



General Terms and Conditions of ITB-GmbH, as of: 1.1.2023

§ 1 Validity

(1) These general terms and conditions govern all deliveries, services and offers provided by ITB-GmbH (hereafter: "ITB"). Unless the Customer has been given an updated version of the general terms and conditions, these terms shall remain valid for all current and future business dealings with the Customer, even if the general terms and conditions are not directly referred to.

(2) Any deviating or supplementary general terms and conditions of the Customer are hereby expressly rejected unless ITB has expressly accepted their validity in text form.

§ 2 Software Delivery

(1) Unless otherwise expressly stipulated in individual contracts, ITB shall grant the Customer a non-transferable, non-sublicensable and non-exclusive right to use the software together with the documentation for the agreed period of use in accordance with the following provisions.

(2) The software is provided to the Customer in object code by way of a machine-readable medium.

(3) In addition to the software, ITB shall provide the Customer with a user manual either on paper or on a recording medium, in German language. The type of user manual provided is defined in the software license agreement. Further copies of the user manual can be provided by ITB at additional cost.

(4) Unless otherwise agreed in the software license agreement, the software may only be used as a single-user version. Simultaneous supply, storage or use of the software on more than one computer or working memory and the possibility of simultaneous multiple use in networks or on other multi-station computer systems is not permitted.

(5) "Use" or "usage" of the software in the sense of this agreement is the whole or partial duplication (copying) by loading, displaying, running, transferring or storing the software for the purpose of its execution and for the processing of the data stocks contained therein, in each case for the customer's own purposes. The use also includes the performance of the aforementioned actions for the purpose of observation, examination or testing of the software by the Customer. If the user manual is provided on a machine-readable medium, the regulations on the scope of use of the software apply accordingly.

(6) Once the software has been installed on the mass storage device of a

hardware, the original data carrier serves as a back-up copy. The Customer is not entitled to make more than one additional back-up copy. If the software is equipped with a technical copy protection, ITB shall, upon request, provide the Customer with a copy as long as this is necessary for the designated use of the software. The Customer shall clearly label the back-up copies as such.

(7) The Customer must retain unchanged any proprietary notices and other reservations of rights contained in the licensed material and must incorporate them in unchanged form in all complete or partial copies he makes.

(8) A back translation (decompilation) of the software code into a different format is only permitted to the Customer if necessary to establish interoperability with independently created computer programs in accordance with the stipulations of § 69e German Copyright Law. Another precondition is that the Customer did ask ITB for the required information beforehand and that ITB did not immediately provide this information. ITB can demand to be reimbursed for any necessary expenses.

(9) Modifications or adaptations of the software are not permitted to the Customer. If the designated use of the software requires the elimination of possible faults or errors, this will be done by ITB on the basis of the regulations of the maintenance agreement, in other cases, § 69d para. 1 German Copyright Law shall prevail.

(10) If ITB provides the Customer with a newer version of the software on the basis of a separate agreement, the right to use this version shall be subject to the condition that the Customer must return the previously used version(s) of the licensed material and all copies and partial copies thereof to ITB or delete them no later than three months after the start of productive use of the new version. One archive copy labelled as such may be kept.

(11) The rights of usage of the licensed material are only granted on the condition that the Customer has paid the owed remuneration in full.

(12) The Customer undertakes not to make the software available to third parties, either in its original form or in the form of copies, either in whole or in part, without the express written consent of ITB. This shall also apply in the event of a complete or partial sale or dissolution of the Customer's company and, in principle, also to affiliated companies within

the meaning of Section 15 of the German Stock Corporation Act (AktG).

(13) The Customer is not entitled to transfer the granted rights of usage to any third party or to grant such third party the rights thereto.

§ 3 Contribution of the Customer

(1) The responsibility for the choice of the software and hardware on which the software is to be installed lies solely with the Customer. The Customer provides the infrastructure intended for the installation of the software, in particular, the correct system platform and the preconditioned additional programs.

(2) The Customer shall immediately confirm receipt of the licensed material. The Customer shall thoroughly test such material to ascertain that it is free of defects and usable in the concrete situation before putting it to operative use. This also applies to licensed material the Customer receives under warranty.

(3) The customer shall take reasonable precautions in the event that the software does not work properly in whole or in part, e.g., by backing up data, diagnosing faults or errors, or regularly checking the results.

(4) The Customer shall support ITB to a reasonable extent in the elimination of defects, e.g., by sending data carriers with the affected software upon request, or by providing work equipment and naming employees familiar with the licensed material as contact persons.

§ 4 Duration, Return and Deletion of Licensed Material

(1) ITB may terminate the Customer's usage right for cause if the Customer culpably and severely violates the restrictions on use in §§ 2 and 3 and does not remedy the violation despite a reminder setting an appropriate deadline. In case of repetition, no new reminder is required. Any other statutory or contractual rights of withdrawal or termination remain unaffected.

(2) At the end of his right of use, the Customer shall be obligated to return the original as well as all copies and partial copies of the Licensed materials to ITB or to destroy them at ITB's request. The Customer shall confirm in writing that this destruction has taken place.

(3) If the Customer replaces the terminated software with new editions of the software offered by ITB, he shall be entitled to retain the terminated software for up to three months as a fallback reserve.

The retention of an archive copy shall require a written agreement.

§ 5 Further Obligations of the Customer

(1) The Customer undertakes to use the resources put at his disposition in such a way that the security and/or availability and/or system integrity and/or availability of ITB's systems is not impaired.

(2) The Customer shall manage his passwords and other access data responsibly in order to keep them secret. The Customer shall change his passwords at regular intervals; if he is allocated a password, he shall change it immediately.

(3) The Customer is obligated to pay for all services which are due to the use or misuse of the passwords by third parties insofar as he is responsible for this.

(4) If damage is caused to ITB through the fault of the Customer, e.g., if spam mails have been sent by him, ITB reserves the right to assert claims for damages against the Customer.

(5) By transmitting the web pages (to the provider), the Customer shall release ITB from any liability for the content and expressly assures that no material will be transmitted and no third-party material will be displayed which offends, disparages or insults other persons or groups of persons. The Customer is also responsible for the payment of all cost in connection with the publishing of this data to the respective organization (e.g., GEMA fees). The Customer furthermore expressly assures not to publish any content or data in violation with existing law in the Federal Republic of Germany, nor any radical right-wing content. This also applies if such content is made available through hyperlinks or other interactive connections the Customer places on a third party's site. It is expressly forbidden to send out so-called "mass e-mails" or "spam e-mails" or any such thing from the provider's servers in any way.

(6) ITB reserves the right to disable any content likely to interfere with the server's normal operation or security, either in individual cases or in general.

§ 6 Prices and Payment

(1) If services are charged on a time & material basis, ITB's current price list at the time the order is placed shall apply.

(2) If services are rendered outside of ITB's premises in accordance with the Customer or at the Customer's request, all costs for travel and accommodation as well as other expenses thus incurred will be charged separately at cost. In this case, time for travel shall be calculated as ½ work time.

(3) Prices are stated as net prices to which V.A.T. must be added.

(4) All of ITB's invoices are payable within 14 days from the invoice date net without any discounts or deductions, unless a different payment term is stated on the invoice or in the contract.

(5) ITB is entitled to charge interest on maturity in the amount of 5 percent points above the base rate. Should the customer fall into arrears with his payment, ITB is entitled to charge interest in the amount of 8 percent points above the base rate as damages; higher damages may also be claimed against corresponding proof. The Customer shall be at liberty to prove to ITB that the damage is lower.

(6) The Customer may only offset counterclaims that have been legally established, are undisputed or have been recognized by ITB. The Customer may only assert a right of retention on the basis of counterclaims which are based on the same contractual relationship and which are undisputed or have been finally determined by a court of law or are ready for a decision. In the case of ongoing business relationships, each order shall constitute a separate contractual relationship within the meaning of this paragraph (6).

§ 7 Deadlines, Force Majeure, Reminders

(1) Should ITB be hindered by force majeure from keeping the delivery, service or completion deadlines after the contract has been signed, the deadline shall be extended by the duration of this event's effects plus a reasonable preparatory period. Unforeseeable circumstances for which ITB is not responsible and which unreasonably impede delivery, performance or completion shall be deemed equivalent to force majeure, in particular, labor disputes, official intervention, shortness of raw materials or energy, severe disruptions of transport, disruption of data transfer, or server outage, even if these events occur at one of ITB's suppliers, sub-suppliers or vicarious agents.

(2) Agreed delivery, service or completion deadlines shall be automatically extended by the time period during which ITB waits for the Customer's cooperation or information.

(3) Any reminders or deadlines the Customer sets must be in writing to be effective.

§ 8 Reservation of Ownership

(1) ITB reserves ownership to the goods delivered in its name (e.g., data carriers

or printed materials) until full payment of all claims resulting from the respective contractual relationship has been effected by the Customer. Service and/or maintenance of hard and software constitute separate contractual relationships in this sense.

(2) The Customer is obligated to keep the reserved goods free from any third party's rights, to notify ITB immediately in writing or by telephone if any third party accesses the reserved goods, and to inform the third party of ITB's rights.

§ 9 Liability

(1) ITB, its legal representatives or vicarious agents shall owe the Customer damages on a non-contractual and contractual basis only to the following extent:

in cases of intent or gross negligence, or in the absence of a guaranteed quality or durability, unlimited;

in other cases, only if an obligation essential for the purpose of the contract (cardinal obligation) is violated, and then limited to the value of the foreseeable or typical damage, with an amount not exceeding € 50,000.

(2) The liability for injury to life, body or health and in connection with product liability law remains unaffected hereby.

(3) The Customer shall indemnify ITB from all claims by third parties which are due to a non-contractual implementation of the software by the Customer.

(4) The Customer is obligated to implement and keep up an appropriate data backup system. ITB is not liable for damages caused by the absence of an appropriate data backup system.

(5) ITB is not liable for a lack of commercial success, loss of profit, missed savings or other indirect damages. ITB is not liable for defects caused by improper use of the software, in particular, faults that are due to unauthorized modifications of the software or to the failure to observe the requirements for the hardware and software periphery of the software.

(6) Further claims for damages are excluded.

(7) Claims for damages are subject to a limitation period of one year from the time when the Customer becomes aware of the damage or could have learned of it without gross negligence, regardless of this knowledge, within two years from the damaging event. § 852 German Civil Code remains unaffected. If negotiations are pending between ITB and the Customer regarding the compensation to be paid, the limitation period shall be

suspended until one of the contracting parties refuses to continue the negotiations.

§ 10 Warranty

(1) ITB warrants that the software is suitable for the purpose contractually agreed, and that it features the contractually agreed qualities. Insignificant deviations from the contractually agreed qualities not preventing or impeding the use of the software do not constitute grounds for warranty claims.

(2) ITB shall provide the warranty by subsequent performance, at its own discretion either by remedying the defects or by delivering a new product free of defects.

(3) ITB may also remedy defects by providing the Customer with possibilities for avoiding ramifications of a defect without unfavourable impairment of the functionality owed. The Customer must accept new program or data bases provided to him in the course of the warranty even if this might cause reasonable efforts for adjustments or modifications.

(4) The Customer is obligated to provide ITB with comprehensible and verifiable documentation and information regarding the scope of the deviations from the contractually agreed qualities and to support ITB in the correction and containment of defects to the best of its ability.

(5) The warranty period starts with the acceptance of the implementation and lasts for 12 months.

(6) ITB does not assume any warranty for defects caused by improper use of the software, in particular, defects that are due to unauthorized modifications of the software or to the failure to observe the requirements for the hardware and software periphery of the software.

(7) Further warranty claims are excluded.

§ 11 Third Party Rights

(1) ITB shall defend the Customer against all claims resulting from the violation of industrial property rights or copyrights by goods delivered by ITB (in particular, software) or work results provided which the Customer uses as agreed in the contract. ITB shall bear all cost and damages imposed on the Customer by a court of law if the Customer notifies ITB of such claims immediately in writing, supports ITB in its defense against the claims to the best of its ability and if ITB chooses all defensive measures and settlement negotiations at its own discretion.

(2) If claims in accordance with (1) are made against the Customer or are to be expected, ITB may, at its own cost, modify or exchange the goods or work results

to an extent acceptable to the Customer. If, in the case of software, this is not possible and a right of use cannot be obtained with reasonable effort, each party to the contract may terminate the license for the software in question without notice. In this case, ITB is liable to the Customer for the damage incurred by the termination as stipulated in § 5.

§ 12 Other Provisions

(1) ITB has the right to employ sub-contractors or other vicarious agents in fulfilling its contractual obligations towards the Customer.

(2) This contract is subject to the law of the Federal Republic of Germany exclusively. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

(3) No verbal collateral agreements have been made.

(4) The Customer may not assign its rights from a contract by ceding or sublicensing it to a third party or in any other way unless ITB has expressly agreed to this assignment in writing. This non-assignment clause does not concern monetary claims of the Customer if the underlying contract represents a commercial transaction in the sense of § 354a German Commercial Code.

(5) The place of performance is Kamp-Lintfort. The exclusive place of jurisdiction for all disputes arising from or in connection with these General Conditions and the individual contract in which these General Conditions are referenced is Kamp-Lintfort.

(6) Should individual provisions of the contract between ITB and the Customer, including the General Conditions or any special terms and conditions, be or become invalid in part or in whole, or should any of these provisions be incomplete, the validity of the remaining provisions is not affected hereby.

(7) For all of ITB's activities on the Customer's premises, the Customer's house rules shall prevail as long as they have been communicated to ITB's staff.

(8) With regards to the contractual services, both parties are held to observe the German and European data protection regulations.

(9) The parties undertake to keep all information received by the other party in the event of the provision of services confidential if this information is either labelled as confidential or must be regarded as confidential by its nature. This does not apply to information already known to the other party before the

contract was signed or which are freely accessible on the market or state of the art, or for information which becomes known to third parties without the other party's involvement.