whilst reserving all its other rights.
4. Alfen acknowledges and agrees that all background knowledge of Supplier regarding the production process and the technology to make the goods, is and remains at all times the exclusive and full property of Supplier. Supplier acknowledges and agrees that all background knowledge of Alfen, in particular all intellectual property rights and background knowledge regarding the model, the functionality and design of the end product, is and will remain the exclusive and full property of Alfen at all times.
5. Any new intellectual property rights created in the course of the execution of the Agreement will fully vest in Alfen. Supplier transfers these intellectual property rights to Alfen, without any further payment being owed in this respect. If further actions are needed for such a transfer, Supplier shall provide its full cooperation for such actions.

Article 18 - Liability

1. The Supplier will be liable pursuant to the applicable laws for any damages (including but not limited to direct and indirect damages, incidental and consequential damages and lost profits) which Alfen or its employees may sustain (including but not limited to personal damage, property damage and any costs, damages or penalties that Alfen may become liable for against third parties) as a result of a breach of any contractual obligation by the Supplier or which may occur as a result of the Supplier's execution of the Agreement, regardless of whether the damages are caused by willful intent or negligence.
2. Alfen shall not be liable for any damages suffered by Supplier.
3. The Supplier must have sufficient liability insurance in accordance with good local and high industry standards and will, upon request by Alfen show proof of this.

Article 19 – Termination of the Agreement

1. Without prejudice to all its other rights or claims, Alfen may terminate the Agreement wholly or partly, by means of a written statement, if:
 - a. the Supplier is in default regarding the fulfilment of any obligation arising from the Agreement;
 - b. the Supplier is adjudicated bankrupt or if a liquidator, receiver or other similar officer is appointed over any or all of its property or assets, if it voluntarily ceases trading, or if it has been offered provisional or non-provisional suspension of payment(s) or any comparable measure;
 - c. the Supplier or any of its Personnel offers, or is offered, or provides any advantage to any person who forms part of Alfen, or to any of its employees or representatives.
2. If the Agreement is terminated pursuant to the stipulations of paragraph 1 of the present Article, the Supplier will repay to Alfen the payments it received from Alfen against return of the products (if already delivered), increased by the statutory interest on the paid amount, as of the payment date. If part of the Agreement is terminated, the obligations will only apply insofar as they concern the terminated part or pro rata.
3. Supplier's obligation pursuant to Article 16 (Confidentiality) of the Agreement shall survive the termination of this Agreement and shall remain in effect until the information is no longer confidential or until Alfen sends Supplier written notice releasing it from these obligations, whichever occurs first.

Article 20 – Audits

1. To verify compliance with the Alfen Order or the Agreement, Alfen and Alfen's customers have the right to perform an audit of Supplier's facilities or documents or request Supplier to perform a self-assessment audit at any time during the term of the Agreement.

Article 21 - Code of Conduct, Applicable law and jurisdiction

1. The Supplier shall deliver the goods and provide the Services in full compliance with the Alfen Order, the Alfen Supplier Code of Conduct, available at: https://alfen.com/sites/alfen.com/files/downloads/Alfen%20Supplier%20Code%20of%20Conduct%20%28EN%29_0.pdf and all applicable laws and regulations, including but not limited to the General Data Protection Directive, safety, environmental and other applicable regulations. If personal is processed, the Parties shall enter into a data processing agreement.

2. The Agreement and any agreements arising from it shall be governed exclusively by Dutch law. The provisions of the "United Nations Convention on contracts for the International sale of goods" (the "Vienna Sales Convention") shall not apply to this Agreement.
3. Any dispute relating to the Agreement, or any agreements arising from it, will be exclusively settled by the District Court Midden Nederland, location Almere, The Netherlands.

Chapter B: Additional conditions for Services

Article 22 - Additional definitions

Equipment: any vehicle, equipment part, crane, scaffolding, and parts thereof, goods and suchlike, used by the Supplier for the execution of the Agreement, excluding, however, goods to be processed in producing the products for Alfen .

Facilities: all technical components on the Site that Alfen uses for the provision of the services to its customers including but not limited to equipment, hardware, telecommunications networks, cables, devices and racks.

Maintenance: any preventive or corrective services to maintain the Site or the Facilities, necessitated by technical developments or the performance of normal maintenance and cleaning on the Site which are scheduled in advance and do not interrupt the services which Alfen provides to its customers

Personnel: all employees and any third parties engaged by the Supplier for the execution of the Agreement(s).

Services: any Maintenance or other activity other than those pursuant to an employment agreement executed by an order of Alfen.

Article 23 - Applicability

1. These additional conditions shall apply to any request, offer and agreement relating to the provision of Services for Alfen by the Supplier.

Article 24 - Personnel

1. Supplier shall ensure that all Personnel will comply with all requirements defined by Alfen , or, in the absence of such requirements, they will meet the general professional and expert requirements.
2. If Alfen has reason to believe that any of the Personnel engaged by the Supplier is insufficiently qualified, Alfen will be entitled to order the removal of this individual, and the Supplier will be obligated to replace him without undue delay, with due observance of the stipulations of paragraph 1 of the present Article.

Article 25 - Equipment

1. Insofar as it is not agreed upon otherwise in writing, the Supplier will ensure the availability of any Equipment required for the provision of Services.
2. In the event that the Supplier uses equipment of Alfen with Alfen ' s permission, the use of such equipment will be at the risk of the Supplier, and the Supplier will be fully liable for any loss or damage that may occur during such use. As soon as the Supplier has stopped using such Alfen equipment, the Supplier will return it to Alfen , in the condition in which he received it. On return the Supplier will notify Alfen of any visible defects or defects which have come to its attention or knowledge, including those caused by the Supplier.

Article 26 - The Supplier's obligations

1. The Supplier shall ensure adequate supervision and leadership.
2. Authorized representatives of the Supplier shall be available at the Site during Business Hours, and their absence, replacement, and how and where they can be reached, will be arranged in consultation with Alfen .
3. Supplier shall ensure that service interrupting Maintenance shall take place between 24:00 local time and 06:00 local time.
4. On first demand by Alfen the Supplier shall supply Alfen with personal details and specifications of employment conditions (and modifications thereof), which are important for the execution of the Services, regarding the Personnel who will execute the activities for Alfen .
5. Unless agreed upon otherwise in writing, the working hours of the Personnel will be equal to the general working hours of persons working employed by Alfen in the respective department.
6. The Supplier will use a time sheet and/or another checking device which Alfen may choose, to determine the number of working hours in and outside the Business Hours of the persons as meant in the preceding paragraph.
7. The Supplier shall, at any time and on first demand by Alfen , supply Alfen with a copy of the statements relating to his payment record for social security and taxes on income, profits and net wealth.
8. The Supplier shall indemnify and keep indemnified Alfen for any claim by or liability towards third parties in respect of damages, losses or costs suffered due to the Supplier's failure to comply with any obligation arising from the Agreement, including but not limited to the Supplier's non-compliance with the obligations in this Article or any statutory obligations. This Article will survive termination of this Agreement.

Article 27 - Charges

1. Unless agreed upon otherwise in writing, the charges for the Services agreed upon shall include all costs the Supplier incurs to ensure the professional execution of the Services, including the costs of travel and accommodation of the Supplier, as well as those of the persons the Supplier has entrusted with the execution and supervision of the Services, insurance costs, and any taxes and contributions relating to the execution, which are payable by the Supplier, excluding Value Added Tax.
2. Alfen will not be obligated to pay any charges for any extra work, unless such work was ordered in writing by Alfen . Any set-off in respect of a lesser amount of work than anticipated will be determined in mutual consultation, unless agreed upon otherwise in writing.

Article 28 - Payment

1. Alfen will not pay until the Services have been executed to the satisfaction of Alfen.
2. On first demand by Alfen , the Supplier will enclose with the invoices, or refer in his invoices to, a time sheet stating which Personnel worked how many hours on which days for the execution of the Services. Further, the Supplier will state that the persons mentioned were employed by the Supplier at the time the Services were being executed.
3. Where Alfen has reason to believe that it could be jointly or severally liable for respective payments, Alfen is entitled to pay into the Supplier's frozen account, the social security contributions, VAT, and wage tax including national insurance contributions, owed by the Supplier for the Services he executed.
4. Without prejudice to the stipulations of the preceding paragraph, Alfen shall in these cases also be authorized to withhold the amounts of the contributions, VAT and wage tax, including national insurance contributions, from the contract price and pay these amounts and contributions, on behalf of the Supplier, directly to the social insurance carrier concerned, respectively the collector of taxes on income, profits and net wealth.
5. In the cases as described in paragraphs 3 and 4 of this Article, such payment will constitute Alfen ' s fulfilment of its obligations towards the Supplier, insofar as these amounts are concerned.
6. Without prejudice to the stipulations of the preceding paragraphs, the Supplier will pay the statutory social security costs of all its Personnel present at the Site. Alfen reserves its right to inspect this and may request Supplier to provide respective proof. The Supplier will be obligated to co-operate with such inspection.

Article 29 - Sites and buildings of Alfen

1. Before starting with the execution of the Agreement, the Supplier will make himself acquainted with the conditions of the Site and buildings of Alfen , where the Services are to be executed.
2. Any costs of any delay in the execution of the Agreement, caused by the conditions as described in the preceding paragraph, will be borne by and will be at the risk of the Supplier.
3. The Supplier will ensure that his presence and the presence of his Personnel at the Site, and in the buildings of Alfen , will not prevent Alfen and any third parties from proceeding with their activities in an undisturbed manner.
4. Before starting with the execution of the Agreement, the Supplier and his Personnel will make themselves acquainted with the contents of the Alfen House Rules, which are available upon request, and the regulations at the Site and in the buildings of Alfen , including those regarding safety, health, and the environment, and to act accordingly.
5. Alfen may refuse to give the Personnel engaged by the Supplier access to its Sites and/or buildings, and/or the area where the Services take place, and/or demand that the Supplier removes them from those Sites and/or buildings, if Alfen has reason to believe:
 - a. they are manifestly unqualified for their required duties;
 - b. their conduct is such that their continued presence at the Sites would be irresponsible;
 - c. they manifestly act in any other violation of any obligation arising from the Agreement.
6. The Supplier will replace such persons without undue delay on first demand by Alfen .

Article 30 – Bank Guarantee (not for Maintenance)

Upon request by Alfen , Supplier shall provide Alfen at its sole cost and within two (2) weeks of the request with an irrevocable and unconditional first demand bank guarantee issued by a first-class bank in favor of Alfen in a form that is acceptable to Alfen for an amount equal to twenty (20) % of the prices. The obligations of the guarantor under the bank guarantee shall terminate one (1) year after the delivery of the products and/ or services.

Article 31 – Wages and other costs for Supplier

Alfen will not pay any wages and/or other charges for Personnel engaged by the Supplier or any third party engaged by the Supplier, entrusted with the execution and supervision of the Services, nor will Alfen pay the costs of any equipment, during strikes due to which such Personnel is not working, and/or such Equipment is not being used.

Chapter C: Additional conditions for recruitment of employees or consultants for Alfen

Article 32 – Additional Definitions

Candidate: means the person introduced by the Supplier to Alfen for the fulfilment of a vacate position to be considered for an Engagement.

Engagement: means the employment of the Candidate by Alfen .

Article 33 - Candidate Suitability and Rebates

1. Supplier shall use its reasonable endeavors to ensure that all Candidates introduced to Alfen are suitable for the job vacancy as communicated by Alfen . The Supplier will check the identity and the credentials of the Candidate and shall show proof of such check to Alfen . Upon request Supplier shall provide two relevant referrals for the Candidate,
2. Should the Candidate accept an Engagement but subsequently not effectively start the Engagement, the recruitment fee, if already paid, will be refunded entirely.
3. In the event the Candidate enters into an Engagement with Alfen and the Candidate terminates the Engagement within 6 (six) months from start of the employment for reasons not accountable to Alfen and other than reorganization, merger or bankruptcy, Supplier shall refund 50% of the recruitment fee paid by Alfen within 14 (fourteen) days from notification by Alfen of such termination. Should a Candidate terminate the Engagement on its own accord within a period of 6 months, the Supplier shall introduce new Candidates to Alfen free of charge.

Chapter D: Additional conditions for Software

Article 34 - Additional definitions

Agreed Use: the use that Alfen intends to make of the Software as known to the Supplier – or as the Supplier may reasonably be expected to know – at the time of the effective date of the Agreement.

Custom Software: Software specifically developed or yet to be developed for Alfen or modifications to Standard Software specifically made for Alfen .

Enhanced Version: a subsequent version of the Standard Software in which defects have been repaired and/or its operation has otherwise been improved.

Installation Copy: a data carrier containing the Standard Software for which the License is granted.

Owner: the person in whom the intellectual property right to the Standard Software is vested.

License: a right entitling Alfen to install and use Standard Software in accordance with the Agreed Use, including all reproductions and disclosures thereof, whether temporary or otherwise, which may reasonably be deemed necessary for this purpose.

New Version: a subsequent version of Standard Software that contains predominantly new or modified functionalities, whether or not issued under a new name.

Object Code: translation of the Source Code into a code that can be directly read and executed by a computer.

Patch: a correction to Standard Software that is intended to be temporary.

Standard Software: Software developed for general use that is made available to Alfen on a nonexclusive basis.

Software: the set of program rules to be provided by the Supplier to Alfen and capable of being used, either directly or indirectly, by a computer to achieve a particular, defined result. Software can be classified as Standard Software or Custom Software.

Source Code: the entirety of program instructions in their original programming language, including the accompanying Documentation, intended for execution by a computer and in such a form that it can be used by a programmer who has knowledge and experience of the programming method and technology to modify the software.

Article 35 - Nature and content of the License

1. Subject to the Agreement, Supplier grants to Alfen a perpetual and irrevocable License to the Standard Software and to New Versions thereof.
2. The License in any event includes the following (for which Alfen does not owe any additional fee):
 - a. the right to use all functionalities of the Standard Software that are accessible to Alfen , even if they are not mentioned in the Alfen Requirements;
 - b. the right to make, save and regularly test copies of the Standard Software and keep them on hot standby for the purposes of disaster recovery;
 - c. the right to use the Standard Software for testing and development purposes;
 - d. the right to use the Standard Software without any limitation or restraint in terms of place, hardware, duration and so forth, including its use by third parties on behalf of Alfen .
3. Alfen may make and use copies of the Standard Software as often as it considers necessary for the purpose of its operational activities. If it does so and thus owes an additional payment to the Supplier it will

notify the Supplier of this with due dispatch. Alfen may not remove any notices of ownership and copyright when reproducing Standard Software.

4. If the Supplier repairs defects in the Standard Software only by issuing Patches or Enhanced Versions, Alfen is entitled to receive and use them free of charge.

Article 36 – Guarantees

In addition to any other rights and obligations Alfen may have, the Supplier guarantees that:

- a. the Standard Software does not contain any technical features, functions or other extraneous elements that could prevent the Agreed Use at any time, whether temporarily or otherwise;
- b. if it is not the Owner of the Standard Software, it has been authorized by the Owner to grant this License to third parties on behalf of the Owner. The Supplier will furnish Alfen , on request, with a copy of the authorization.

Article 37 - Provision of an Installation Copy

1. The Supplier will, if possible, provide Alfen with an Installation Copy or enable it to make a copy itself. The price of the copy is included in the Fee.
2. If the Installation Copy has been mislaid or has been damaged in such a way that the Agreed Use is no longer possible, the Supplier will, on request, provide Alfen with a new Installation Copy of the original version delivered to Alfen and of any Enhanced and New Versions thereof or will enable Alfen itself to make such a copy. In so far as applicable, the Supplier will be entitled only to reimbursement of the cost price of the materials of the Installation Copy.

Development of Custom Software

Article 38 - Handing over of the Source Code and the Object Code

Supplier shall develop and Complete Custom Software for Alfen . Completion involves the handing over of the Source Code and the Object Code. As part of the delivery Supplier will hand over the Source Code and the Object Code of the Customer Software to Alfen .

Article 39 - Acceptance procedure

1. Without prejudice to the provisions of the Agreement, acceptance of Custom Software will take place in accordance with the following articles.
2. The Supplier will give Alfen timely notice of the completion of the Custom Software.
3. If Alfen carries out or commissions an acceptance test, it will draw up and sign a test report as quickly as possible and send it to the Supplier. The test report will record any defects that are discovered and whether Alfen approves or rejects the Custom Software.
4. If Alfen approves the Custom Software, the date of signature of the test report will be deemed to be the date of acceptance.
5. If Alfen does not approve the Custom Software when carrying out the acceptance test for the first time, it will repeat the test in full or in part within such reasonable period as it may set.
6. If Alfen rejects the Custom Software, the Supplier will repair the defects at its own expense within a reasonable period set by Alfen and starting on the date of signature of the test report. If the Supplier fails to make the repairs, Alfen may itself repair the defects, or have them repaired by a third party, at the expense of the Supplier after giving notice to the Supplier. In such cases the Supplier will cooperate fully and free of charge, for example by providing the necessary information to the Supplier as soon as it requests. If Alfen itself repairs a defect, or has it repaired by a third party, for the reason referred to above, this does not in any way relieve the Supplier of its agreed responsibilities for the Custom Software.
7. If Alfen once again rejects the Custom Software after the second acceptance test, the Supplier will be deemed to be in default as a result. In that case Alfen may cancel the Agreement with immediate effect.

Article 40 - Maintenance of Custom Software

1. If Alfen itself maintains Custom Software or has it maintained by a third party, the Supplier will assist Alfen , on request, for a fee set at the current market rate included in the Agreement. For this purpose, the Supplier will, on request, provide the requisite information or supplementary information to Alfen or a third party used by it in this connection. The above also applies to management activities carried out in respect of Custom Software by Alfen itself or by a third party on its behalf.
2. If Alfen has agreed with the Supplier that the Supplier will also carry out maintenance, the relevant provisions of that Agreement will apply.