



Under the party may assign or assign the Deliverables to a third party, provided that the assignee is a company whose votes and/or capital are more than fifty per cent (50%) controlled directly or indirectly by Telefonaktiebolaget LM Ericsson.

#### 9. LIMITATION OF LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR TORT DAMAGES OF ANY NATURE OR KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, IN CONNECTION WITH OR ARISING OUT OF THE USE OR LICENSING OF DELIVERABLES, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS SECTION 9 SHALL HOWEVER NOT APPLY TO DAMAGES WITH RESPECT TO BREACH OF SECTION 6 (WARRANTY) AND SECTION 8 (INFRINGEMENTS) OR IF THE DEFAULTING HAS BEEN ACTING WITH GROSS NEGLIGENCE OR WITH WILLFULL MISCONDUCT.

#### 10. TERM AND TERMINATION

10.1 An agreement based on these terms and conditions shall come into force upon the first delivery of the Deliverables and shall remain valid for a period of five (5) years if not terminated in accordance with the provisions of this agreement. Such agreement will be automatically renewed for successive terms of two (2) years each unless either party provides the other party with a written notice of termination at least one (1) year prior to the expiration of the then existing term.

10.1 In case of a substantial breach of an agreement based on these terms and conditions by either party not remedied within thirty (30) days from the other party's notice thereof, or in case either party should become bankrupt or insolvent, the other party shall have the right to terminate such agreement with immediate effect. If so terminated by Licensor, all rights and licenses in respect of the Deliverables furnished hereunder shall cease. If so terminated by Ericsson, all such rights and licenses shall continue.

10.2 Provisions contained in these terms and conditions that are expressed or by their sense and context are intended to survive the expiration or termination of any agreement based hereon, shall so survive the expiration or termination.

#### 11. MISCELLANEOUS

11.1 Licensor undertakes to comply with the applicable requirements in the Licensee's Code of Conduct. The at all times latest version of the Licensee's Code of Conduct can be found at: [http://www.ericsson.com/ericsson/corporate\\_responsibility/doc/codeofconduct.pdf](http://www.ericsson.com/ericsson/corporate_responsibility/doc/codeofconduct.pdf)

11.2 The Purchase Order and these terms and conditions contain the entire agreement between the parties on the subject matter hereof, and supersedes all undertakings and agreements previously made between the parties with respect thereto. These terms and conditions may be modified only by a written document duly signed by both parties and referencing these terms and conditions.

11.3 The failure by either party to enforce any provisions hereof or to exercise any right in respect hereto shall not be construed as constituting a waiver of its rights thereof.

11.4 If any provision hereof would at any time be in conflict with any law or regulation compulsorily applicable to these terms and conditions, the parties shall endeavour to amend such provision, so that the intent of these terms and conditions may be carried out to the extent legally possible. The invalidity, because of any such law or regulation, of provisions of these terms and conditions which are not fundamental to their performance shall not relieve any party from its obligations under the other provisions hereof, nor deprive any party of the benefits of such other provisions.

11.5 All notices required or authorised hereunder shall be effective upon delivery if delivered in person or five days after posting if posted first class, certified, postage prepaid, addressed to the addresses listed on page one, or to such other address that either party provides by advance written notice in the manner set out above.

#### 12. GOVERNING LAW AND ARBITRATION

12.1 An agreement based on these terms and conditions shall be governed by and construed in accordance with the laws of Sweden.

12.2 All disputes, differences or questions between the parties arising out of or relating to such agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in Stockholm, Sweden, by three (3) arbitrators, appointed in accordance with the said Rules. The arbitration proceedings shall be conducted in the English language. All awards may if necessary be enforced by any court having jurisdiction in the same manner as a judgement in such court.

12.3 The parties undertake and agree that all arbitral proceedings conducted under this section shall be kept confidential, and all information, documentation, materials in whatever form disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings.

**APPENDIX A TO GENERAL CONDITIONS FOR SOFTWARE LICENSING** or shall first create a temporary remedy in order to solve the critical situation, Licensor shall use its constant and best efforts to complete the temporary remedy and the final remedy as soon as possible but never later than within the time period set out in article 5. Licensor shall constantly keep Licensee informed of the progress of the correction work as well as, at Licensee's request, provide Licensee with written progress reports.

**MAINTENANCE AND SUPPORT**

If ordered by Licensee and thus included in the Purchase Order, Licensor shall provided maintenance and support service in accordance with this Appendix A.

**1 HELPDESK**

Licensor shall during regular business hours provide consultation and advice to Licensee regarding installation, operation and maintenance of the Deliverables. Further, general advice regarding submitted service requests shall be given. The Helpdesk Services shall primarily be provided by telephone or by electronic mail support.

**2 REPORTING OF SR**

All service requests ("SR")s shall be sent to Licensor's contact person by electronic mail. During the SR analysis Licensee undertakes to provide Licensor with reasonable assistance in reproducing the error.

Each SR shall contain the following information: (a) Licensee product identification number, (b) Licensee SR identification number, (c) The Severity Level - High ; Medium or Low Severity, (d) A description of the commands and procedures that reveal the error; and (e) A short description of the error and its impact on Licensed Programs' performance.

The following additional information may be included if deemed necessary: (a) A description of the hardware and software environment, (b) specification of the version or release of the software of the relevant Licensed Program (or part thereof), (c) Examples of input, the resulting output and the expected output, and (d) Any special information to fulfill the SR or circumstances surrounding the discovery of the error.

For each SR, Licensor undertakes to: (a) Confirm its receipt of the SR by Licensee's SR tool or electronic mail within the time periods set out in article 5. The confirmation shall contain Licensor's identification number as well as Licensee's SR identification number, to be used in the subsequent communication between the parties, (b) Analyze the SR, verify the existence of the errors and note the Severity Level, and (c) Advise Licensee of any perceivable impact which a correction may have on the Deliverables.

**3 CLASSIFICATION OF SR**

Licensee shall classify SR answer priority with Severity Levels High, Medium or Low Severity dependent on the severity of the error, according to the definitions below. Re-classification of a Severity Level may be done by mutual agreement by the parties. The following four Severity Levels shall be used in order to classify the SR answer priority. The issuer of the SR shall set the priority.

**High Severity Error.** The presence of a High Severity Error implies that Deliverables cannot be substantially used, or have a major negative impact on the total system operation, system functionality, or system reliability with regard to Licensee's systems.

**Medium Severity Error.** The presence of a Medium Severity Error seriously affects the functionality of the Deliverables, but can be circumvented so that the Deliverables can be used, or implies that a program or function in the Deliverables cannot be used although other programs or functions remain unaffected, or implies that the Deliverables as a whole function but a certain function are somewhat disabled, give incorrect results or do not conform to the Documentation or any agreed standards.

**Low Severity Error.** A Low Severity Error has no significant effect on the functionality of the Licensed Programs or the usability of the Documentation.

**4 CORRECTION OF ERRORS**

**Medium Severity Error.** For errors classified as Medium Severity, Licensor shall first create a temporary remedy and thereafter a final remedy. The temporary remedy and the final remedy shall both be completed no later than within the time periods set out in article 5. Licensor shall report progress as reasonably requested by Licensee.

**Low Severity Error.** For errors classified as Low Severity, Licensor shall examine and create a remedy as soon as reasonably possible with regard to Licensor's then current workload and planning but not later than within the time period set out in article 5.

**5 RESPONSE TIMES AND REMEDY TIMES**

Response Times and Remedy Times measured from the time of submitting an SR.

| SR Type/Activity                     |
|--------------------------------------|
| Correction of High Severity Errors   |
| Correction of Medium Severity Errors |
| Correction of Low Severity Errors    |

**6 PROVISION OF UPDATES**

Licensor shall, when an update has been released, upon Licensee's request without delay provide Licensee with such update at no extra cost for Licensee as long as the agreement referencing these terms and conditions is in effect. Any Licensed Programs being updated according to this Appendix A shall become a Licensed Program and all updates shall be provided under the terms and conditions set out in the software license agreement. Licensee reserves the right to decide if or when an update shall be installed.