

# Fatec Engineering Terms and Conditions of License

*Fatec Engineering is a company under the laws of The Netherlands established at the adress Rubenslaan 127 (2661 RV) Bergschenhoek, The Netherlands. These Terms and Conditions are filed with the Chamber of Commerce in Rotterdam (The Netherlands) under number 27240216 (version July 2014)*

## GENERAL

### 1. Applicability of these Terms and Conditions

- 1.1 These terms and conditions shall apply to all offers and agreements whereby the Supplier provides the Client with any goods and/or services whatsoever and however described.
- 1.2 Additions to or deviations from these general terms and condition shall only apply where agreed in writing between the parties.
- 1.3 The applicability of any of the Client's purchasing or other conditions is specifically excluded.
- 1.4 If any provision of these general terms and conditions is null and void or is voided, the other provisions of these general terms and conditions will remain fully in effect. In this case, the Supplier and the Client will consult with one another to agree new provisions to replace the void or voided ones. In doing so, the purpose and meaning of the void or voided provision will be taken into account as far as possible.

### 2. Offers

- 2.1 All offers and other statements issued by the Supplier shall be subject to contract, except where specified otherwise in writing by the Supplier.

### 3. Price and payment

- 3.1 All prices are exclusive of turnover tax (VAT) and other government levies that have been or are later imposed. Except where agreed otherwise, all prices are in euros in all cases and the Client must effect all payments in euros.
- 3.2 The relevant documents and information from the Supplier's administration or systems shall be conclusive evidence of the service provided by the Supplier and the amounts payable by the Client in return for this service, without prejudice to the Client's right to submit evidence to the contrary.
- 3.3 If the Client is subject to a periodic payment obligation, the Supplier shall be entitled to adjust the applicable prices and rates in writing subject to advance notice of at least three months. If the Client does not wish to agree to this change, the Client shall be entitled to terminate the agreement in writing with effect from the date on which the change is due to enter into force within thirty days following the date of notification. The Client shall not enjoy this right of termination, however, if the parties have agreed that the applicable prices and rates shall be adjusted subject to due observance of an index or other standard agreed between the parties.
- 3.4 If the Client fails to pay the amounts due or to pay the amounts due in a timely manner, statutory commercial interest shall be payable by the Client on the outstanding amount without a demand or notice of default being required. If the Client still fails to pay the amount owed after receiving a demand or notice of default, the Supplier may refer the debt for collection, in which case the Client shall also be obliged to pay all legal and other costs in addition to the total amount due, including all costs charged by external experts.

#### **4. Confidentiality**

- 4.1 The Client and the Supplier shall ensure that all information received from the other party that is known or should reasonably be known to be of a confidential nature is kept secret. The party that receives such confidential information shall only use this information for the purpose for which it has been provided. Information shall in any event be regarded as confidential if it is designated as such by one of the parties.

#### **5. Privacy, data processing and protection**

- 5.1 If the Supplier deems this to be necessary for the purpose of implementing the agreement, the Client shall, upon request, notify the Supplier immediately in writing with regard to the manner in which the Client implements its obligations pursuant to legislation in respect of the protection of personal data.
- 5.2 The Client shall indemnify the Supplier against any claims by individuals whose personal data is recorded or processed within the context of a register of personal data maintained by the Client or for which the Client is responsible pursuant to the law or otherwise, unless the Client is able to demonstrate that the acts that form the basis of the claim are exclusively attributable to the Supplier.
- 5.3 Responsibility for the data processed using the service provided by the Supplier shall rest solely with the Client. The Client shall guarantee the Supplier that the content, the use and/or the processing of the data is not unlawful and does not infringe the rights of third parties. The Client shall indemnify the Supplier against legal claims by third parties, of whatever nature, in relation to this data or the implementation of the agreement.
- 5.4 If the agreement stipulates that the Supplier is obliged to provide some form of information security, this security shall meet the specifications in respect of security agreed between the parties in writing. The Supplier shall not guarantee that the information security will be effective under all circumstances. If the agreement does not include an explicit description of security measures, the security measures shall be of such a level that, having regard to the state of the art, the sensitivity of the data and the costs associated with the implementation of the security measures are not unreasonable.

#### **6. Retention of title and rights**

- 6.1 Rights, including rights of use, shall be granted to the Client or transferred, where appropriate, subject to the condition that the Client has paid all of the fees due pursuant to the agreement concluded between the parties in full. If the parties have agreed that the Client shall be subject to a periodic payment obligation in respect of the granting of a right of use, the Client shall be entitled to the right of use for as long as it continues to meet its periodic payment obligation.

#### **7. Risk**

- 7.1 The risk of loss, theft, misappropriation of or damage to items, products, data, documents, software, data files or data (codes, passwords, documentation etc.) produced or used within the context of the implementation of the agreement, shall pass to the Client when the Client or one of the Client's agents comes into actual possession of them. In so far as these objects are in the actual possession of the Supplier or one of the Supplier's agents, the Supplier shall bear the risk of loss, theft, misappropriation or damage.

#### **8. Intellectual property rights**

- 8.1 All intellectual property rights to the software, websites, data files, hardware or other materials such as analyses, designs, documentation, reports, quotations and related preliminary material developed or made available to the Client on the basis of the agreement shall remain exclusively vested in the Supplier, its licensors or its own

- suppliers. The Client shall only acquire those rights of use that are explicitly granted in these general terms and conditions and by law. Any rights of use granted to the Client shall be non-exclusive, non-transferable to third parties and non-sublicensable.
- 8.2 The Client shall not be permitted to remove or amend any details in relation to the confidential nature or in relation to copyrights, brands names, trade names or any other intellectual property right from the software, websites, data files, hardware or materials.
- 8.3 Even if the agreement does not explicitly provide for such authority, the Supplier shall be permitted to install technical provisions for the purpose of protecting the software, hardware, data files, websites and suchlike in relation to an agreed restriction on the content or the term of the right to use these objects. The Client shall under no circumstances be permitted to remove or circumvent such technical provisions or to arrange for this to be carried out.
- 8.4 The Supplier shall indemnify the Client against any legal claims from third parties based on the assertion that software, websites, data files, hardware or other materials developed by the Supplier itself infringe an intellectual property right of the third party in question, under the condition that the Client notifies the Supplier immediately in writing of the existence and content of the legal claim and leaves the disposal of the case, including any settlements effected, entirely to the Supplier. To this end, the Client shall provide the Supplier with the powers of attorney, information and cooperation that it requires in order to defend itself, where necessary in the name of the Client, against these legal claims. This obligation to indemnify shall not apply if the alleged infringement relates to (i) materials made available to the Supplier by the Client for the purpose of use, adaptation, processing or incorporation, or (ii) changes made by the Client, or by a third party on behalf of the Client, to the software, website, data files, hardware or other materials, without the Supplier's prior written consent. If it is irrevocably established in court that the software, websites, data files, hardware or other materials developed by the Supplier itself constitute an infringement of any intellectual property right vested in a third party or if the Supplier believes that there is a good chance that such an infringement may occur, the Supplier shall, where possible, ensure that the Client can continue to use the software, websites, data files, hardware or materials delivered, or functionally similar alternatives. All other or further-reaching obligations to indemnify on the part of the Supplier shall be excluded.

#### **9. Obligations to cooperate**

- 9.1 The Client shall bear the risk of the selection, the use, the application and the management within its organisation of the software, hardware, websites, data files and other products and materials and of the services to be provided by the Supplier. The Client itself shall arrange for the correct installation, assembly and commissioning and for the application of the correct settings to the hardware, software, websites, data files and other products and materials.
- 9.2 If the Client fails to make the data, documents, hardware, software, materials or employees that the Supplier deems useful, necessary or desirable for the purpose of implementing the agreement available to the Supplier, to make these available in good time or in accordance with the agreements, or if the Client fails to meet its obligations in any other way, the Supplier shall be entitled to suspend the implementation of the agreement in part or in full and shall also be entitled to invoice the resulting costs in accordance with its standard rates, without prejudice to the Supplier's right to exercise any other statutory and/or agreed right.

#### **10. Delivery dates**

- 10.1 All (delivery) periods and (delivery) dates agreed or specified by the Supplier shall be established to the best of the Supplier's knowledge on the basis of the information

available to it at the time of entering into the agreement. Interim (delivery) dates agreed between the parties or specified by the Supplier shall in all cases be target dates, shall not have a binding effect on the Supplier and shall in all cases be merely indicative. The Supplier shall make every reasonable effort to observe final (delivery) periods and final (delivery) dates wherever possible.

#### **11. Termination and cancellation of the agreement**

- 11.1 Both of the parties shall only be authorised to terminate the agreement as a result of an attributable failure to perform this agreement if the other party, in all cases following written notice of default providing as many details as possible and setting a reasonable term in which the breach can be remedied, attributable fails to meet its fundamental obligations arising from this agreement. The Client's payment obligations and all other obligations to cooperate imposed on the Client or on a third party to be engaged by the Client shall in all cases be regarded as fundamental obligations arising from the agreement.
- 11.2 If the Client has already received services for the purpose of implementing the agreement at the time of termination as referred to in Article 11.1, these services and the related payment obligation cannot be revoked unless the Client is able to demonstrate that the Supplier is in default in respect of a substantial part of these services. Any amounts that the Supplier has invoiced before termination in connection with work that it has already duly carried out or services that it has duly provided for the purpose of implementing the agreement, shall remain due in full, subject to due observance of the provisions of the preceding sentence, and shall become immediately due and payable at the time of termination.
- 11.3 If an agreement that by its nature and content is not brought to a close is entered into for an indefinite period of time, this may be cancelled in writing by either party following consultation and stating reasons. If the parties have not agreed a notice period, a reasonable period of time must be observed on cancellation. The parties shall under no circumstances be obliged to pay any compensation as a result of cancellation of the agreement.
- 11.4 The Client shall under no circumstances be entitled to cancel an agreement regarding the provision of services that has been entered into for a fixed term before the end of the term.
- 11.5 Either of the parties shall be entitled to cancel the agreement in part or in full, with immediate effect, in writing without notice of default if the other party is granted a moratorium of payments, provisionally or otherwise, if a winding-up petition is filed in respect of the other party, if the other party's company is wound up or terminated for reasons other than reconstruction or the merger of companies, or if there is a change in the individual or board that has decisive control over the Client's company. The Supplier shall under no circumstances be obliged to reimburse any sums of money that have already been received or to pay any compensation in the event of such cancellation. If the Client becomes bankrupt or is liquidated, the right of use of the software, websites and suchlike made available to the Client shall terminate by operation of law.

#### **12. Liability of the Supplier**

- 12.1 The total liability of the Supplier due to an attributable failure to perform this agreement or due to any other reason, explicitly including any failure to comply with the guarantee obligation agreed with the Client, shall be limited to compensation of the direct damage or loss not exceeding the sum stipulated for this agreement (excl. VAT). This limitation of liability shall apply *mutatis mutandis* to the Supplier's obligation to indemnify referred to in Article 8.5 of these terms and conditions. If the agreement is essentially a continuing performance contract with a term of more than one year, the sum stipulated for the agreement shall be set at the total fees (excl.

- VAT) stipulated for one year. The total liability of the Supplier for direct damage or loss, for any reason whatsoever, shall, however, under no circumstances exceed €2,000 (two thousand euro).
- 12.2 The liability of the Supplier for indirect damage or loss, resulting loss, loss of profit, loss of savings, reduced goodwill, loss due to business interruption, loss as a result of claims from the Client's customers, loss in connection with the use of items, materials or software provided by third parties that the Supplier is instructed to obtain by the Client and loss in connection with the engagement of secondary suppliers by the Supplier on the Client's instructions shall be excluded. The liability of the Supplier due to the scrambling, destruction or loss of data or documents shall also be excluded.
- 12.3 The exclusions and restrictions to the Supplier's liability, as described in the preceding paragraphs of Article 12, shall not affect the remaining exclusions and restrictions to the Supplier's liability set out in these terms and conditions in any way.
- 12.4 The exclusions and restrictions referred to in Article 12.1 to 12.3 shall no longer apply if and in so far as the loss is the result of deliberate or wilful recklessness on the part of the Supplier's management.
- 12.5 Except where performance by the Supplier is permanently impossible, the Supplier shall only be liable as a result of an attributable failure to perform an agreement if the Client gives the Supplier immediate notice of default in writing, setting a reasonable term in which the breach can be remedied, and the Supplier still attributably fails to meet its obligations after this period. The notice of default must contain as comprehensive and detailed a description of the breach as possible, in order to ensure that the Supplier has the opportunity to respond adequately.
- 12.6 A condition for the existence of any right to compensation shall in all cases be that the Client notifies the Supplier in writing of the loss or damage as soon as possible after it occurs. Any claims for damages against the Supplier shall expire by the mere passage of twenty four months from the date on which the claim arose.
- 12.7 The Client shall indemnify the Supplier against all claims by third parties due to product liability as a result of a fault in a product or system delivered by the Client to a third party and that partly consisted of hardware, software or other materials provided by the Supplier, unless and in so far as the Client is able to demonstrate that the damage or loss was caused by this hardware, software or other materials.
- 12.8 The provisions of this article and all other restrictions and exclusions of liability referred to in these general terms and conditions shall also apply in favour of all (legal) persons that the Supplier engages to implement the agreement.

### **13. Force majeure**

- 13.1 Neither of the parties shall be obliged to meet any obligations, including any guarantee obligation agreed between the parties, if it is prevented from doing so as a result of force majeure. Force majeure shall include: (i) a situation of force majeure encountered by the Supplier's own suppliers, (ii) failure by secondary suppliers engaged by the Supplier on the Client's instructions to duly meet their obligations, (iii) the defectiveness of items, hardware, software or materials provided by third parties that the Supplier has been instructed to use by the Client, (iv) government measures, (v) electricity failure, (vi) faults affecting the internet, computer network or telecommunication facilities, (vii) war, (viii) workload, (ix) strike action, (x) general transport problems and (xi) the unavailability of one or more members of staff.
- 13.2 If a situation of force majeure lasts for longer than ninety days, either of the parties shall be entitled to cancel the agreement in writing. The services already performed on the basis of the agreement shall in this case be settled on a pro rata basis, and the parties shall not owe one another any other amounts.

#### **14. Changes and additional work**

- 14.1 If the Supplier has carried out work or performed other services that fall outside of the content or scope of the agreed work and/or services at the request or with the prior consent of the Client, such work or services shall be paid for by the Client in accordance with the agreed rates. If no rates have been agreed, the Supplier's standard rates shall apply. The Supplier shall under no circumstances be obliged to comply with such a request, and where it does comply, it may require the Client to enter into a separate written agreement for this purpose.

#### **15. Transfer of rights and obligations**

- 15.1 The Client shall not be entitled to sell and/or transfer the rights and/or obligations arising from the agreement to a third party.
- 15.2 The Supplier shall be entitled to transfer its rights to the payment of fees to a third party.

#### **16. Applicable law and disputes**

- 16.1 The agreements between the Supplier and the Client shall be governed by Dutch law. The applicability of the Vienna Sales Convention 1980 is excluded.
- 16.2 Any disputes that may arise between the Supplier and the Client on the basis of an agreement concluded between the Supplier and the Client or as a result of further agreements that arise from such an agreement, shall be resolved by the court in Rotterdam (The Netherlands).

### **LICENSE**

#### **17. Right of use**

- 17.1 The Supplier shall make the computer programs specified in the agreement and the corresponding user documentation, hereinafter referred to as 'the software', available to the Client for use.
- 17.2 Except where agreed otherwise in writing, the Supplier's obligation to provide and the Client's right of use shall solely extend to the so-called software object code. The Client's right of use shall not extend to the software source code. The software source code and the technical documentation produced during the development of the software shall not be made available to the Client under any circumstances, even if the Client is prepared to offer financial compensation for this information.
- 17.3 Except where agreed otherwise in writing, the Supplier shall not be obliged to provide any software or program or data libraries other than those agreed, even if these are required for the use and/or maintenance of the software. If, contrary to the foregoing, the Supplier is required to provide software and/or program or data libraries other than those agreed, the Supplier may require the Client to enter into a separate written agreement for this purpose.
- 17.4 Except where otherwise agreed in writing, the Supplier's performance obligations shall not include the maintenance of the software and/or the provision of support to the users of the software. If, contrary to the foregoing, the Supplier is also required to provide such maintenance and/or support, the Supplier may require the Client to enter into a separate written agreement for this purpose.
- 17.5 Without prejudice to any of the provisions of the terms and conditions, the right of use of the software shall in all cases be non-exclusive, non-transferable and non-sublicensable.

#### **18. Restrictions on use**

- 18.1 The Client shall strictly observe the restrictions on the right of use of the software agreed between the parties at all times. The Client is aware that the violation of an agreed restriction on use shall constitute both breach of the contract with the

- Supplier and an infringement of the intellectual property rights in respect of the software. The agreed restrictions on use may relate to such aspects as:
- the kind or type of hardware that the software is designed for, and/or
  - the maximum number of processing units that the software is designed for, and/or
  - specific – referred to by name or job title or otherwise – individuals who may use the software within the Client’s organisation, and/or
  - the maximum number of users who may use the software – simultaneously or otherwise – within the Client’s organisation, and/or
  - the location at which the software may be used, and/or
  - specific forms and purposes of use (e.g. commercial use or use for private purposes), and/or
  - any other quantitative or qualitative restriction.
- 18.2 The Supplier may require the Client to refrain from using the software until such time as the Client has requested and obtained one or more codes (passwords, identity codes etc.), required for use, from the Supplier, its own supplier, or the software manufacturer. The Supplier shall be entitled to arrange for technical measures to be taken at any time in order to protect the software against unlawful use and/or against use in a manner or for purposes other than those agreed between the parties.
- 18.3 Under no circumstances shall the Client remove or circumvent technical provisions intended to protect the software, or arrange for this to be carried out.
- 18.4 Except where agreed otherwise in writing, the Client shall only be permitted to use the software within and on behalf of its own company or organisation and only for the envisaged use. Except where agreed otherwise in writing, the Client shall not use the software to process data on behalf of third parties, e.g. for services such as 'time-sharing', 'application service provision', 'software as a service' and 'outsourcing'.
- 18.5 The Client shall not be permitted to sell, rent out, transfer or grant restrictive rights to the software, the carriers on which the software is stored and the certificates of authenticity issued by the Supplier on provision of the software, or to make these available to third parties in any way or for any purpose. The Client shall also refrain from granting third parties access – remote or otherwise – to the software or providing the software to a third party for the purpose of hosting, even if the third party in question only uses the software on behalf of the Client.

### **19. Delivery and installation**

- 19.1 The Supplier shall deliver the software to the Client on data carriers in the agreed format, via download or, if no clear agreements have been made in this regard, on data carriers in a format to be determined by the Supplier. Alternatively, the Supplier shall deliver the software to the Client using telecommunication facilities (online). The Supplier shall determine the delivery method.
- 19.2 The Supplier shall only install the software on the Client’s premises if this has been agreed between the parties in writing. If no explicit agreements have been made in this regard, the Client itself shall install, set up, parameterise and tune the software, and adapt the hardware used and operating environment where necessary. Except where agreed otherwise in writing, the Supplier shall not be obliged to carry out data conversion.
- 19.3 The user documentation shall be provided in paper or digital format, with the content to be determined by the Supplier. The Supplier shall decide on the format and language in which the user documentation is provided.

### **20. Acceptance**

- 20.1 If the parties have not agreed that an acceptance test will be carried out, the Client shall accept the software in the condition that it is in at the time of delivery ('as is'), therefore with all visible and invisible errors and defects, without prejudice to the

- Supplier's obligations pursuant to the guarantee scheme in Article 24 of these terms and conditions.
- 20.2 Where terms and conditions refer to 'errors', this shall be understood to mean the substantial failure to meet the functional or technical specifications of the software made known by the Supplier in writing and, if the software is entirely or partly custom-designed, the functional or technical specifications explicitly agreed between the parties in writing. An error shall only be deemed to exist if the Client is able to demonstrate the error and if it is reproducible. The Client is obliged to notify the Supplier immediately of any errors.
- 20.3 The software shall be deemed to have been accepted between the parties:
- a. if the parties have not agreed to an acceptance test: on delivery or, if it has been agreed in writing that the Supplier will carry out the installation, on completion of the installation, or
  - b. if the parties have agreed to an acceptance test: on the first day following the test period.
- The software shall be deemed to have been accepted in full from the time at which such use commenced.
- 20.4 Acceptance of the software by one of the methods referred to in this Article shall mean that the Supplier is discharged in respect of compliance with its obligations in relation to the provision and delivery of the software and, if it has been agreed that the Supplier will carry out the installation, with its obligations in relation to the installation of the software. Acceptance of the software shall not affect the Client's rights pursuant to Article 20.5 in relation to minor faults and Article 24 in relation to the guarantee scheme.
- 20.5 Acceptance of the software may not be withheld on grounds that do not relate to the specifications explicitly agreed between the parties, nor due to the existence of minor defects, these being defects that cannot reasonably be deemed to prevent the operational or productive use of the software, without prejudice to the Supplier's obligation to rectify these minor defects within the context of the guarantee scheme in Article 24, if and in so far as applicable. Acceptance may also not be withheld on the basis of aspects of the software that can only be assessed subjectively, such as aesthetic aspects and aspects relating to the design of user interfaces.
- 20.6 Acceptance of the software by one of the methods referred to in this Article shall mean that the Supplier is discharged in respect of compliance with its obligations in relation to the provision and delivery of the software and, if it has been agreed that the Supplier will carry out the installation, with its obligations in relation to the installation of the software. Acceptance of the software shall not affect the Client's rights pursuant to Article 20.5 in relation to minor defects of faults and Article 24 in relation to the guarantee scheme.

## **21. Term of the agreement**

- 21.1 The agreement regarding the provision of the software has been entered into for the term agreed between the parties. If no term has been agreed, a term of one year shall apply. The agreement shall commence on the day on which the Client is provided with the software. The term of the agreement shall be extended automatically by the term of the original period each time, unless the Client or the Supplier terminates the agreement in writing with due observance of a notice period of three months prior to the end of the period in question.
- 21.2 The Client shall return all copies of the software that it has in its possession to the Supplier immediately following expiry of the right of use of the software. If the parties have agreed that the Client will destroy the relevant copies at the end of the agreement, the Client shall notify the Supplier immediately in writing that this has been carried out. The Supplier shall not be obliged to provide the Client with



assistance on or after expiry of the right of use with a view to data conversion required by the Client.

## **22. Right of use fee**

- 22.1. Except where agreed otherwise in writing, the right-of-use fee agreed between the parties shall be due on the dates agreed between the parties or, if no dates have been agreed:
- a. if the parties have not agreed that the Supplier will carry out the installation of the software: on delivery of the software or, if the right of use fee is due periodically, on delivery of the software and subsequently on commencement of each new right of use period;
  - b. if the parties have agreed that the Supplier will carry out the installation of the software: on completion of the installation of the software or, if the right of use fee is due periodically, on completion of the installation of the software and subsequently on commencement of each new right of use period.
- 22.2 Except where agreed otherwise in writing, the Supplier shall not be obliged to install or adapt the software.

## **23. Modification of the software**

- 23.1 Except where agreed otherwise in writing and notwithstanding exceptions set out in law, the Client shall not be entitled to modify the software in part or in full without the prior written consent of the Supplier. The Supplier shall at all times be entitled to refuse its consent or to attach conditions to its consent, including conditions in relation to the method and quality of implementation of the modifications required by the Client.

## **24. Guarantee**

- 24.1 The Supplier shall not guarantee that the software made available to the Client will be suitable for the actual and/or envisaged use by the Client. The Supplier shall also not guarantee that the software will operate with no interruptions, errors or defects or that all errors and defects will always be rectified.
- 24.2 The Supplier shall make every effort to rectify errors in the software within the meaning of Article 20.5 of these terms and conditions within a reasonable period of time if the Supplier receives detailed, written notification of these errors within a period of three months following delivery or, if the parties have agreed to an acceptance test, within three months of acceptance. Errors shall be rectified free of charge, unless the software was developed on behalf of the Client other than at a fixed price, in which case the Supplier shall invoice the costs associated with rectifying the errors at its standard rates. The Supplier shall be entitled to invoice the costs of rectifying errors at its standard rates in the event of operational errors or improper use by the Client, or other causes that are not attributable to the Supplier, or if the errors could have been discovered during the implementation of the agreed acceptance test. The Supplier shall not be obliged to rectify errors if the Client has made changes to the software, or has arranged for this to be carried out, without the written consent of the Supplier. Such consent shall not be withheld on unreasonable grounds.
- 24.3 The rectification of errors shall take place at a location to be determined by the Supplier. The Supplier shall be entitled to install temporary solutions, workarounds or problem-avoiding restrictions in the software at any time.
- 24.4 Under no circumstances shall the Supplier be obliged to recover scrambled or lost data.
- 24.5 The Supplier shall not be obliged to rectify errors that are reported following expiry of the guarantee period referred to in Article 24 of these terms and conditions, unless

the parties have entered into a separate maintenance agreement that incorporates an obligation to this effect.