

## IT2018 EVT – SPECIAL TERMS AND CONDITIONS FOR DELIVERIES OF STANDARD SOFTWARE

### 1 SCOPE OF APPLICATION

- 1.1 These special terms and conditions shall apply to the licensing of standard software.
- 1.2 In addition to these special terms and conditions, the IT2018 YSE general terms and conditions shall apply. In case of discrepancy between these special terms and conditions and the IT2018 YSE general terms and conditions, these special terms and conditions shall take precedence.

### 2 DEFINITIONS

- 2.1 **Manufacturer** means the supplier or third party to whom the intellectual property rights in the deliverables belong.
- 2.2 **New version of standard software** means the standard software enhanced with new functional features.
- 2.3 **Standard software** means software or software component marketed or licensed to several customers and the instructions or other documentation and potential media related to the standard software in question.
- 2.4 Standard software contains an error if it does not substantially operate as described in the specifications, or if it does not otherwise correspond to what the parties have agreed in writing.

### 3 DELIVERY, INSTALLATION AND ACCEPTANCE OF THE DELIVERY

- 3.1 The supplier shall deliver the standard software to the customer on the agreed date of delivery.
- 3.2 The supplier shall deliver to the customer the standard software in machine-readable form together with such descriptions of open application programming interface possibly specified by the manufacturer.
- 3.3 Unless otherwise agreed in writing, the supplier shall deliver the standard software to the customer saved on the media, which terms of delivery shall be delivered to the place in Finland specified in the agreement (TOP Finnterms 2001). The standard software shall be accompanied by instructions, either in Finnish or English, necessary for the use of the standard software.
- 3.4 Risk of loss or damage to the standard software shall pass from the supplier to the customer in accordance with the terms of delivery.
- 3.5 Unless otherwise agreed in writing, the customer shall be responsible for the installation of the standard software.
- 3.6 The customer shall at its own expense prepare the operating environment of the standard software in conformity with the supplier's instructions. If it has been agreed that the supplier shall install the standard software, the supplier shall in good time provide the customer with written instructions in order for the customer to arrange the operating environment in conformity with the supplier's instructions. In this case, the supplier shall be entitled to inspect the operating environment at a time to be agreed by the parties prior to the agreed time of installation. If the supplier is not responsible

for the installation, the supplier shall, at the time of delivery of the standard software at the latest, provide or make available to the customer with written instructions on arranging the operating environment in conformity with the supplier's instructions. In addition, upon the customer's request the supplier shall provide to the customer other information necessary to perform the installation.

- 3.7** If it has been agreed that the supplier shall install the standard software, the customer shall arrange access to the supplier to the installation premises at a time to be agreed by the parties for the performance of the installation. The customer shall at its own expense arrange the working and storage space necessary for the installation.
- 3.8** Unless a separate acceptance test has been agreed upon, the customer shall perform the acceptance inspection of the standard software within 7 days of the date of delivery of the standard software by the supplier to the customer in conformity with the agreement. The customer shall without undue delay inform the supplier in writing of all errors detected in the delivery and shall identify such errors in sufficient detail.
- 3.9** Errors that do not substantially interfere with the use of the standard software shall not prevent the acceptance of the delivery. The supplier shall, however, correct such errors without undue delay in accordance with the warranty terms.
- 3.10** If the customer is responsible for the installation of the standard software, the delivery shall be deemed to have taken place when the standard software and the written instructions regarding its installation are delivered to the customer. If the supplier is responsible for the installation of the standard software, the delivery shall be deemed to have taken place when the installation is made in an accepted manner.

## **4 RIGHTS TO THE STANDARD SOFTWARE**

- 4.1** The intellectual property rights to the standard software shall belong to the manufacturer.
- 4.2** The customer is granted a licence to use the standard software as set out in the agreement. Unless otherwise agreed in writing, the customer shall have the right to use the standard software on one piece of equipment in the customer's own internal operations. Unless the manufacturer's prior written consent is obtained, the customer may not use the standard software to offer service bureau or time-sharing services based on such software to third parties.
- 4.3** The customer may make a back-up copy of the standard software if it is necessary for the use of the standard software but shall have no other right to copy the standard software or allow it to be copied even for private purposes. The copy must contain the same legends and notices on copy-right, trademark, etc as appear in the original software copy and shall be subject to the same terms and conditions as the original software copy.
- 4.4** The customer shall not have the right to make changes to the standard software or to have such changes made without the manufacturer's prior written consent.
- 4.5** The customer may not transfer or otherwise assign the licence to a third party without the manufacturer's prior written consent.
- 4.6** Upon termination of the use or licence of the standard software the customer shall, upon the supplier's request and at the supplier's option, either destroy or return the standard software and its back-up copy and any instructions and other documentation related to the standard software and drafted by the supplier.

## 5 SUBSTITUTING SOFTWARE AND CHANGES

- 5.1** The supplier may with the consent of the customer replace the standard software specified in the agreement with a new version of standard software or replace it with other software. The new version of standard software or the other software shall, with respect to functionality, performance and other requirements, substantially meet the specifications and meet the other terms agreed by the parties in writing. The installation of the new version of standard software or the other software shall be performed in the same manner as agreed for the original standard software.
- 5.2** The supplier shall be entitled, prior to delivery and without prior notification to the customer, to make such modifications to the standard software which improve the standard software, provided that the standard software continues to substantially meet the specifications and meet other terms agreed by the parties in writing.

## 6 DELAY OF DELIVERY

- 6.1** Either party shall be entitled to liquidated damages if delivery of the standard software is delayed for a reason attributable to the other party. If the delay is caused by a force majeure event, the delayed party shall be released from liability in accordance with IT2018 YSE general terms and conditions. A delay in the provision of information or documents preventing the delivery or the use of the standard software shall be considered as a delay of the delivery of the standard software in question. The customer shall, however, not be entitled to liquidated damages for any period of time during which the supplier provides the customer free of charge with substitute software provided that the customer accepts such software.
- 6.2** The liquidated damages shall amount to 0.5 percent for each beginning week of delay of the price, excluding value added tax, of that part of the delivery which the customer due to the delay has not been able to take into use as agreed on the agreed date of delivery or which the supplier due to the delay has not been able to deliver on the agreed date of delivery. However, the maximum amount of liquidated damages is 7.5 percent of the price of such part of the delivery excluding value added tax. Errors which do not prevent the delivery of the standard software or substantially impede the use thereof, do not give rise to entitlement to liquidated damages. The supplier shall, however, correct such errors without undue delay in accordance with the warranty terms.
- 6.3** Section 13 of the IT2018 YSE general terms and conditions shall apply in other respects to liability for damages and limitation of liability.

## 7 WARRANTY

- 7.1** The supplier undertakes to correct at no cost and without undue delay all such errors in the standard software as are reported in writing by the customer to the supplier during the warranty period. The correction of an error may also be done by providing a workaround or by providing the customer with written instructions on how to bypass the error, if this can be done without causing additional costs or substantial inconvenience to the customer. The warranty period is 90 days from the date of delivery of the standard software.
- 7.2** The warranty shall be valid only if the standard software is used in the agreed operating environment or in another operating environment specified by the supplier.

- 7.3 The supplier shall perform the warranty corrections at its option from its office or in another appropriate manner.
- 7.4 The warranty does not cover repair of an error caused by (a) use contrary to the agreement or the written instructions given by the supplier, (b) a non-supplier product, or (c) a change or correction made by the customer or a third party.
- 7.5 If it is established that correction of the error reported by the customer is not covered by the warranty, the supplier shall be entitled to charge for diagnosis and location of the error in accordance with the agreed pricing principles. In addition, the supplier shall be entitled to charge the customer for such agreed corrections of errors as are not covered by the warranty.
- 7.6 The supplier's liability for errors in the standard software shall be limited to fulfilment of the warranty obligations under this section 7. Following expiration of the warranty period the supplier's liability for errors in the standard software shall be limited to the obligations under the maintenance and support agreement, if any.

## 8 AVAILABILITY OF SUPPORT AND MAINTENANCE

- 8.1 The supplier shall be responsible for the availability of support and maintenance for the standard software for a period of at least 5 years from the date of delivery. In addition, the supplier shall be responsible for the availability of support and maintenance for each version of the standard software for a period of at least 12 months from the date when the next new version of standard software is made generally available.
- 8.2 The supplier shall inform the customer in writing of the discontinuation of availability of support and maintenance at least 6 months in advance.