

GENERAL PURCHASE CONDITIONS

for the supply and delivery of goods and/or other services to Ericsson

The General Purchase Conditions of Ericsson Nederland B.V. as most recently filed at the Trade Register in Tilburg, The Netherlands, shall apply to all orders, agreements and other legal relationships which concern the supply and delivery of goods and/or services to Ericsson. Such most recently filed General Purchase Conditions are as follows:

1 DEFINITIONS

The following expressions shall have the meaning hereby assigned to them unless the context would obviously require otherwise.

<u>Ericsson:</u> Ericsson Nederland B.V., and all companies residing in The Netherlands related to Ericsson Nederland B.V., such as but not limited to Ericsson Telecommunicatie B.V. and Ericsson EuroLab Netherlands B.V.

<u>Ericsson Group:</u> the group of companies of which 50% (fifty percent) or more of the issued shares or voting rights are directly or indirectly owned by Telefonaktiebolaget LM Ericsson.

<u>Intellectual Property Rights:</u> copyrights, patents, drawing and model rights, tradenames, trademarks, semi-

conductor topography protection rights, and all possible other intellectual property rights.

<u>Order:</u> any agreement or legal relationship between Ericsson and Supplier which concerns the supply and/or delivery of Products and/or Services from Supplier to Ericsson.

<u>Products:</u> equipment, computer software, documents, models, matrices, slides, lithos, designs and all other goods and works that are the result of supply and/or delivery or services from Supplier to Ericsson or are otherwise the result of the execution of the Order.

Services: services from Supplier to Ericsson.

<u>Supplier</u>: the party from whom Ericsson has requested an offer or to whom Ericsson has given an Order, or with whom Ericsson has otherwise entered into a relationship wherein Ericsson is the client and legal successors in title to the Supplier and any assignee of the Supplier approved by Ericsson.

2 GENERAL

- 2.1. These General Purchase Conditions shall apply to all requests for proposal, offers, orders, agreements and other legal relationships between Ericsson and Supplier which concern the supply and delivery of Products and/or Services by Supplier to Ericsson. These General Purchase Conditions shall be applicable in so far as in a specific agreement itself it is not expressly stipulated otherwise in writing.
- 2.2. If upon acceptance of the Order or otherwise Supplier declares its general conditions applicable, the reference contained in Ericsson's Order shall be seen as the first reference



made and these General Purchase Conditions shall be applicable to the Order. The general conditions of Supplier shall not be applicable.

2.3. In the event Supplier has once entered into an agreement or other legal relationship with Ericsson, to which these General Purchase Conditions apply, Supplier shall be considered to have tacitly agreed to the applicability of these General Purchase Conditions to future agreements or other legal relationships with Ericsson.

3 OFFERS

Unless explicitly agreed otherwise in writing, Supplier's offers to Ericsson shall be free of charge to Ericsson, shall be fixed and shall remain in force for a period of three (3) months.

4 ORDERS

Ericsson will submit Orders in writing, by telefax or electronically. For administrative reasons, telefax Orders will be confirmed by Ericsson in writing.

5 QUALITY AND TESTING

- 5.1. Supplier will continuously during development and production monitor the quality level of its Products and Services in order to make sure that the Products meet the agreed and guaranteed specifications.
- 5.2. Supplier shall use a quality assurance system corresponding with or equivalent to ISO 9000. Supplier shall grant Ericsson or its representatives access in order to conduct quality investigations.
- 5.3. Supplier shall test all Products before delivery in order to check if the Products meet all agreed specifications and other relevant obligations of Supplier.
- 5.4. Ericsson reserves the right to test the Products. Upon Ericsson's request, Supplier shall free of charge provide all documents, tools and information necessary to perform the tests. Testing of the Products by Ericsson shall not be deemed as acceptance of the Products.
- 5.5. In the event Ericsson rejects or disapproves the Products, it shall have the right to return or store the Products at the risk of and for the account of Supplier.

6 PRICE AND PAYMENT

- 6.1. All Products and Services are sold and all prices are quoted DDP (destination named by Ericsson in The Netherlands) in accordance with Incoterms 2000.
- 6.2. The prices are inclusive of any taxes, duties and other levies and exclusive of VAT.
- 6.3. Prices are quoted and payments shall be made in Euro, unless stated otherwise in the Order.
- 6.4. Except as stated otherwise in the Order, all prices shall be fixed and shall cover all costs incurred by Supplier in executing the Order.



- 6.5. Invoices shall be paid within 60 days after receipt and acceptance.
- 6.6. Ericsson has the right to compensate all of its claims for payment against Supplier with claims for payment from Supplier against Ericsson even if such claims are not related.

7 TAXES, DUTIES AND LEVIES

- 7.1 Each party shall be responsible and liable for any and all taxes and social premiums related to employees or other persons involved by the respective party in the execution of the Order and the parties shall hold each other harmless for claims regarding such taxes and social premiums.
- 7.2 In the event the Order relates to the hiring of persons by Ericsson from Supplier, Ericsson shall have the right to withhold payments until Supplier has made arrangements required to fulfil Supplier's tax and social security obligations in The Netherlands and Supplier has given Ericsson sufficient evidence thereof.

Furthermore Supplier shall give Ericsson its full assistance in providing on a regular basis, but at least once per calendar quarter, sufficient evidence of fulfilment of such tax and social security obligations. In the event Supplier does not meet the aforementioned obligations, Ericsson shall have the right to withhold payments until Supplier has fulfilled such obligations.

8 <u>WARRANTY</u>

8.1. Supplier represents and warrants that the performance of the Products and Services will be in accordance with the agreed specifications, that the Products and Services meet all applicable statutory requirements and that the Products and Services are fit for Ericsson's purpose.

Unless otherwise agreed in writing, Supplier furthermore warrants that for a period of twenty-four (24) months after delivery, the Products shall be free from faults and defects in design, material, workmanship and any other faults and defects.

- 8.2. Without prejudice to Article 8.1, supplier represents and warrants that it shall pursue continuous environmental improvement and that it shall act in accordance with all applicable environmental laws and regulations. Therefore Supplier shall continuously pursue lower environmental impact of its Products and Services.
- 8.3. All transportation costs and risks of loss or damage incurred with respect to the repair and/or replacement of faulty or defective Products shall be borne by Supplier. Transportation shall be EXW (Incoterms 2000) from the place where Ericsson makes the Products available, by normally scheduled carrier, if applicable and unless otherwise agreed.

8.4. Year 2000 Compliancy Warranty

Supplier represents and warrants that the Products are designed to be used prior to, during, and after the calendar year 2000 AD, and that the Products will operate during each such time period without detraction of functionality or performance or other errors relating to date data including, but not limited to leap year.

Without limiting the generality of the foregoing, Supplier further represents and warrants: a) that the Products will not abnormally end or provide invalid or incorrect results as a result of date data, specifically including date data which represent or reference different centuries or more than one century;



- b) that the Products have been designed to ensure year 2000 compatibility, including, but not limited to, date data century recognition, calculations which accommodate same century and multi-century formulas and date values, and date data interface values that reflect the century; and
- c) that the Products include "Year 2000 capabilities". "Year 2000 capabilities" means that the Products:
- (i) will manage and manipulate data involving dates, including single century formulas, multi-century formulas and leap year, and will not cause an abnormally ending scenario within the application or generate incorrect values or invalid results involving such dates; (ii) provide that all date-related user interface functionalities and data fields include the indication of century; and
- (iii) provide that all date-related data interface functionalities include the indication of century.

In the event a Product is not year 2000 compliant as defined above, Supplier shall immediately remedy the breach and shall indemnify and hold Ericsson harmless from any and all damages as a result of such breach.

In the event a Product is not year 2000 compliant as defined above, and notwithstanding the abovementioned warranty and Supplier's obligations pursuant thereto, Ericsson shall have the right to carry out and to let a third party carry out any and all activities necessary to make the Product year 2000 compliant. Supplier shall provide Ericsson with all documentation, source codes, tools and information necessary therefor.

- 8.5. Supplier represents and warrants that neither performance nor functionality of the Products shall be affected in relation to the changeover to Eurocurrency, including a period of multi-currency.
- 8.6. Supplier warrants that the supply of the Products in every respect for upgrading, extensions, repair and maintenance will be possible for at least ten (10) years after delivery and within reasonable delivery times. In the event Supplier intends to cease the supply of the Products or parts thereof, Supplier will inform Ericsson thereof in writing at least twelve (12) months in advance. Ericsson shall then have the right to give an order-for-life to Supplier for the delivery of the (parts of) Products in question at reasonable prices with a maximum of the prices agreed for first delivery of the (parts of) Products in question.

9 LIQUIDATED DAMAGES

In the event of late performance, Ericsson shall have the right to claim liquidated damages from Supplier. Such liquidated damages shall amount to 1% (one percent) of the total value of the performance for each week of delay up to a maximum of 10% (ten percent) of such value. Such liquidated damages shall be without prejudice to the right of Ericsson to claim any further or actual damages and the performance of Supplier's obligations.

10 <u>FORCE MAJEURE (RELIEFS)</u>

- 10.1. A breach or failure in the performance shall not be attributable to the party in question, if and insofar such a breach or failure is not the result of its fault, nor is otherwise by law or legal action attributable to it ("force majeure").
- 10.2. In case of force majeure Supplier shall promptly notify Ericsson in writing and furnish Ericsson with all relevant information thereto. Should a cause of force majeure continue for more than one (1) month, Ericsson shall then have the right to terminate the Order without any further liability or obligation.



11 NON-DISCLOSURE AND PROPRIETARY RIGHTS

11.1. All information supplied by a party to the other in relation with or pursuant to the Order which is designated by means of a name, trademark or appropriate text to be of a proprietary or confidential nature or is otherwise obviously of a such a nature, shall be treated as confidential and shall not be disclosed without the furnishing party's prior written approval.

It is explicitly agreed that information regarding Ericsson's customers and Ericsson's procedures, know-how and trade secrets are proprietary and confidential.

11.2. The parties' obligations under this Article shall survive the term of the Order.

12 <u>INTELLECTUAL PROPERTY RIGHTS</u>

12.1. In the event Supplier develops Products for Ericsson, the Intellectual Property Rights related thereto shall vest in Ericsson and title thereto is hereby assigned and transferred to Ericsson. Supplier shall take all necessary actions and provide all necessary support to assign and transfer such rights to Ericsson or to confirm such assignment and transfer, as the case may be.

Supplier represents and warrants that it has the right to assign and transfer such rights to Ericsson and that no other party has any options, licenses or other rights related thereto.

- 12.2. Supplier hereby waives any and all personal and moral rights regarding the Products as ruled by article 25 of the Dutch Copyright Act ("Auteurswet 1912") and shall hold Ericsson harmless against possible personal and moral rights of third parties.
- 12.3. In the event the Products have not been developed for Ericsson and Intellectual Property Rights relate to such Products, Supplier hereby grants Ericsson a license to use the Products for the anticipated purpose thereof. For computer software such anticipated use shall be defined as inter alia: the storage into a computer in machine readable form, the display, the viewing on a monitor or screen, the execution, the transmission and making of back-up copies.
- 12.4. Supplier shall indemnify and hold Ericsson harmless against all actions or claims of infringement of Intellectual Property Rights, provided that:
- a) Ericsson shall without undue delay inform Supplier in writing of any claim made by reasons of alleged infringement of Intellectual Property Rights and shall refrain from taking actions on account of such claims without prior approval of the Supplier;
- b) Supplier shall have full authority to defend or settle the claim;
- c) in case the Supplier fails to act promptly against such claims or actions, Ericsson shall have the right to take appropriate action and shall be reimbursed for any reasonable expenses in doing so; and
- d) the infringement or alleged infringement does not arise as a result of the use of the Product in combination or conjunction with another item, unless Supplier has confirmed that such a combination or conjunction would be possible.
- 12.5. In the event the Products become the subject of actions or claims of infringement of Intellectual Property Rights, Supplier shall either assume the right for Ericsson to use the Products, or modify or replace the Products in such a manner that the infringement ends. Modification or replacement of the Products shall never result in decrease or reduction of functionality or of fitness for the purpose of Ericsson.

13 PROPERTY



- 13.1. Supplier delivers all made and/or manufactured Products in accordance with the Order to Ericsson and, in so far as the ownership of the products has not already passed to Ericsson by delivery, transfers the ownership of the Products to Ericsson.
- 13.2 All tools, materials and other goods that Ericsson makes available to Supplier, remain owned by Ericsson and shall be returned to Ericsson immediately upon termination of the Order. Supplier shall warehouse these goods separately and marked as property of Ericsson. Supplier shall indicate the property rights of Ericsson towards third parties and will only use the goods to fulfill the Order.

14 PACKAGING AND DELIVERY

All goods that will be delivered shall be packed sufficiently and protected in such a way that no damages can arise during transportation. Used packaging material has to be easily recycleable. The goods shall be unloaded by the transporter and chargeable to the account of Supplier, in such a way that no help or appliances of Ericsson are needed. On request of Ericsson, Supplier undertakes to take back the used packaging material for the account and risk of Supplier.

15 GENERAL RULES FOR THE PERFORMANCE OF WORK

During the fulfillment of the work, Supplier shall always work according to the General Conditions for the Performance of Work, by or in order of Ericsson, which General Conditions have been provided to Supplier.

16 <u>TERMINATION</u>

- 16.1 Either party may by written notice terminate the Order with immediate effect and without any further obligation or liability:
- a) if the other party has committed a material breach of the Order and has not rectified the same within a reasonable period;
- b) if a resolution regarding the liquidation of the other party is passed or the other party is otherwise wound up, or if the other party becomes bankrupt or insolvent.
- 16.2. Ericsson may by written notice terminate the Order with immediate effect and without any further obligation or liability in the event of a change of ownership or control of Supplier.

17 <u>LIABILITY</u>

- 17.1. Each party shall be liable towards the other party for damages which are the result of breach of contract or otherwise attributable to the other party.
- 17.2. In no event shall Ericsson be liable to the Supplier for loss of production, loss of business, loss of profit or any other indirect or consequential damages, whether or not Ericsson could reasonably have foreseen the possibility of such damages.
- 17.3. Supplier shall indemnify and hold Ericsson harmless against any and all claims regarding the Products, based on product liability legislation in The Netherlands.

18 INSURANCE



Supplier shall sufficiently insure itself against third party liability and its liability towards Ericsson up to an amount of at least two million five hundred thousand Euro per event.

19 <u>SECURITIES</u>

- 19.1 In the event the Parties agree advance payments and in the event Ericsson has reason to doubt the financial credibility of Supplier, Supplier shall upon Ericsson's request provide securities such as an irrevocable bank guarantee from a trustworthy and solid bank.
- 19.2 With regard to non-tailor made computer software supplied to Ericsson, Supplier shall at its own cost upon Ericsson's request and for the benefit of Ericsson place the sources of the computer software and other materials necessary for upgrading and maintenance of the computer software in escrow with a trustworthy and solid escrow agent.

20 PUBLICITY/USE OF THE ERICSSON LOGO

- 20.1 Supplier shall not without Ericsson's prior written permission advertise or publish any information related to the Order or the relationship between Ericsson and Supplier.
- 20.2 Supplier shall not without Ericsson's prior written permission have the right to use trademarks or logo's of Ericsson or the Ericsson Group. If Ericsson has given such permission to Supplier, Supplier shall always comply with the prevailing conditions of Ericsson when using the trademarks and/or logo's, such as the conditions mentioned in the manual "The Ericsson Corporate Visual Language".

21 ASSIGNMENT/INVOLVEMENT OF THIRD PARTIES

- 21.1. Notwithstanding Article 21.2, neither party shall have the right to assign the Order or any right or obligations pursuant thereto without the prior written approval of the other party.
- 21.2. Ericsson shall have the right to assign the Order or any right or obligations pursuant thereto to other Ericsson Group companies.
- 21.3. Supplier shall not have the right to involve subcontractors in the execution of the Order or of any right or obligation pursuant thereto without the prior written approval of Ericsson. In the event Ericsson gives such approval to Supplier, Supplier shall remain fully responsible and liable for such subcontractors.

22 <u>ANTI CORRUPTION</u>

In the event Supplier offers and/or gives any gift or other contribution to an employee of Ericsson without Ericsson's prior written approval, Ericsson shall have the right to terminate the Order without any further obligation or liability.

23 <u>MISCELLANEOUS</u>



- 23.1. The Order and all other legal relationships between Ericsson and Supplier shall be governed by and construed in accordance with the laws of The Netherlands.
- 23.2. All disputes arising in connection with the Order or any other legal relationship between Ericsson and Supplier shall be settled by the competent court in Breda, The Netherlands.
- 23.3 The UN Convention on Contracts for the International Sale of Goods of 1980 shall not be applicable.