General Terms and Conditions

1   Scope of contract and validity

1.1   All orders and agreements shall only be legally binding insofar as these are signed in writing with the legally binding signature of the company of the Contractor and shall only obligate to the extent stated in the acceptance of order. Purchase conditions of the Client shall herewith be excluded for the respective legal transaction and the entire business relationship. All offers are generally non-binding.

2   Scope and assessment

2.1   The subject matter of an order may be:

- Preparing organisational concepts
- Global and detail analyses
- Development of custom software components
- Delivering library (standard-) software components
- Assisting in start-up (restructuring support)
- Telephone consultations
- Software maintenance
- Miscellaneous services

2.2.   Individual organisational concepts and custom software shall be created depending on the nature and volume of binding information, documents and resources provided in full by the Client. These shall include sufficient practical test data and test facilities provided by the Client in due time, during normal working hours and at their own expense. Should the system be provided by the Client for the test work in regular operation, it shall be incumbent upon the Client to secure the regular data.

2.3.   The development of individual software shall be based on the written performance description chargeably created by the Contractor by means of the documents and information provided to them and/or that the Client provides. The Client shall review this performance description in terms of accuracy and completeness and mark it with a sign of acceptance. Subsequent change requests may lead to separate schedule and price agreements.

2.4.   The Client shall accept the respective package of individually developed software and/or software adaptations four weeks after delivery at the latest. The Client shall verify acceptance on record. (Checks for accuracy and completeness by means of the performance description accepted by the Contractor using the test data mentioned in Clause 2.2.). Should the Client let the four-week period pass without acceptance, the delivered software shall be considered as accepted on the end date of the stipulated period. In any case, the software shall be considered as accepted should it be used in real operation by the Client.

Any defects, that is to say deviations from the performance description agreed upon in writing, shall be reported to the Contractor in written form and with sufficient documentation by the Client; the Contractor shall make efforts to quickly rectify the defects. Should substantial defects, which are reported in writing, occur, i.e. real operation cannot be started or continued, new acceptance shall be necessary after rectification of defects.

The Client shall not be entitled to refuse acceptance of software due to unsubstantial defects.

2.5. When ordering library (standard) software components, the Client shall confirm knowledge of the scope of services of the ordered programmes upon ordering.

2.6. Should it become obvious during the course of work that fulfilment of the order, according to the performance description, is actually or legally impossible, the Contractor shall immediately notify the Client thereof. Should the Client not adapt the performance description accordingly and/or not create conditions that make fulfilment possible, the Contractor may refuse fulfilment. Should the inability of fulfilment be caused by default of the Client or by a retrospective change of the performance description by the Client, the Contractor shall be entitled to withdraw from the contract. The Client shall reimburse the Contractor any costs and expenses incurred for the work of the Contractor so far as well as for possible disassembly costs.

2.7. Delivery of programme media, documentation and performance descriptions shall take place at the cost and risk of the Client. Further training and explanations requested by the Client shall be invoiced separately. Insurances shall only be obtained at the request of the Client.

2.8. We expressly indicate that a barrier-free design, as defined by the Federal Law on Equality of Persons with Disabilities (Federal Disability Discrimination Act — BGStG) is not included in the quote, unless this was separately/individually requested by the Client. Should a barrier-free design not have been agreed upon, it shall be incumbent upon the Client to check the admissibility of the service with regard to the Federal Disability Discrimination Act. Moreover, the Client shall check the content they provide in regard to legal admissibility, particularly in terms of competition, brand, administrative law and copyright. The Contractor shall not be liable to the Client in cases of minor negligence or after fulfilling a possible duty to warn for the legal admissibility of content provided by the Client.

3. Prices, taxes and fees

3.1. Unless expressly agreed otherwise, all prices shall be calculated in Euros without VAT. These shall only apply for the respective current order. All prices mentioned are quoted from place of business of the Contractor. Expenses for programme media (e.g. hard disks, USB drives, DVDs etc.) as well as documents and possible contract fees shall be invoiced separately.

3.2. For library (standard) software components, the list prices valid on the day of delivery shall apply. For all other services (organisational consultation, programming, initial training, adjustment support, telephone consultation, etc.), the work shall be invoiced according to the rates effective on the day of performance. Deviations to the time required as provided by contractual pricing, which is not attributable to the Contractor, shall be invoiced according to actual time required.

3.3. Costs for travel expenses, daily and accommodation allowances shall be separately invoiced to the Client at the respectively valid rates. Travel time shall be considered working hours.

4. Delivery date

4.1. The Contractor shall strive to meet the agreed deadlines of fulfilment (completion) as closely as possible.

4.2. It shall only be possible to meet the intended deadlines of fulfilment provided the Client provides the Contractor with all necessary and complete work and files by the stated deadlines, particularly, the accepted performance description as stipulated in Clause 2.3., and provided the Client meets their obligation of cooperation to the necessary extent. The Contractor shall not be liable for delivery delays or cost increases caused by incorrect, incomplete or retrospectively changed statements or information

and/or documents provided that lead to arrears of the Contractor. The Client shall bear any additional costs incurring therefrom.

4.3. The Contractor shall be entitled to make partial deliveries and/or partial invoices for orders consisting of several units and/or programmes.

5. Payment

5.1. The invoices issued by the Contractor, incl. VAT (unless the work is not taxable in Austria), shall be paid within 14 days of receipt of the invoice without deductions and free of charges. In case of partial invoices, the payment conditions agreed upon for the entire order shall apply by analogy.

5.2. The Contractor shall be entitled to issue an invoice upon delivery of each individual unit or service for orders consisting of several units (e.g. software components and/or training, implementation in steps).

5.3. Compliance with payment deadlines agreed upon shall form a crucial condition for the performance of deliveries and/or contractual fulfilment by the Contractor. Non-compliance with the agreed payments shall entitle the Contractor to stop ongoing work and to withdraw from the contract. The Client shall bear all expenses related to this as well as loss of profit of the Contractor. In case of payment arrears, the standard base interest rate shall be charged. Should two instalments (in case of partial payments) not be paid, the Contractor shall be entitled to have immediate maturity come into effect and to render any notes payable due for payment.

5.4. The Client shall not be entitled to withhold payments due to incomplete overall deliveries, warranty or guarantee claims or defects.

6. Copyright and usage

6.1. After payment of the remuneration agreed, the Contractor shall grant the Client a non-exclusive, non-transferrable, non-sub-licensable and indefinite right to use the software for the hardware specified in the contract to the extent of the purchased licences, for the simultaneous usage thereof at several workplaces and the right to use all work results based on the contract of the Contractor for in-house use. The Contractor shall retain all other rights. Involvement of the Client in the creation of software shall not entitle them to acquire any rights beyond use of the product as set forth in the Contract. Each infringement of the copyright of the Contractor shall result in claims for damages, in which case full amends are to be made.

6.2. The Client shall be permitted to make copies for archiving and data security purposes subject to the condition that the software contains no express ban of the licensor or a third party, and that all copyright and ownership notices shall be transferred to the copies without alteration.

6.3. Should the Contractor provide the Client with software, whose licensee is a third party (e.g. standard software by a commercial manufacturer), the right of usage shall be provided by the licence conditions of the licensee (manufacturer).

7. Right of withdrawal

7.1. The Client shall be entitled to withdraw from a respective order by letter sent by registered post, should the agreed delivery deadline not be met due to the sole fault or illegal actions of the Contractor provided

that the agreed service is not performed to a considerable extent within an adequate grace period and the Client is not at fault.

7.2. Force majeure, work conflicts, natural disasters and transport bans, as well as other circumstances outside of the influence of the Contractor, shall release the Contractor from their obligation to delivery and/or shall allow them to determine a new delivery deadline.

7.3. It shall only be possible for the Client to cancel an order with written consent of the Contractor. Should the Contractor agree to cancellation of an order, they shall be entitled to charge a cancellation fee to the amount of 30% of the overall project order value not yet invoiced in addition to the services already rendered and costs incurred.

8. Guarantee, maintenance, changes

8.1. The Contractor shall guarantee that the software fulfils the functions according to the respective documentation insofar as the software is used on the operating environment stipulated in the contract.

8.2. Prerequisites for error correction shall be that:

- The Client sufficiently describes the error in an error message and that this is definable for the Contractor
- The Client provides the Contractor with all documents necessary for the correction of the error
- The Client or an affiliated third party has not interfered with the software
- The software is used according to the designated conditions of use as stipulated in the documentation

8.3. With regard to guarantee, rectification shall, in any case, prevail over price reduction or redhibitory action. Should a notice of defects be justified, the deficiencies shall be rectified within an adequate period, in which the Client shall enable the Contractor for all measures necessary for examination and rectification. Section 924 of the Austrian Civil Code 'Assumption of Deficiency' shall be excluded.

8.4. The Contractor shall, free of charge, implement corrections and additions, which become necessary due to organisational and technical defects of the programme, until transferral of the agreed services, insofar as these are attributable to the Contractor.

8.5. The Client shall bear the costs for assistance, incorrect diagnosis, correction of errors and emergency maintenance attributable to the Client as well as other corrections, changes and additions. This shall also apply to rectification of deficiencies, should the Client or a third party make programme changes, additions and other interferences.

8.6. Furthermore, the Contractor shall not be liable for errors, disruptions or damage caused by improper use, changes in components of the operating system, interfaces or parameters, the use of inadequate organisational means or data storage media (as far as these are required), abnormal operating conditions (particularly deviations of installation and storage conditions) or transport damage.

8.7. The Client shall lose any guarantee from the Contractor for software that is retrospectively changed by in-house software engineers or third parties.

8.8. Insofar as changing or adding to existing software forms the subject matter of an order, the guarantee shall apply to the change or addition. The guarantee for the original software shall not be renewed by this.

8.9. All guarantee claims shall lapse after six (6) months from transferral.

9. Liability

9.1.   The Contractor shall only be liable to the Client for damage the Contractor verifiably causes in cases of gross negligence. This shall also apply mutatis mutandis to damage caused by third parties brought in by the Contractor. In case of bodily injuries caused by the Contractor, the Contractor shall be liable without limitation.

9.2.   Liability for indirect damage, e.g. loss of profit, costs related to interruptions, data losses or claims of third parties, shall be expressly excluded.

9.3.   Claims for damages shall lapse according to legal provisions, however, at the latest after one year starting from the knowledge of the damage and the person responsible for this.

9.4.   Should the Contractor fulfil work with the assistance of a third party and any guarantee and/or liability claims arise against this third party therefrom, the Contractor shall cede those claims to the Client. In such cases, the Client shall focus on this third party.

9.5.   Should data backup be expressly agreed upon as a service, liability for the loss of data shall not be excluded, deviating from Clause 9.2, however, restoration of the data shall be limited to a maximum of 10% of the total order sum per case of damage, however, with an overall maximum of EUR 15,000. Further claims for damages and guarantees of the Client than those stipulated in this Contract shall be excluded, regardless of legal basis.

10.   Non-disclosure

11.1.   The Contractor shall fulfil the provisions stipulated in Section 6 of the Austrian Data Protection Act.

11.   Miscellaneous

11.1.   Should clauses of this Contract be or become invalid, this shall not affect the validity of remaining subject matter of the Contract. The contractual partners shall cooperate in order to find a regulation which comes as close as possible to the intention of the invalid clauses.

12.   Final Provisions

12.1.   Insofar as nothing else is agreed on, only the legal provisions regarding business-to-business transactions according to Austrian law shall apply, even if the order is implemented abroad. The local jurisdiction of the objectively competent court for the place of business of the Contractor shall be exclusively agreed upon for possible disputes. Pursuant to the Austrian Consumer Protection Law (KSchG), the Terms and Conditions above shall be valid insofar as the Austrian Consumer Protection Law provides no differing obligatory provisions for selling to consumers.