

JHS 166 Terms and Conditions of Public IT Procurement

Annex 1. General Terms and Conditions (JIT 2015 – General Terms and Conditions)

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INSTRUCTIONS FOR USE

Public procurement units are recommended to use these terms and conditions attached to an agreement when they enter into IT procurement.

These General Terms and Conditions supplement the agreement on procurement which describes the parties to the agreement, the object of the agreement, the content of the delivery or service, the requirements set for the object of the agreement, the detailed obligations and responsibilities of the parties, the schedules, prices and payment terms, as well as any other terms and conditions that deviate from or supplement these Terms and Conditions.

The structure of the agreement must always be planned thoroughly and, if required, the continuation of the client's operations in the event of the termination of the agreement must be ensured. With regard to the order of application of appendices to the agreement, it must be taken into account that the *JIT 2015 – Special Terms and Conditions* attached to the agreement take precedence over these General Terms and Conditions.

The agreement must clearly indicate which terms and conditions have been agreed upon in deviation from these General Terms and Conditions and the special terms and conditions, and what the content of such change is. All changes must either be made in the main agreement text or in a separate appendix to the agreement. It is not recommended, for the sake of clarity, to add to the procurement agreement a stipulation on a matter which has already been covered by the General Terms and Conditions, unless the purpose is to expressly agree otherwise upon such a stipulation. For the uniformity of the terms and conditions of an agreement, no changes may be made to the document *JIT 2015 – General Terms and Conditions* or the documents of special terms and conditions.

The General Terms and Conditions do not regulate the consequences of the cancellation of the agreement. However, any cancellation usually has significant legal consequences on the contractual relationship and the rights and obligations of the contracting parties. Depending on the situation, these may include an obligation to return the object of delivery or the purchase price or the obligation to pay damages. If the cancellation concerns an agreement on a continuous service, it should also be taken into account that it is not usually possible to return any payments for services already performed. Users of these agreement terms and conditions are well-advised to obtain legal advice already when they are considering the cancellation of the agreement so that the special characteristics of each case can be taken into account and the consequences of the cancellation on the parties can be assessed.

The public fees stated in *Section 7* refer to a tax or fee (e.g. electricity tax or customs duty) directly concerning an item or service which is the object of procurement, not fees related to indirect costs.

If necessary, the contracting parties should agree upon terms of security-related terms and conditions and associated sanctions through a separate agreement. A security agreement template has been provided in the Instructions on Government ICT Procurement (*VAHTI instructions 3/2011*), which are available at www.vahtiohje.fi.

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When assessing the transferability of the agreement, any restrictions arising from procurement legislation must be taken into account. Restrictions on making amendments to an agreement are prescribed in the legislation on public contracts and access rights agreements (1397/2016, section 136).

These General Terms and Conditions are intended to be always used so that applicable special terms and conditions are used in addition to the General Terms and Conditions of Public IT Procurement (*JIT 2015 – General Terms and Conditions*). The special terms and conditions are not intended to be used without the General Terms and Conditions and, correspondingly, the General Terms and Conditions may not be used without any special terms and conditions applicable to the procurement.

Of all the special terms and conditions, those that are applicable to the specific procurement must be selected. If several special terms and conditions are applied to the procurement, their order of application must be considered with special care, and the final order must be agreed upon in the main agreement. The use of special terms and conditions shall be considered thoroughly, and they should not be added to the agreement for the sake of security.

It is recommended that the applicable special terms and conditions be attached as agreement documents to the agreement to be signed instead of only adding a reference to them. This way, disagreements over which terms and conditions are applicable and binding can be avoided. When preparing an invitation to tender, the client should pay special attention to provisions including the phrase “*Unless otherwise agreed*”, and clearly indicate in the invitation to tender whether the client wishes to deviate from the main rule of such provision.

These General Terms and Conditions and the special terms and conditions have been prepared taking into account *Act 1397/2016*. Other procurement legislation, such as the Act on Public Contracts in the Fields of Defence and Security (*1531/2011*), include deviating provisions (e.g. *Chapter 4 Subcontracting*) that must be taken into account when preparing the procurement agreement.

These use instructions do not form part of the agreement.

JIT 2015 – General Terms and Conditions

Agreement date and no.: _____

Annex no.: _____

Table of contents

1Scope of application.....	1
2Definitions.....	2
3Contact persons.....	4
4Subcontracting.....	4
5Object of the agreement.....	5
6Infringement of intellectual property rights.....	5
7Price and pricing principles.....	6
8Terms of payment.....	7
9Changes in delivery.....	7
10Force majeure.....	8
11Compensation for damage and limitation of liability.....	8
12Cancellation of the agreement and price reductions.....	9
13Termination of the agreement in special situations referred to in the legislation on public contracts.....	9
14Notification obligation.....	10
15Transfer of the agreement.....	10
16Transfer of standard software.....	10
17Confidentiality.....	10
18Information security and data protection.....	11
19Auditing right.....	11
20Exporting.....	12
21Amending the agreement.....	12
22Settlement of disputes.....	12
23Applicable law.....	12

1 Scope of application

(1) These General Terms and Conditions of Public IT Procurement shall be observed in the procurement of IT products and services by public procurement units if they have been referred to in the agreement and to the extent they have not been agreed upon otherwise in writing.

(2) Dependent on the nature and scope of the procurement, one or more of the following special terms and conditions shall be applied as terms and conditions supplementing these General Terms and Conditions as further agreed upon in the agreement:

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- i. Special Terms and Conditions for the Procurement of Client's Application under Open Source Software Terms (JIT 2015 – Client's Applications Open Source)
- ii. Special Terms and Conditions for the Procurement of Client's Application under Software Terms Other than Open Source (JIT 2015 – Client's Applications Non-Open)
- iii. Special Terms and Conditions for Projects Implemented Using Agile Methods (JIT 2015 – Agile Methods)
- iv. Special Terms and Conditions for Services (JIT 2015 – Services)
- v. Special Terms and Conditions for Consulting Services (JIT 2015 – Consulting)
- vi. Special Terms and Conditions for Procurement of Hardware (JIT 2015 – Hardware)
- vii. Special Terms and Conditions for Services Delivered via a Data Network (JIT 2015 – Services via Network)
- viii. Special Terms and Conditions for the Processing of Personal Data (JIT 2015 – Personal Data)
- ix. Supporting material: JHS 166 Open interfaces in information system or service procurement.

In case of any conflict, the special terms and conditions shall be given priority over these General Terms and Conditions of Public IT Procurement with regard to their corresponding provisions.

2 Definitions

open source software

fi avoimen lähdekoodin ohjelma

software, the source code of which is freely available to the licence recipient or has been given to the licence recipient and which, according to the terms and conditions of the licence, may, both in source code and executable form,

1. be copied and distributed without any royalties or other charges, and without limitations on the distribution of the software with other software,
2. be modified, and the modifications and modified versions of which may be copied and distributed under the same terms and conditions as those governing the unmodified version, and
3. be freely used for any purpose

The software licence does not restrict who can utilise the rights granted therein.

data description

fi datakuvaus

a description of the content, formatting, structure and metadata of the client's data material

The data description is exhaustive, i.e. it covers all of the client's stored data material, and it may, without being limited by the supplier's intellectual property rights, be made publically available without the publisher or user of the description needing to pay any charges to the rights holder.

in writing, written

fi kirjallinen

communications taking place using letters, numbers or figures

The expression also covers any information sent and stored in electronic format.

rollout

fi käyttöönotto

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all of the tasks and procedures that are necessary in order to take the object of delivery into use

service

fi palvelu

the supplier's service which is the object of the agreement and has been specified in the agreement, as well as any associated documentation

agreement

fi sopimus

an agreement on a product or service entered into between the contracting parties, including its appendices, and the general and special terms and conditions of public IT procurement that have been specified to form part of the agreement

The parties to the agreement are referred to as the supplier and client and the contracting parties.

data material openness requirement

fi tietoaaineiston avoimuusvaatimus

a requirement, according to which the client's data material must be available in a commonly used format and available for processing using information systems other than those covered by the agreement without any royalties, licence fees or other terms and conditions that restrict its processing

The openness requirement remains in effect regardless of who processes the data.

client's material

fi tilaajan aineisto

the client's documents, written information, databases and software used in conjunction with the delivery of a product or service or included therein, and other material which the client has handed over to the supplier for the production of a product or service, as well as any of the client's data material, its formatting, structure and metadata created when using the product or service

The structure of data material does not refer to the technical storage structure of the data material; instead, it refers to the conceptual structuring and organisation of the material for the client's purposes. In terms of technical storage, the data material can be stored in files or databases or in any other format. In this definition, data content and data refer to both raw data and refined data.

object of delivery

fi toimituksen kohde

the products and services which are the object of the agreement

part of delivery

fi toimituksen osa

a part of delivery refers to a part of the object of delivery, for which a separate delivery schedule has been agreed upon and which is delivered to the client for a separate approval

change in delivery

fi toimituksen muutos

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an agreed addition, specification or removal concerning the agreed delivery scope or content of the object of delivery

product

fi tuote

a device, accessory, software or other similar product which is the object of the agreement

The product includes its associated documentation.

requirement

fi vaatimus

the functional and technical requirements, requirements related to performance, purpose of use and information security, as well as any other requirements set out for the product or service in the agreement

3 Contact persons

(1) Both contracting parties shall appoint a contact person whose task is to monitor and supervise the fulfilment of the agreement and provide the contracting parties with information about matters related to the fulfilment of the agreement. The contact persons shall not have the right to amend the agreement. The contracting parties must immediately notify the other contracting party's contact person of any replacement of its contact person in writing.

4 Subcontracting

(1) The contracting parties may assign their tasks covered by the agreement to a subcontractor. The contracting parties shall be responsible for the work of their subcontractors as of their own work. Furthermore, the contracting parties shall be responsible for ensuring that their subcontractors follow the obligations set for the contracting parties.

(2) The supplier may only use subcontractors approved by the client to produce the service referred to in the agreement. The client may not refuse from issuing its approval without a justified reason.

(3) The supplier shall not have the right to replace a subcontractor named in the procurement agreement or a subcontractor participating in the fulfilment of significant contractual obligations without the client's consent.

(4) If the production of the service takes place in facilities that are under the direct supervision of the client and the supplier uses subcontractors to produce the service, the supplier must notify the client, before starting the production of the service, of the names, contact details and legal representatives of the subcontractors, if this information has not been stated in the procurement agreement. In addition, the supplier shall notify the client of all changes and additions to its subcontractors as referred to in this section.

(5) The supplier shall have the obligation, upon the client's demand, to replace a subcontractor if it is subject to the mandatory or discretionary exclusion clause referred to in the legislation on public contracts, even if the clause has only arisen after the contractual relationship started.

5 Object of the agreement

- (1) The product and service must comply with the agreement, be suitable for the agreed purpose of use and function in the manner agreed. The supplier shall be responsible for ensuring that the product and service fulfil the requirements defined in the agreement and any specifications agreed upon mutually in writing. If a specification is in conflict with the requirements, the specification shall take precedence.
- (2) If a contracting party identifies that the specifications deviate from the requirements, the contracting party must notify the other contracting party of the deviation in writing. The notification shall describe to which extent the requirements are not fulfilled. Any changes made to the requirements shall be processed in accordance with *Section 9*.
- (3) On the occasion of delivery, the product and service must be in accordance with such legislation and orders of authorities which are in force on the effective date of the agreement or which have been issued on or by that date and enter into force during the agreement period. However, the client is obligated to notify the supplier of any special legislation and orders of authorities which are applied to the client and relate to the product or service. The client shall be responsible for ensuring that the specifications conform to the requirements set out in the aforementioned special legislation and orders of authorities.
- (4) The product and service include the agreed end results and the documentation, certificates, permits and other documents that are required for the direct use of the product or the utilisation of the service in accordance with the agreement.
- (5) The service, any training related to the product or service, and any user instructions related to their direct use must be in Finnish, unless otherwise agreed in writing. Technical documentation may be in either Finnish or English.

6 Infringement of intellectual property rights

- (1) The supplier shall be responsible for ensuring that the object of delivery, when used in accordance with the agreement, does not infringe any patent rights, copyrights or other intellectual property rights of third parties in force in Finland.
- (2) The supplier is obligated to defend the client at its own expense if a claim is presented against the client alleging that the object of delivery infringes the intellectual property rights of a third party in Finland, provided that the client without delay notifies the supplier in writing of the presented claim, allows the supplier to exercise the defendant's authority to conduct litigation and, upon the supplier's request and at the supplier's expense, provides the supplier with all necessary information and assistance available, and the authorisations required. The supplier shall be responsible for paying any imposed or agreed compensation to the third party if the client has acted as described above. The client shall have the right to take any action necessary in order to respond to the claim until the supplier appoints a party satisfactory to the client to attend to the case. The client may not refuse from accepting the party appointed by the supplier without a justified reason.
- (3) If the supplier justifiably deems or it has been found under legal proceedings that the object of delivery infringes the intellectual property rights of a third party in Finland, the supplier shall have the right and obligation, at its own expense and discretion, to (a) obtain for the client the right to continue the use of the object of delivery, (b) replace the object of delivery with a corresponding product or service which complies with the agreement, or (c) modify the object of delivery so that it no longer infringes any rights, while still being in compliance with the agreement. If none of the aforementioned options are possible for the contracting party under reasonable terms, the contracting party shall have the right to cancel the agreement with respect to the infringing part. The agreement may be cancelled in full if, due to the infringement, the purpose of the agreement remains essentially unfulfilled.
- (4) However, the supplier shall not be responsible for a claim which:

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- (a) is presented by a party which has control over the client or over which the client has control;
- (b) is caused by a modification made by the client to the object of delivery or by observing instructions issued by the client in writing;
- (c) is caused by the use of the product together with a product or service not included in the delivery, and such a use has not been agreed upon between the contracting parties; or
- (d) could have been avoided by using a released product or service which corresponds to the object of delivery, is in compliance with the agreement and was offered to the use of the client by the supplier without any separate charge.

(5) The supplier shall only be responsible for any infringement of intellectual property rights to the extent agreed upon in *Sections 6(1)* and *6(2)*.

(6) The limitations of liability concerning compensation for damage as referred to in *Section 11(1)* do not apply to any liabilities resulting from an infringement of intellectual property rights as referred to above in *Sections 6(1)* and *6(2)*.

(7) Primarily, the infringement of intellectual property rights associated with open source software shall be subject to, instead of these General Terms and Conditions and any special terms and conditions, the terms and conditions of such open source software.

(8) Primarily, the infringement of intellectual property rights associated with standard software is subject to, instead of these General Terms and Conditions and any special terms and conditions, the terms and conditions of such standard software. The applicable terms and conditions of standard software shall be attached to the agreement. However, the General Terms and Conditions shall apply if the holder of rights to the standard software is the supplier or a party which has control over the supplier or over which the supplier has control.

7 Price and pricing principles

(1) The prices stated in the agreement include the public fees that are in effect on the date of its entry into force, apart from value added tax. Value added tax is added to invoiced prices in accordance with the legal provisions in force at each time. If the amount of public fees or their collection basis changes, the prices stated in the agreement shall change correspondingly.

(2) If the client, on the basis of the agreement, has the right to discounts based on procurement volumes, these discounts shall also apply to new versions and expansions of the product and service.

(3) During the agreement period, the supplier may adjust the prices every calendar year to correspond with the actual cost development covering the object of the agreement. However, this is only possible to the extent the prices have not been agreed to be fixed and only if the following conditions are met:

- The price change is based on general cost development regarding the object of delivery;
- The reason for the price change has arisen after signing the agreement;
- The reason for the price change has an immediate effect on the price of a product or service in accordance with the agreement; and
- The reason for the price change is not attributable to the supplier's activities (apart from changes based on general salary development).

The supplier shall notify the client in writing of any changes in prices at least two (2) months prior to the start of the invoicing period during which the change enters into force. In connection with a price change, the supplier must provide the client with a proper account of the general cost development on which the price change is based.

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(4) If no unanimous decision can be reached on price changes, the client shall have the right to terminate the agreement with regard to the specific product or service so that it ends on a date selected by the client. The termination must be made in writing before the new prices enter into force. Furthermore, the client shall have the right to terminate the agreement with regard to other products and services that, due to the aforementioned termination, cannot be used in their pertinent part for the agreed purpose. If the client terminates the agreement, the supplier shall be obligated to apply the unchanged prices for six (6) months after the issuance of the termination notice.

(5) The price of the product or service includes travel and accommodation costs, daily allowances and overtime pay, and they shall not be charged separately. Additionally, the supplier shall not be entitled to collect compensation for travel time. If the supplier, according to the agreement, is entitled to charge travel and accommodation costs and the parties have agreed upon travel in advance, the client shall compensate the supplier for reasonable travel and accommodation costs according to the Government's travel regulation. However, the supplier shall not charge travel costs for trips of at most 30 kilometres from the supplier's unit. Furthermore, the supplier shall not charge travel time for trips of less than 30 kilometres, and the supplier shall charge half of travel time for trips of more than 30 kilometres.

8 Terms of payment

(1) All payments are paid on the basis of an invoice. Invoices fall due and payable after twenty-one (21) days of the dispatch of an invoice in accordance with the agreement.

(2) The supplier shall have the right to invoice agreed payments once the client has approved in writing the delivery, or a part thereof, which is the object of the invoice. However, the supplier shall invoice recurring payments at agreed invoicing intervals. Each invoice must include a sufficient itemisation of the basis of invoicing.

(3) If the client must pay an advance under the agreement, the supplier shall, upon the client's demand before the payment of the advance, lodge for the client a security approved by the client which is at least 15 per cent higher in value than the advance to be paid. The security must be valid for at least one (1) month after the end of the delivery period under the agreement. If the delivery is delayed, the supplier must extend the validity of the security. The supplier shall be responsible for all security-related costs.

(4) If the client fails to pay a correctly invoiced payment by the due date, the supplier shall have the right to collect penalty interest on the basis of the Interest Act. Interest shall be collected according to the interest rate valid during the delay period as announced according to the Interest Act.

(5) If a clear and undisputed payment is delayed by more than thirty (30) days without proper cause, the supplier shall have the right to discontinue the fulfilment of the obligations of the agreement. The supplier shall notify the client of the discontinuation in writing at least fifteen (15) days prior to the discontinuation.

9 Changes in delivery

(1) All changes in the delivery and their impact on the delivery schedule or price shall be agreed upon in writing following a mutually agreed procedure.

(2) The client shall pay compensation for changes in the delivery if they cause additional work and costs for the supplier. This requires that paying compensation for changes in the delivery has been agreed upon in advance in writing.

10 Force majeure

(1) Force majeure refers to such unusual incident affecting the matter which prevents the agreement from being fulfilled, has occurred after the agreement has been entered into, and which the contracting parties had no reason to take into account when entering into the agreement and is independent of the contracting parties, and the consequences of which cannot be prevented without unreasonable additional costs or unreasonable loss of time. Such an incident may be a war, mutiny, expropriation or confiscation for a public need, import or export ban, natural disaster, interruption in public transportation, public data communications or energy distribution, industrial action, fire or another unusual incident independent of the contracting parties and with as significant an impact.

(2) If the performance of contractual obligations is delayed due to such a force majeure situation, the period within which the contractual obligation is to be performed will be extended as much as is deemed reasonable considering all of the conditions affecting the incident.

(3) The contracting parties must immediately notify the other contracting party of any force majeure situation, and of the end of the force majeure situation.

(4) Force majeure also covers force majeure situations concerning subcontractors of the contracting parties if such subcontracting cannot be acquired from another source without unreasonable costs or a significant loss of time.

(5) The contracting parties may terminate the agreement with immediate effect if the fulfilment of the agreement, due to a verified force majeure situation, is delayed by more than four (4) months.

11 Compensation for damage and limitation of liability

(1) The contracting parties shall have the right to receive compensation for any direct damage caused by the breach of agreement by the other contracting party.

(2) If a contracting party is obligated to pay penalty interest, a service level penalty or another contractual penalty or compensation, the contracting party shall also be obligated to pay compensation for damage insofar as the amount of damage exceeds the penalty interest, service level penalty or other contractual penalty or compensation.

(3) The total amount of a contracting party's liability for damages under the agreement vis-à-vis the other contracting party, inclusive of any possible penalty interest, service level penalty or other contractual penalty or compensation, shall be at most the total price of the object of delivery. If the object of delivery is a product or service invoiced by way of recurring payments, the total amount of liability for damages, inclusive of any possible penalty interest, service level penalty or other contractual penalty or compensation, shall be at most the calculatory price of the object of delivery over twelve (12) months.

(4) A contracting party shall not be responsible for the destruction, disappearance or alteration of the other contracting party's information or files or any costs arising from this, such as costs arising from the recreation of the information or files. However, this provision shall not apply if, under the agreement, the contracting party has the obligation to take care of the usability and availability of the other contracting party's information and files, and the contracting party has breached this obligation.

(5) A contracting party shall not be responsible for any indirect damage.

(6) The limitations of liability under these terms and conditions do not apply to situations where a contracting party has caused the damage through intent or gross negligence, has breached the non-disclosure obligation, or has infringed intellectual property rights, has copied or used the product in violation of law or the agreement, or has breached export and transfer restrictions.

(7) If a contracting party has, in accordance with Article 82, paragraph 4 of the General Data Protection Regulation [(EU) 2016/679], paid compensation for the damage suffered by a data subject, this contracting party shall be entitled to claim back from the other contracting party involved in the same processing that part of the compensation corresponding to their part of responsibility for the damage, in accordance with the General Data Protection Regulation.

12 Cancellation of the agreement and price reductions

(1) A contracting party may cancel the agreement in full or in part in the following situations:

- i. The preconditions of cancellation set out in Section 6(3) are fulfilled.
- ii. The other contracting party is in essential breach of its contractual obligations. If the breach of agreement is remediable, the contracting party may only cancel the agreement if the contracting party in breach of the agreement has not remedied its breach of agreement within reasonable time after the contracting party has given a written notification of the breach and its intention to cancel the agreement.

(2) The following circumstances shall always be regarded as essential breaches of agreement:

- i. The object of delivery is, on the basis of errors identified therein or the waiting and repair periods resulting from their repair, is of such a poor quality or defective that it cannot be used in full or in its pertinent part for its agreed purpose of use over at least thirty (30) days during the warranty period.
- ii. The supplier fails to fulfil the agreement within the agreed time period and the non-fulfilment of the agreement is caused by a reason for which the supplier is responsible, provided that the delay has lasted more than one third of the agreed delivery time and, however, at least fourteen (14) days, or, if the delivery time is longer than one (1) year, more than four (4) months. The client may always cancel the agreement irrespective of these time limits if timely performance is essential for the client and the supplier has been aware of this.
- iii. A clear and undisputed payment of a significant amount is delayed by more than forty-five (45) days for reasons independent of the supplier or force majeure, and the supplier has notified the client of the delay and the threat of cancellation in writing at least fifteen (15) days prior to the cancellation.

(3) The cancellation must be made in writing.

(4) If the client has the right to cancel the agreement or a part thereof, the client may, instead of the cancellation, demand a reasonable price reduction from the supplier. However, no right to a price reduction exists to the extent there is an error in the service on the basis of which the supplier is obligated to pay a contractual penalty to the client for a breach of an agreed service level.

13 Termination of the agreement in special situations referred to in the legislation on public contracts

(1) The client shall have the right to terminate the agreement with immediate effect if it can prove that it would not have entered into the agreement with the supplier if the client had been aware of the actual conditions concerning the supplier when making its procurement decision or when entering into the agreement. These conditions refer to the mandatory and discretionary exclusion clauses referred to in the legislation on public contracts.

(2) The client shall have the right to terminate the agreement with immediate effect in full or in part if a material change has been made to the agreement which, on the basis of the legislation on public contracts, would have required a new procurement process.

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(3) The client shall have the right to terminate the agreement with immediate effect if it can prove that the agreement should not have been entered into with the supplier because the EU court has, in proceedings in accordance with article 258 of the Treaty on the European Union, stated that it has been in severe breach of obligations in accordance with treaties and procurement directives.

(4) If the client terminates the agreement in accordance with this *section 13*, the supplier shall have the right to receive a full payment of the services produced or the products delivered prior to the termination of the agreement, but no right to any other compensation due to the termination of the agreement.

14 Notification obligation

(1) (1) Both contracting parties shall without delay notify the other contracting party of matters that have essential significance for the fulfilment of the agreement.

15 Transfer of the agreement

(1) The client shall have the right to transfer its rights and obligations under the agreement to a third party to which the tasks performed by the client are or will be transferred in full or in part; however, taking into account what has been stipulated regarding the transfer of standard software in *Section 16.1*. The supplier must be notified of the transfer in advance in writing.

(2) Any other transfer of the agreement is only permitted through a transfer agreement signed by both contracting parties. A contracting party may not refuse the transfer without reasonable cause.

16 Transfer of standard software

(1) The right to transfer standard software is determined on the basis of the terms and conditions of the standard software in question. The supplier is obligated, within reasonable means available to it, to cooperate in order to make the transfer of the rights possible.

17 Confidentiality

(1) The client shall comply with the provisions on confidentiality and publicity set out in the Act on the Openness of Government Activities (621/1999) and in other legislation.

(2) The contracting parties shall keep secret all material obtained from each other which is marked as confidential or otherwise deemed to be confidential or to contain business secrets, and will not use the information for purposes other than the purposes of the agreement. However, the client shall have the obligation to comply with its obligations under *Section 17(1)*. The contracting parties shall ensure that all persons in their employ or service as well as any subcontractors comply with this provision. This provision shall also remain valid after the termination of the agreement.

(3) The confidentiality obligation does not apply to information which is generally available or public or which a contracting party has lawfully obtained from a source other than the other contracting party.

(4) The contracting parties shall ensure, within their areas of responsibility, that legal provisions and orders of authorities concerning data protection and confidentiality are observed.

(5) Upon termination or cancellation of the agreement or assignment, the contracting parties shall return or, with the consent of the other contracting party, destroy all confidential material of the other contracting party. No material may be destroyed if the law or an order of an authority requires that it be archived.

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(6) A contracting party shall have the right to use the expertise and experience obtained in connection with the delivery.

(7) The supplier shall not have the right to use the agreement as a reference without the client's written permission.

18 Information security and data protection

(1) The supplier shall comply with the good information management practice referred to in the Act on the Openness of Government Activities (621/1999) and any other information security arrangements possibly agreed upon by the contracting parties for the purpose of ensuring information security and data protection. With regard to clients within the central government, the supplier must also comply with the provisions on the classification and handling of confidential information under the Government Decree on Information Security in Central Government (681/2010) in accordance with the requirements presented by the client in the agreement.

(2) The supplier shall ensure that the hardware used in its services and its service production facilities are properly protected against information security risks and that the procedures related to protection and information assurance are followed. The client must take similar action to secure its facilities.

(3) The supplier shall comply with the good information processing practice required under the effective legislation on data protection and with any provisions on the protection of information. The supplier shall ensure that the processing of personal data for which it is responsible complies with the valid data protection legislation and the requirements of the agreement.

(4) The supplier will see to the proper protection of the information it processes against any unlawful or accidental disappearance or destruction.

(5) The level of ICT contingency and information security corresponding to the needs of the client's operating environment and operations are agreed upon in the agreement. During the agreement period, the supplier shall actively monitor general development associated with information security and shall present proposals to the client for actions that would improve information security and ICT contingency. The client shall decide on the implementation of the proposals through change management procedure.

(6) The client may, at its own expense, apply for a security clearance to be conducted for the personnel engaged in service production if the preconditions defined in the legislation are fulfilled, or for a similar clearance in the home state or the primary state of residence of such person. The supplier commits to participating in obtaining the consent of those concerned.

19 Auditing right

(1) The client shall have the right to conduct or have an independent third party conduct an audit which may be targeted at the object of delivery and its compliance with the requirements, the correctness of invoicing, the functionality of control and management systems, level of data security, information security and the correctness of reporting. The audit may not be targeted at a period preceding the audit by more than twelve (12) months.

(2) The client shall be responsible for the direct costs arising from the audit. If an essential error is discovered in an audit, the supplier shall be responsible for the direct costs arising from the audit required to identify the error. No indirect costs shall be compensated. At most two (2) audits per year may be conducted.

(3) The client shall notify the supplier in writing of its intention to conduct an audit or have one conducted two (2) weeks in advance. At the same time, the client shall give notification of the use of any third parties during the audit. The supplier shall have the right not to accept a specific third party if the third party is a

JUHTA – The Advisory Committee on Information Management in Public Administration

competitor of the supplier with regard to the functions to be audited. The third party conducting the audit may only use information about the supplier for auditing purposes in the assignment in question. In addition, the third party in question shall be subject to the same confidentiality obligations as the contracting parties.

(4) Before the start of the audit, the auditor must, if the supplier so demands, provide the supplier with a written non-disclosure commitment, the content of which corresponds with the non-disclosure obligation between the contracting parties. However, a non-disclosure commitment required from a natural person may not include financial sanctions independent of intent or negligence, or contractual penalty. The supplier shall not have any obligation to disclose or express any such information to the auditor, the disclosure of which might endanger the information security of the supplier's other customers or to the disclosure of which the supplier is not entitled. However, the client shall always have the opportunity to audit the object of delivery to a proper extent.

20 Exporting

(1) The contracting parties commit to complying with any export restrictions concerning the products and services.

21 Amending the agreement

(1) The agreement may only be amended through an amendment agreement signed by both contracting parties.

22 Settlement of disputes

(1) Any disputes related to or arising from the agreement shall primarily be settled through mutual negotiations.

(2) If a dispute cannot be settled in negotiations, it shall be settled by the district court of the defendant's domicile.

(3) If the contracting parties so agree, the dispute may also be referred to an arbitration tribunal.

23 Applicable law

(1) The agreement shall be governed by the laws of Finland, excluding its choice-of-law provisions.