

Purchase Conditions of Flex IT Distribution

1. Definitions

- 1.1 Flex IT Distribution: Xeptor B.V. established in Leiden and registered with the Dutch Chamber of Commerce under number 70449740 and all the legal entities and partnerships affiliated to Xeptor B.V. according to the provisions set out in Sections 2:24a up to and including 2:24c of the Dutch Civil Code.
- 1.2 Supplier: the counterparty to Flex IT Distribution.
- 1.3 Products: items and/or services supplied by the Supplier to Flex IT Distribution.
- 1.4 Offer: the written offer of the Supplier to supply Products to Flex IT Distribution.
- 1.5 Order: the written instruction of Flex IT Distribution to supply and/or accept the offer of the Supplier.
- 1.6 Order confirmation: the written acceptance of the Order by the Supplier.
- 1.7 Agreement: the arrangements laid down, including these Purchase Conditions, between Flex IT Distribution and the Supplier with regard to the supply of Products to Flex IT Distribution.
- 1.8 Delivery: putting one or more Products in the possession or in the control of Flex IT Distribution, or if these Products consist of services, providing these services under any title whatsoever.
- 1.9 Items: goods and/or material objects, also including software.
- 1.10 Services: activities and/or work performed by the Supplier at the request of Flex IT Distribution.
- 1.11 Registration form: The form to be received by Flex IT Distribution on which the Supplier states its master data and bank details and which is (digitally) signed by an authorised signatory of the Supplier.

2. Applicability

- 2.1 These Purchase Conditions are applicable to all (written and verbal) applications, offers, negotiations, instructions, agreements and obligations arising from it whereby Flex IT Distribution buys goods, activities and/or services from the Supplier or gives an(other) instruction to this Supplier, all this in the broadest sense of the word.
- 2.2 Any general conditions of the Supplier howsoever called are explicitly rejected and are not applicable unless explicitly agreed in writing in which specific reference is made to these Purchase Conditions. If in the latter case there is a contradiction between these Purchase Conditions and the conditions applied by the Supplier, these Purchase Conditions will prevail.
- 2.3 The Supplier will only be able to invoke provisions different from these Purchase Conditions and/or added provisions if and insofar as these provisions have been explicitly accepted in writing by Flex IT Distribution. The Supplier cannot derive future rights from agreed deviations from the Purchase Conditions.
- 2.4 If Flex IT Distribution does not always demand strict observance of these Purchase Conditions, this does not mean that the Purchase Conditions would not be applicable or that Flex IT Distribution would lose the right to demand strict observance of these Purchase Conditions in future whether or not in similar cases.
- 2.5 The Supplier once contracted under these Purchase Conditions, agrees to the applicability of these Purchase Conditions to subsequent legal acts between the Supplier and Flex IT Distribution as provided for in Clause 2.1.
- 2.6 In the event of a difference between the Dutch text of these Purchase Conditions and a translation of it into another language, the version considered by Flex IT Distribution as most beneficial for itself will be binding.
- 2.7 Flex IT Distribution is entitled to amend these Purchase Conditions unilaterally. Such an amendment will have legal effect between Flex IT Distribution and the Supplier, also with regard to already existing agreements, and will become effective 30 days after it has been announced by means of it being lodged with the Chamber of Commerce or in the event of existing agreements by means of a written notification of it to the Supplier. In the event of a (material) interim amendment the Supplier will be entitled to terminate the Agreement prematurely via a registered letter within 14 days after notification of the amendment, as from the date of the amended Purchase Conditions becoming effective. After having received this letter Flex IT Distribution will be entitled to inform the Supplier still to continue the Agreement on the basis of unchanged Conditions. If Flex IT Distribution does not



make use of this, the Agreement will end automatically as from the amended Purchase Conditions becoming effective.

3. Formation of the Agreement

- 3.1 An application from Flex IT Distribution will be followed by a fixed, non-revocable, Offer of the Supplier free of charge which is valid for a period of 30 days after receipt by Flex IT Distribution. Applications for an Offer are not binding on Flex IT Distribution.
- 3.2 If an Order follows on from an Offer, an Agreement will be formed at the moment that the Order is sent.
- 3.3 If an Order is placed without it having been preceded by an Offer, the Agreement will be formed when Flex IT Distribution receives an Order confirmation within 5 days after having sent the Order, failing which Flex IT Distribution will be entitled to consider the Agreement as not having been formed.
- 3.4 Flex IT Distribution will only be bound by an Order that is signed by personnel of Flex IT Distribution authorised to do so. Verbal undertakings or arrangements by or with its personnel will not bind Flex IT Distribution except and insofar as Flex IT Distribution has confirmed them by means of an Order as meant in this Clause 3.4.
- 3.5 Before carrying out the Agreement the Supplier must ascertain that the Order has been signed by Flex IT Distribution's personnel authorised to do so. In the event of any ambiguity with regard to the authority of the undersigned or in the absence of a signature, the Supplier will enter into consultations with Flex IT Distribution and only then carry out the Agreement after having received a signed Order according to the provisions in Clause 3.4.
- 3.6 In the event of any differences between the Order and the Offer/Order Confirmation the contents of the Order will be considered as the contents of the Agreement between Flex IT Distribution and the Supplier. Before carrying out the Agreement the Supplier will enter into consultations with Flex IT Distribution.
- 3.7 If the Supplier makes the Delivery without Flex IT Distribution having received an Order Confirmation and Flex IT Distribution then accepts the performance, the instructions as given by Flex IT Distribution in the Order will be exclusively effective, including these Purchase Conditions.
- 3.8 The Supplier must warn Flex IT Distribution immediately if the Supplier expects extra work. The Supplier will then issue an Offer with regard to the price and the delivery period of this extra work. The Supplier will not perform any extra work without an Order from Flex IT Distribution. Extra work does not in any event include additional activities which the Supplier could or should have foreseen upon entering into the Agreement in order to be able to supply the agreed performance(s) and functionality(-ies) or which are the result of a failure by the Supplier.
- 3.9 If the Supplier delivers something without an Agreement having been formed to this end, the Supplier does this at its own risk. Flex IT Distribution does not have to pay for, or in connection with, what has been delivered to Flex IT Distribution without an Agreement. Any acceptance of or payment for the Delivery by Flex IT Distribution is not considered as an acceptance of the supplied Products which have not been agreed.

4. Amendments and cancellations of Agreements

- 4.1 Flex IT Distribution, in consultation with the Supplier, will be at all times entitled to change the size and/or qualifications of the Products to be supplied. Any changes must be agreed in writing.
- 4.2 If a change at the discretion of the Supplier has consequences for the agreed price and/or delivery period, it will be obliged before giving effect to this change to inform Flex IT Distribution of this in writing as soon as possible but at the latest within 2 days after the notification of the required change. If at the discretion of Flex IT Distribution the consequences for the price and/or delivery period are unreasonable, or the Supplier does not inform Flex IT Distribution of the consequences or does not inform Flex IT Distribution of the consequences within the period referred to above, Flex IT Distribution will be entitled to dissolve the Agreement according to the provisions in Clause 14.
- 4.3 Before carrying out the Agreement the Supplier must notify Flex IT Distribution about all obvious errors or deviations or ambiguities with regard to the Order and must enable Flex IT Distribution to clarify and if necessary correct the Order.



- 4.4 The Supplier is not allowed to make or carry out any changes unless Flex IT Distribution has given its consent to this end by means of an Order.
- 4.5 If the Supplier has not yet started to carry out the Agreement, Flex IT Distribution will be entitled to dissolve the Agreement extra-judicially at any moment according to and notwithstanding the provisions in Clause 14.

5. Deliveries

- 5.1 The interpretation of the delivery conditions is governed by the most recent version of the "Incoterms" issued by the International Chamber of Commerce effective at the moment the Agreement has been formed.
- 5.2 Delivery will take place DDP (Delivered Duty Paid) at the agreed place of Delivery and at the agreed moment in time or within the agreed period.
- 5.3 Products are delivered packaged at the delivery address and/or the contact as specified in the Order. Delivery can take place on working days and working hours between 8.30 hours and 17.00 hours on the basis of planning.
- 5.4 The Supplier will not be entitled to make part deliveries. The Supplier must supply a separate packing list for each Order to be delivered. Flex IT Distribution's order number must be stated on the order number as well as the article number(s), number(s), description(s) and delivery address(es).
- 5.5 All aids required for the maintenance, repair, use and/or transfer of Products, documentation, software, parts, tools, materials etc. will be included in the delivery to Flex IT Distribution even if they are not mentioned as such.
- 5.6 The Products to be delivered must be in proper packaging. The Supplier will be liable for damage caused by improper packaging and despatch even if this damage has originated after the Products have been delivered.
- 5.7 The moment of Delivery and the delivery numbers which have been agreed are of the essence. In the event of late Delivery of the complete Order or part delivery, the Supplier will be in default without any further notice of default being required.
- 5.8 The Supplier must notify Flex IT Distribution immediately in writing if a delivery time threatens to be exceeded, the measure(s) taken to prevent further delay and a new period within which the Supplier will still be able to deliver notwithstanding the rights of Flex IT Distribution pursuant to the provisions set out in Clause 5.9.
- 5.9 If the Supplier is in default with regard to the timely Delivery, Flex IT Distribution will deduct a penalty of 1% of the invoice value (excl. VAT) for each week that the delay continues. A part of a week is considered to be a full week, notwithstanding any other rights of Flex IT Distribution with regard to the failure (compensation, reimbursement of costs).
- 5.10 If Flex IT Distribution asks the Supplier to postpone the Delivery, the Supplier must store, secure and insure the Products properly packaged and recognisably intended for Flex IT Distribution.
- 5.11 Checking, inspection and/or testing the Products does not constitute a Delivery or purchase.

6. Risk and transfer of ownership

- 6.1 The ownership (title) of the Products will pass to Flex IT Distribution after Delivery or after payment, whichever event occurs earlier.
- 6.2 Risk to the products will pass to Flex IT Distribution after they have been delivered by the Supplier ready for operation (if necessary assembled and installed) at the agreed location.
- 6.3 If Flex IT Distribution has rejected the Products prior to, during or after the Delivery, pursuant to the provisions in Clause 8, the ownership and risk are considered to have remained with the Supplier.
- 6.4 At the first request of Flex IT Distribution the Supplier must take back the packaging and transport material at its own risk and expense. Any processing or destruction of the packaging and transport material is the responsibility of the Supplier, even if the processing takes place by Flex IT Distribution at the request of the Supplier.
- 6.5 All Items provided by Flex IT Distribution to the Supplier, all this in execution of the Agreement, remain the property of Flex IT Distribution and will be provided to the Supplier on loan. The Supplier will mark these Items, insofar as this has not yet taken place and return them at the first request of Flex IT Distribution. The term Items also means: drawings, materials, hardware, software, data files, configuration and computer models etc. The Items provided by Flex IT Distribution must be insured against all risks by the Supplier at its own expense. The risk will pass onto Flex IT Distribution at the moment of Delivery.



6.6 At the moment the Supplier forms a new Item with the Items provided as meant in Clause 6.5 or has a new Item formed, the Supplier will do this for Flex IT Distribution and the Supplier will hold that Item for Flex IT Distribution who is the owner of the new Item formed.

7. Prices, Invoicing and Payment

- 7.1 All prices are in EUROS, fixed for the term of the Agreement, excluding VAT and are DDP including all other costs of the Supplier in connection with the performance of its obligations, such as: storage; transport, packaging; insurance, installation, administration etc.
- 7.2 All prices must be equal to the prices as stated in the Order. If and insofar as the Supplier reduces its standard price lists, catalogues or otherwise its Product prices either before or on the same day that the Supplier supplies Products to Flex IT Distribution, the Supplier will be obliged to give Flex IT Distribution a corresponding price reduction for the Products to be delivered or already delivered.
- 7.3 Invoices must be properly formulated and specified and apart from the legally obligatory information must in any event include the following elements: Order number; VAT and Chamber of Commerce number of Supplier; invoice date; Intrastat code; SWIFT code/BIC; clear description of the Products delivered and state the delivery date; the price excluding and including VAT; the amount of VAT payable.
- 7.4 Unless Flex IT Distribution instructs otherwise in writing, the Supplier must send invoices in PDF format electronically and in a single copy to accountspayable@infotheek.com.
If electronic mail is not possible, the Supplier must send the invoice in a single copy to:
Flex IT Distribution
t.a.v. Crediteurenadministratie
Postbus 527
2300 AM Leiden
- 7.5 Payment will take place on the condition of a correct Delivery of what has been agreed (including these Purchase Conditions); receipt by Flex IT Distribution of a correct invoice as described in this Clause, and; receipt by Flex IT Distribution of the registration form as determined in Clause 7.6. Payment will then take place no sooner than 60 days after having received the invoice.
- 7.6 Every (new) Supplier of Flex IT Distribution is obliged to register with Flex IT Distribution by means of the Flex IT Distribution Registration Form. Flex IT Distribution assumes that the details stated on this form are accurate and will for instance only make payments to the bank account specified in this form, regardless of the details stated on the invoice. If the details of the Supplier stated on the form have changed, the Supplier must inform Flex IT Distribution of this immediately. The Registration Form submitted to Flex IT Distribution will thereby be cancelled. In that case the Supplier has to provide Flex IT Distribution with a new Registration Form.
- 7.7 Carrying out the payment obligation(s) arising from the Agreement(s) must take place according to the details stated on the Registration Form.
- 7.8 In the event of a default and in the event that the Supplier has not complied with the provisions in Clause 7.5, Flex IT Distribution will at all times be entitled to suspend its current obligations. In the event of a default the provisions in this paragraph will also apply to obligations arising from any commitments which are independent of that default.
- 7.9 Flex IT Distribution is entitled to set-off its due and payable receivables from the Supplier against due and payable debts to the Supplier or to any other company affiliated with the group or organisation of the Supplier. The Supplier waives any right to set-off amounts mutually owed.
- 7.10 Any payment by Flex IT Distribution does not constitute in any way a waiver of rights and is not equal to unconditional acceptance of the Products supplied.
- 7.11 If any extra work has been agreed, this must be paid for in the same way as the agreed Deliveries. Less work will immediately be set-off by the Supplier.
- 7.12 Invoices which Flex IT Distribution receives more than six months after the delivery of the Products will not be accepted. By the mere passage of time referred to in this paragraph, the Supplier's right to payment will lapse.
- 7.13 The Supplier guarantees that all mandatory costs such as import and export duties, excise taxes, intellectual property (home copy) fees as well as all other (statutory) charges or taxes levied with regard to the Products



delivered have been paid by the Supplier and its predecessors, if any. The Supplier indemnifies Flex IT Distribution and the (future) buyers of Flex IT Distribution against any claims by third parties in this connection, such as (subsequent) charges, fines, fees, etc. If the Supplier does not immediately fulfil this indemnity obligation, the Supplier will be in default without any further notice of default being required.

8. Quality and acceptance

- 8.1 The Supplier guarantees that the Products delivered and their installation/assembly, if any, correspond with what has been agreed, are unencumbered, are free of faults, have the qualities which have been promised, are ready for use, are suitable for the purpose for which they are intended and meet the highest statutory requirements, EC directives and other government regulations and that they are covered by the safety, quality, environmental and health standards applied within the sector as well as the technical standards, all as they are applicable at the time of delivery.
- 8.2 The Supplier guarantees that the Items delivered are provided with a CE marking, type, serial and equipment number and with an indication of the country of origin by means of adequate marking originating from the manufacturer or importer. If this is not possible, the packaging of Items must be provided with such signs.
- 8.3 Checking, inspection and/or testing by Flex IT Distribution or by persons or bodies appointed by Flex IT Distribution to this end, can take place prior to the Delivery as well as during or after the Delivery. To this end the Supplier will allow access to the places where the Products are produced or stored and will assist in the required checking, inspections and testing and will provide the required documentation and information at its expense. The Supplier cannot derive any rights from the results of any checking, inspections and/or testing or from any omissions of these. The provisions set out in Sections 6:89 and 7:23 of the Dutch Civil Code are not applicable.
- 8.4 In the event of a rejection during or after the Delivery, the Supplier will be in default without any further notice of default being required. The Supplier will take back, repair or replace the Products at its expense and risk at the discretion of Flex IT Distribution and at its first written notice unless Flex IT Distribution prefers a (partial) dissolution of the Agreement pursuant to and notwithstanding the provisions set out in Clause 14.
- 8.5 If within 10 working days after the date of the written notice the Supplier does not take back, replace or repair the Products delivered and rejected, Flex IT Distribution will be entitled within 14 days to return the respective Products at the expense and risk of the Supplier and also be entitled to a credit entry for any Products already invoiced. If the Supplier refuses to take receipt of the Items, Flex IT Distribution can put these Items in store, destroy or sell them at the expense and risk of the Supplier.
- 8.6 All (extra) costs to be incurred in connection with the rejection and the provisions in Clause 8.4 up to and including 8.6, such as repair, disassembly, purchase of replacement products, destruction, personnel, logistics, sale etc. will be at the expense of the Supplier.
- 8.7 In urgent cases and additionally if after consultation with the Supplier it can reasonably be assumed that the Supplier cannot or will not, not within due time or not properly take care of any repair or replacement, Flex IT Distribution will be entitled to carry out the repair or replacement itself or have it carried out by third parties, at the expense and risk of the Supplier.
- 8.8 If within the statutory period of limitation or during the warranty period applied by the Supplier (if this is longer) the Products delivered are wholly or partly destroyed or it appears that the Products do not comply with the provisions in Clause 8.1 and/or 8.2, this will be considered to be a result of a defect subject to evidence to the contrary (of which the burden of proof rests on the Supplier) and regardless of the results of any checking, inspection and/or testing. In that case Flex IT Distribution could reject the Products in whole or in part and inform the Supplier of this in writing.
- 8.9 This Clause 8 will not affect all other rights of Flex IT Distribution under the law, the Agreement or these Purchase Conditions (such as a claim for late payment penalty, damages, costs).

9. Secrecy, non-take-over and gifts

- 9.1 Confidential information is in any event considered to be, but not exclusively, personal details, details that can be traced to personnel or customers of Flex IT Distribution, the working method of Flex IT Distribution, business and



financial information of Flex IT Distribution, information marked as confidential, the existence and contents of agreement(s) between the Supplier and Flex IT Distribution and all other information which the one party knows or can reasonably assume is of a confidential nature.

- 9.2 The Supplier will treat confidential information with the greatest care, but not less than a reasonable degree of care. The Supplier guarantees that it will itself as well as its personnel, explicitly including personnel it has hired, as well as businesses it has engaged and their hired personnel, keep confidential information secret and that it will only use this for the performance of the Agreement(s) with Flex IT Distribution, except insofar as any statutory regulation or decision by a court obliges them to disclose this.
- 9.3 The Supplier, in any new files it creates, will not record any confidential information of Flex IT Distribution which has come to the Supplier's notice from data files owned by Flex IT Distribution or in any other way.
- 9.4 The Supplier indemnifies Flex IT Distribution against any claims which (a) third party(ies) could assert against Flex IT Distribution and which arise from a breach of the duties laid down in this Clause 9.
- 9.5 Within 1 month after the termination of the Agreement the Supplier will destroy or return at the request of Flex IT Distribution any confidential information in the event that the Supplier no longer needs the information for the performance of other agreement(s) between the Supplier and Flex IT Distribution. If requested by Flex IT Distribution, the Supplier must immediately return or destroy any confidential information.
- 9.6 Without the prior written consent of Flex IT Distribution, the Supplier will not be entitled during the performance of the Agreement and within 1 year after its termination, to approach Flex IT Distribution's personnel for employment by or for any work otherwise for the Supplier whether or not for payment or to employ them either directly or indirectly.
- 9.7 The Supplier (or its personnel) is not allowed to induce Flex IT Distribution's members of staff to performances, undertakings and the like against or by the assistance of any form of payment or gift to that member of staff, without which payment or gift the performance or undertaking would probably not come about or not under the same conditions.
- 9.8 Upon each breach of this Clause 9 the Supplier will be in default without any further notice of default being required and will forfeit to Flex IT Distribution a penalty immediately due and payable of €50,000 for each breach, to be increased by €1,000 for every day that this breach continues, notwithstanding all the other rights of Flex IT Distribution under the law, the Agreement or these Purchase Conditions (compensation, costs etc.).

10. Intellectual property and vertical agreements

- 10.1 The Supplier grants to Flex IT Distribution a non-exclusive, perpetual, irrevocable, worldwide and transferable right of use with regard to any intellectual property rights with regard to Products delivered by the Supplier. This right of use also includes the right to provide such a right of use to (possible) buyers or to other third parties with whom Flex IT Distribution has business relations in the course of its business operations.
- 10.2 The Supplier guarantees that the sale and delivery by Supplier and the further use and commercialization (including resale) by Flex IT Distribution of the Products will not infringe upon the intellectual property rights or other (property) rights of third parties and that the Supplier is fully entitled to sell and deliver the Products to Flex IT Distribution. The aforementioned includes Supplier guaranteeing that (i) there is not or will not be any contravention or violation of (European or national) trademark law (including Directive 2015/2436/EU and Regulation 2017/1001/EU) and that Supplier does not act in contravention of other legislation or conditions which third parties, including the manufacturer, the holder of the trademark and the previous supplier, have attached to (the trade in) the products referred to above. The latter also includes the conditions with regard to order processing in connection with promotions, special prices or specific (end) customers; and (ii) the trademark owner and its (authorized) resellers have consented to the commercialization of the Products, including the sale and delivery to Flex IT Distribution and the further commercialization, including commercialization in the European Union of the Products by Flex IT Distribution. Upon Flex IT Distribution's first request, Supplier shall provide Flex IT Distribution with any and all documents, such as copies of invoices, evidencing such consent.
- 10.3 If in connection with the performance of the Agreement the Supplier develops Items such as software, websites, data files, equipment or other materials such as analyses, designs, documentation, reports, etc. as well as



preparatory material for these, any intellectual property rights to be invoked in this connection will exclusively accrue to Flex IT Distribution. Any remuneration for this is considered to be included in the agreed price of the Products. Where necessary the Supplier will cooperate with the formation or transfer of these rights to Flex IT Distribution.

- 10.4 In the event that it is alleged (by any party) with reasonable evidence that there is any breach of this Clause 10, the Supplier will be in default without any further notice of default being required and any obligation of Flex IT Distribution towards the Supplier, including the full payment obligation, will lapse. In that case Flex IT Distribution will not be obliged to return what has already been delivered. In order to remedy the breach the Supplier will at the discretion of Flex IT Distribution: (i) obtain the respective rights; (ii) replace the Products by other Products; (iii) change the Products; (iv) take back the Products. This paragraph will not affect the other rights of Flex IT Distribution under the law, the Agreement or these Purchase Conditions (such as a claim for late payment penalty, damages, costs).
- 10.5 The Supplier will fully indemnify Flex IT Distribution against any direct and indirect consequences (including legal costs) of claims which third parties could assert against Flex IT Distribution on account of infringement of the intellectual property rights vested in the respective third party and/or similar rights with regard to Products and/or Items developed in connection with the performance of the Agreement, which have been delivered by the Supplier to Flex IT Distribution.

11. Transfer

- 11.1 The Supplier is not entitled to transfer (partly) the rights and obligations arising for the Supplier under the Agreement to any third parties without the prior written consent of Flex IT Distribution.
- 11.2 The Supplier is not entitled to be (partly) assisted by third parties in the performance of his obligations under the Agreement without the prior written consent of Flex IT Distribution.
- 11.3 Flex IT Distribution is entitled to attach conditions to its consent as meant in the previous paragraphs of this Clause 11. Such a consent from Flex IT Distribution, whether or not attached to conditions, does not discharge the Supplier from its obligations under the Agreement.
- 11.4 The Supplier always remains fully responsible for the fulfilment of its obligations arising from the Agreement. The Supplier represents any third parties engaged as if it relates to its own actions or omissions. The Supplier guarantees that third parties engaged observe these Purchase Conditions and other regulations and provisions on account of the Agreement declared applicable by Flex IT Distribution. The Supplier guarantees that Flex IT Distribution can also exercise its powers towards this third party on that account.

12. Force majeure

- 12.1 The Supplier can only invoke force majeure if the failure cannot be attributed to the Supplier and insofar as the Supplier informs Flex IT Distribution immediately in writing of the force majeure situation, at the latest within three days after the occurrence of a force majeure situation, and keeps Flex IT Distribution informed of this subsequently.
- 12.2 The fulfilment of the Agreement will be fully or partly suspended for the duration of the force majeure period without the Supplier being obliged to pay compensation.
- 12.3 If the force majeure period lasts for more than five days on the part of the Supplier, Flex IT Distribution will be entitled to dissolve the Agreement with immediate effect by means of a written notice and without any judicial intervention being required without this creating any right to compensation and/or penalties.
- 12.4 Force majeure will in any event not mean: lack of personnel, illness of personnel, strikes, delayed delivery and/or unsuitability of materials, lack of machines, failure of auxiliary materials, government measures to be borne by the Supplier, attributable failure or wrongful acts by suppliers or third parties engaged by the Supplier, not being able to obtain any necessary certificates or the withdrawal of them and/or liquidity or solvency problems on the part of the Supplier.



13. Liability and Indemnification

- 13.1 The Supplier is liable for all losses suffered by Flex IT Distribution or by third parties as a result of a failure in the fulfilment of the obligations under the Agreement, such as (not exhaustively):
- (i.) a defect in a Product delivered by the Supplier, by which it does not have the characteristics which Flex IT Distribution and/or third parties (buyers or users of the Products delivered) can expect;
 - (ii.) the non performance or late performance of any obligation under the Agreement by the Supplier;
 - (iii.) inaccurate or insufficient details provided by the Supplier;
 - (iv.) the acts or omissions of the Supplier, of its personnel or of persons or items it engaged in the performance of the Agreement.
- 13.2 The term losses in this Clause 13 means any direct and indirect loss also including lost profits, business interruption, costs of the assessment, prevention and/or restriction of (further) losses and (extra-)judicial costs.
- 13.3 The Supplier indemnifies Flex IT Distribution and will indemnify it in connection with all claims by third parties and associated costs for a defence, in connection with or arising from the provisions in Clause 13.1.
- 13.4 The Supplier is obliged to take out sufficient liability insurance with regard to the Products to be delivered and to pay the premium on time. The Supplier will allow Flex IT Distribution at its request to inspect (immediately) the policy and/or proofs of payment. Flex IT Distribution's right to inspect the policy does not release the Supplier from its liability in this connection.
- 13.5 If at Flex IT Distribution's discretion there are reasons to do so, the Supplier will be obliged at the first request of Flex IT Distribution to cooperate with an assignment of all claims with regard to insurance payments on the basis of the liability insurances taken out by the Supplier.
- 13.6 Flex IT Distribution will not be liable towards the Supplier for any loss, either direct or indirect of any nature whatsoever, regardless of the way in which it arose and the persons who caused the loss, except in the event of the intention or conscious recklessness of Flex IT Distribution or its management. In any event Flex IT Distribution will not be liable for consequential loss and any other liability will always be limited to no more than the amount that will be paid by Flex IT Distribution's insurer should the occasion arise.
- 13.7 The Supplier will defend Flex IT Distribution against any and all third party claims and indemnifies and hold Flex IT Distribution harmless from any resulting damages, (legal) costs (including but not limited to attorney fees), penalties or settlement amounts, in any cause of action to the extent such cause of action is based on a claim (alleging) that the sale and delivery of the Products to Flex IT Distribution and any further commercialization (including advertising, and resale) of the Products (i) infringe upon any (intellectual) (property) rights of a third party, including the trademark owner or any of its authorized licensees or resellers; or (ii) violate any applicable (product safety) laws; or (iii) in case of any violation of the warranties as provide by Supplier as set out in Clause 10.2.

14. Dissolution, suspension and termination

- 14.1 Flex IT Distribution is entitled to choose to suspend in whole or in part the performance of all agreements between the parties, including the Agreement or to dissolve in whole or in part these agreements, including the Agreement, by means of a written statement without any judicial intervention (and with immediate effect) in the event that:
- (i.) Flex IT Distribution has good grounds to fear that the Supplier will fail or will default towards it; in connection with a (threatening) bankruptcy or if a moratorium has been applied for or obtained, if assets in the possession or at the expense of the Supplier have been seized; or if the business of the Supplier has been or will be shut down or wound up in whole or in part or if the Supplier has been or will be placed under guardianship.
 - (ii.) The intention or decision of the Supplier to fully or partially relocate its activities abroad, if one or more partners of the Supplier are retiring or the regulations and/or articles of association of the Supplier are amended, or there is a change in shareholders, all this if these circumstances at Flex IT Distribution's discretion involve a significant increase in risk;



- (iii.) The Supplier did not inform Flex IT Distribution before entering into the Agreement about facts and/or circumstances the importance of which at Flex IT Distribution's discretion is of a nature such that Flex IT Distribution, had it indeed been informed, would not have entered into it or not under the same conditions.
 - (iv.) circumstances occur which are of a nature such that performance of the Agreement is impossible or according to fair and reasonable standards can no longer be required or if circumstances occur otherwise which are of a nature such that unchanged maintenance of the Agreement cannot reasonably be required from Flex IT Distribution.
- 14.2 In the event of a dissolution Flex IT Distribution will never be obliged to pay any form of compensation to the Supplier or third parties unless the dissolution is based on facts or circumstances which are attributable to Flex IT Distribution.
- 14.3 Any claims which Flex IT Distribution might have or obtain on the Supplier upon dissolution will immediately become fully due and payable. On account of a dissolution or the occurrence of a dissolutive condition, Flex IT Distribution will be entitled to reclaim from the Supplier all payments it has made as undue payments, either to choose to retain the performance for a reasonable fee in proportion to the performance, or to return it to the Supplier at its expense and risk, notwithstanding any other rights of Flex IT Distribution according to the law, the Agreement or these Purchase Conditions (incl. compensation, late payment penalty, reimbursement of costs).
- 14.4 Flex IT Distribution is at all times entitled to suspend the performance of the Agreement in whole or in part and to oblige the Supplier to interrupt the performance of the Agreement for the duration of a period to be determined by Flex IT Distribution. If it is expedient Flex IT Distribution will compensate the loss consisting of the direct costs actually incurred by the Supplier, insofar as they are reasonable. This is not applicable if the suspension or interruption is (partly) due to the Supplier.
- 14.5 If an Agreement has been entered into for a definite or indefinite period of time, it can be terminated by Flex IT Distribution after proper business consultation and stating the reasons by means of a written notice of termination. If no explicit notice period has been agreed between the parties, Flex IT Distribution must observe a period of at least one month in connection with the termination and the Supplier a period of at least three months. In the event of a notice of termination Flex IT Distribution will never be obliged to pay any compensation to the Supplier or third parties.
- 14.6 In the event of a termination or dissolution Flex IT Distribution will be immediately entitled to take back the items and files, software or other materials, or the Supplier has the obligation to surrender these items at the first request by Flex IT Distribution. The buyer declares now for then that it will allow Flex IT Distribution physical and electronic access and to cooperate fully in this respect while all costs incurred and/or to be incurred by or on account of Flex IT Distribution for this return will be at the expense of the Supplier.

15 Other provisions, applicable law and competent court

- 15.1 The agreements between Flex IT Distribution and the Supplier are exclusively governed by Dutch law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (CISG) is excluded.
- 15.2 Any disputes between the parties arising from or otherwise associated with an Agreement will in first instance be settled by the competent court in The Hague unless the Sub-district Court in Leiden has jurisdiction. Nevertheless Flex IT Distribution will be entitled according to its preference to submit the dispute to the court having jurisdiction according to the law.
- 15.3 If one or more provisions of these Purchase Conditions appear to be invalid or are rendered inoperative by a court, the other provisions will remain fully effective. The invalid or unenforceable provisions will in that case be replaced by provisions to which this is not applicable and which provide as much as possible for the same as the invalid or unenforceable provision.
- 15.4 These Purchase Conditions of Flex IT Distribution have been filed with the Chamber of Commerce of The Hague under number 70449740. These Purchase Conditions can be provided on request.



