

1. Scope

- 1.1 Our goods, services and proposals are offered solely based on these general terms and conditions. These terms and conditions are an integral part of all contracts, which we enter into with our contract partners (in the following all called clients) for our goods and services. They are also valid for all future goods, services or proposal to our clients, even if these are not separately agreed to.

2. Proposal and entering in a contract

- 2.1 Our proposals are without engagement and not binding. We can accept orders or contracts within 14 days. However, the acceptance can start within the above mentioned period, as long as it is visible to the client that we have started with the completion of the order or contract.
- 2.2 All contracts for our goods and services and all other agreements, e.g. quality agreements and legal statements and especially warranty statements of any kind, must be confirmed by us either in writing or by fax to be legally binding. The same is valid for additions and changes of the agreements, including these terms and conditions. Our employees are not empowered to agree to verbal side agreements.
- 2.3 Our information regarding the goods and services and their condition (so called specifications such as weights, dimensions, serviceability, load capacity, tolerances and technical data in our descriptions (e.g. information in requirement specifications, drawings and illustrations) are only binding to the extent that the application is an exact match for the intended purpose. Equivalent solutions that achieve the contractual overall purpose and, which are reasonable for the client (e.g. replacement of a hardware component by a software solution) are permitted. Standard deviations and deviations which are implemented or admissible due to technical (e.g. DIN regulations) or legal regulations and/or which represent technical improvement, as well as the replacement of components by equivalent parts are admissible, as long as they do not affect the contractually intended purpose and are reasonable for the client
- 2.4 We maintain ownership or copyright for drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and support materials, which may be part of our proposals or our cost estimates. The client does not have permission to make these objects as such or its content available to third parties without our consent. The client cannot publish the objects or use them directly or through third parties and the objects cannot be copied without our consent. The client must return the objects and possible copies completely if we request this, if they are no longer required for an orderly course of business or if the negotiations did not lead to the closing of a contract.

3. Prices and payments

- 3.1 Our prices are valid for the goods and services listed in our order acknowledgements. They are in EURO ex works without packing and legal value added tax. Customs duties, fees and other public payments may be added to export deliveries. Additional and special services will be invoiced separately.
- 3.2 We have the right to invoice in three partial amounts, if we deliver an integrated system consisting of hardware and software and possibly of related consulting services. The partial amounts will be invoiced as follows: one third when placing the order, one third at hardware delivery and the remaining amount at final acceptance. Item 5.6 of these terms and conditions is valid.
- 3.3 Maintenance and support services have to be paid annually in advance if not agreed otherwise.
- 3.4 Our invoice amounts have to be paid without any deduction no later than 14 days after receipt of invoice, if no other payment terms have been agreed. Payments are only valid once we receive them. Checks are only valid after they have been cashed without reservation.
- 3.5 Offsets with counterclaims of the client are only permissible if the counterclaims are indisputable or they are legally established. The client has a right of retention only if his counterclaims are based on the same contractual relationship or if they are indisputable or legally established.
- 3.6 We have the right to deliver outstanding goods and services only by pre-payment or security deposit, if circumstance become known to us which endanger our counterclaims due to liquidity limitations on the side of the client. Item 4.6, sentence 3 is valid.

4. Deliveries and delivery time

- 4.1 Deliveries are ex works. Other services (especially assembly and installation of the objects delivered to the client and possible individual adjustments) are the responsibility of the client. These additional services can be performed by, if requested, and paid by the client. They are, however, subject to a separate agreement
- 4.2 We can deliver the objects in digital format on data carriers or Online only including documentation, if the order of the client is for software only. We have the right to make the documentation available Online only, if the software is delivered on a data carrier. The products will be delivered to the address indicated in the main contract or to the delivery address communicated by the client. The client must report damages and losses during shipment, wrong deliveries or incomplete deliveries immediately, at the latest however within one work day after it has been identified.
- 4.3 Software documentation is only delivered in German or English.
- 4.4 The alpha numeric codes required for the use of the software (execution keys or licence strings) will be communicated to the client within 10 days after receipt of payment. This is in accordance with the clause "Prices". The client receives temporary keys or licence strings when signing the contract. They are limited to 30 days and can be revoked at any time.
- 4.5 Time limits and dates for goods and services are always approximate, as long as no fixed time limits or dates have been agreed to. Delivery time limits and delivery dates are those dates when the shipment is handed to the carrier or other third parties assigned for the shipment, if forwarding was agreed. Otherwise, the ready for shipment notice meets the delivery time limits and the delivery dates, as long as the client has been notified. Reasonable early deliveries are permissible. Reminders have to be issued by letter or by phone.
- 4.6 The delivery and service time limits do not begin before the client has delivered all documents, construction plans regulatory or other approvals as well as releases and not before payments due have been received. The client is responsible to establish the constructional requirements for the installation mounting, erection, assembly, start-up at the location. The client has to reimburse us the additional cost, if he does not meet these requirement. The delivery and service time limits get extended - irrespective of our rights with respect to the client's delay - by the time for which the client does not meet his contractual obligations to us. Delivery and service dates will be delayed accordingly.
- 4.7 We will inform the client immediately about any interference and can withdraw from the contract, if the interference is not temporary in cases such as force majeure and for other events, such as operational disorders, difficulties in procuring material or energy, transport delays, strikes, legal lockouts, scarcity of manpower, energy or raw material, regulative measures or lack of delivery, incorrect or late delivery of our suppliers, as long as we are not responsible for the circumstances and if they make the delivery of goods significantly more difficult or impossible. In this case, down payments will be paid back immediately. The delivery and service time limits will be extended or the delivery and service dates will be moved by the time of the interference plus a reasonable start-up time for interferences of temporary duration. The client can retreat from the contract through an immediate written statement after he gets our message about the expected duration of the delay, if the client cannot be expected to accept the goods or services under the condition of an unreasonable delay, in accordance with the agreed upon delivery and service dates and the common interest of both parties. This, however, is not valid for the failure to meet solely interim dates, e.g. for individual service phases of a software development contract and in the construction and project business. A legal solutions right of the client for neglect of duty on our side is not affected.
- 4.8 The regulations of item 4.6 are valid for difficulties during the procurement of regulatory approvals, especially export and import licences. We assume the correctness of information - without verification - that the client gives us for the procurement of an import or export licence. The client must reimburse our expenses if he gave us incorrect information.
- 4.9 Our liability is limited in accordance with item 8 of these terms and conditions, if we are liable because of unenforceability for damages due to the delay of goods and services deliveries according to §§ 280 Abs.1 and 3, 283, 311 a BGB. Reasonable partial deliveries are permissible without special agreement. Each partial delivery is an independent business.

5. Place of fulfilment, shipment, packing, passing of risk, acceptance

- 5.1 The place of fulfilment with respect to the contractual relationship is Augsburg, if not specified otherwise. However, if we provide installation services, then the place of fulfilment is the location of the installation.
- 5.2 The type of shipping and packing is our responsibility.
- 5.3 The transfer of the goods to the carrier or other third parties assigned to complete the shipping represents the point of passing of the risk for the goods (it starts with the loading process) to the client. This is also valid for partial deliveries. The passing of the risk goes to the client on the day of the readiness for shipment, if the shipment or the transfer is delayed due to circumstances, which are caused by the clients.
- 5.4 The storage cost after passing of risk will be covered by the client. We charge storage cost of 0.25% of the invoice amount per week for the goods to be stored, if we store the goods. We reserve the right to higher storage cost, when we can proof the storage cost are indeed higher. The client has the right to proof that no storage cost were accumulated or that they were significantly lower.
- 5.5 The shipment will only be insured against theft, breakage, transport, fire and water damage or other insurable risks, if the client asks for it explicitly and is willing to pay for it.
- 5.6 Assumed that the main contract includes an agreement for the system or the software, then the system is regarded as accepted when an explicit acceptance statement is issued or when
 - the delivery, or if we are responsible for installation, when the installation is completed,
 - we informed the client with regard to the acceptance fiction and
 - if weeks have passed since the delivery or installation, without a refusal by the client to accept the delivery during this time frame due to a deficiency, which makes the utilization of the system or the software impossible or impacts it significantly.

6. Maintenance and care services

- 6.1 Independent of all rights of the client with respect to item 9 of the general terms and conditions, we will fix all deficiencies, which negate or significantly reduce the usability of the product for the purpose stated in the main contract, by removing the deficiencies on our terms, deliver a replacement or a work around solution with the same functionality. This will be done to the extend stated in the main and/or basic contract under "Prices".
- 6.2 The information about deficiencies must be made immediately and in writing (email or fax are acceptable) and it must describe the deficiency in a comprehensible format. We will start our deficiency removal activities immediately after we receive the respective written information. We will send an appropriate data carrier, if a software solution needs to be implemented. The client must follow our references for the instantiation, elimination, determination and reporting of deficiencies. Competent employees of the client, who are authorized to judge deficiencies, functional expansion, elimination of functions and changes to the program structure, must be personally present during required test runs. Other work on the computer system may have to be cancelled during the maintenance and care work.
- 6.3 We can charge the client in accordance with our then valid compensation rates for demonstrably false deficiency reports, based for example on operator mistakes, for the services that we provided for the solution of the alleged deficiency.
- 6.4 We offer the client for a fee, as part of the maintenance, frequently the general versions or releases of the software (released by us to the client) listed in the main contract including updated versions of the related documentation – if not stated otherwise in the main contract. We will inform the client when the current version of the current release is no longer supported by us and we will offer the client new versions or releases at least three months before this date. We will offer the client the versions and releases listed in item 6.6, paragraph 1 and 2 only after written request, if the main contract refers to the software SAM and SAM Jupiter and the corresponding add-ons. This does not affect the validity of item 6.3.

7. Duration and cancellation of the maintenance and care agreement

- 7.1 The maintenance and care agreement becomes effective with the signing of the main contract and is valid for an undetermined duration. It can be cancelled by the client with an advanced notice of 3 months before the end of the year and

- from us with an advanced notice of 9 months before the end of the year. S. 1 and S.2 are valid, if the main contract does not include a different agreement.
- 7.2 The right of the contract parties to extraordinary cancellation for important reasons is not affected.
- 7.3 The cancellation must be done in writing.

8. Warranty for maintenance and care.

- 8.1 We guarantee that the deficiency solution or work around process gets started in a reasonable time frame, based on the written defect report by the client.
- 8.2 The client can request a reduction of the maintenance payments or can cancel the maintenance agreement, if we do not resolve a deficiency within a reasonable timeframe and a subsequent reasonable extension of time determined by the client. The client has these rights if we refuse the deficiency resolution in accordance with sentence 1 or if the client cannot reasonably be expected to accept a deficiency resolution in accordance with sentence 1.
- 8.3 Deficiency warranties are valid for one year after acceptance by the client of the respective maintenance or care service.

9. Warranty claims

- 9.1 Our product descriptions or specifications are the only agreements that determine the quality of the delivered subjects and its components. Public statements and advertisements of the component manufacturers don't represent contractual quality information.
- 9.2 The objects delivered by us must be immediately investigated after delivery to the client or to a third party determined by the client. The client must install software delivered by us immediately and test its functionality. The delivered object/software is viewed as accepted, if a notice of defect is not reported to us immediately after delivery of the object in written form or by fax. It can, however, be reported immediately after the discovery, if the deficiency was not visible at the immediate and thorough investigation. The deficiency must be described in a comprehensible format. The delivered object has to be returned to us if we request this. The client has to immediately, but not later than 1 work day after discovery, report deficiencies in writing, if the deficiency is discovered later within the warranty period.
- 9.3 In the event, that a return of the deliverables is necessary, we will reimburse the cost of the most inexpensive shipment provided that the notice of defects was justified. This is only valid, if the cost did not increase due to the fact that the delivered objects are at a different location than the original delivery address, unless the transfer to a different location is consistent with the intended usage of the delivered object or was agreed with us beforehand in writing.
- 9.4 We are obligated to rectify the defect at our choice by subsequent improvement or replacement within a reasonable time frame, if deficiencies of the delivered objects and/or software nullify the usability of these for common or contractually agreed upon purposes or reduce these. The subsequent improvement can also be achieved at our choice by the delivery of a functionality of an equivalent bypass solution. We are allowed at least two subsequent improvement efforts. In case of a failure, the client can at his choice either reduce the purchase price or can cancel the contract. A cancellation is excluded for small breaches of duty (especially for small deficiencies). We will, independent of our own liability, at our choice exercise our deficiency claims against manufacturers or suppliers of standard software on behalf of the client or we will transfer our claims to the client for deficiencies of standard software of other manufacturers delivered by us, and which we cannot repair for licence or reality reasons.
- 9.5 The client has the obligation to help us as much as possible during the resolution of the deficiencies, especially give required information and, if required, make error and console reports available.
- 9.6 The liability for deficiencies is not applicable, if the client changes the delivered object or has it changed by third parties without our agreement, unless the client can show, that the respective deficiencies are not caused by the change and that the deficiency resolution will not be made impossible or unacceptable by the change. This is also true for unauthorized third party hardware or software and by usage of the delivered object, which is not contractual and/or appropriate. The client must in every case cover the additional cost for the resolution of the deficiencies created by the change.
- 9.7 The deficiency claims are valid for 12 months. The statute of limitation starts with the date at which we completed our delivery duties completely.
- 9.8 Used objects delivered by us (including software) are excluded from deficiency claims.

- 9.9 Extended entitlement due to the quality of the products or parts of it do not exist except for cases of fraudulent intend or in case of a warranty.

10. Industrial property rights

The client must inform us immediately about claims by third parties against the client in connection with the use of the products in regards to copyright infringements, violations of other protection rights or competitive claims, and the client must confront these claims in or out of court in cooperation with us. We will fully support the client in his defence against these claims.

11. Liability

- 11.1 Unlimited liability will only be provided for intent and gross negligence, also for our legal representatives and assignees.
- 11.2 We are liable for slight negligence in case of breach of a duty, which is an important factor in achieving the contract purpose (cardinal obligation). The liability limitation in accordance with item 11.3 is valid, if a cardinal obligation is violated.
- 11.3 The liability will be limited to 50% of the contract value of the main contract without maintenance/service, to a maximum of the sum insured in our product liability insurance or our liability insurance and it is limited to such damages, which typically can be expected within the framework of delivering our services. Our liability is excluded as far as we are liable for the culpable violation of care or monitoring duties, if
- a) a comprehensive insurance, as customary in the industry, has been obtained for the damaged good, or
 - a) it is customary in the industry of the client, that the client insures the underlying risk for the damages.
- 11.4 The liability for loss of data is limited to the typical recovery effort, which occurs for a frequent and risk equivalent establishment of safety copies. We are not liable for damages which result from the fact that the client interrupts or withdraws the usage of the software.
- 11.5 The above listed regulations are also valid for our agencies, legal representatives, employees and other agents and assistants.
- 11.6 The regulations of item 11 are not valid for life, body and health violations, which are the result of a negligent breach of duty by us or by an intended or negligent breach of duty by one of our legal representatives or agents.
- 11.7 We provide technical information within the framework of our business activities free of charge and under exclusion of any liability, as far as this information or consulting is not part of the contractually agreed service.
- 11.8 Indemnifications due to deficiencies are valid for one year. This is not true if we acted with fraudulent intend.

12. Retention of title

- 12.1 We reserve the ownership for all delivered objects (in the following called "conditional goods") until the client has satisfied all existing payment duties of the current business relationship with us.
- 12.2 The client must handle and store the conditional goods with great care as long as the ownership is reserved and has to provide professional maintenance, inspections and repairs on his own account, as long as the ownership is reserved. The client cannot mortgage the conditional goods or use them as collateral as long as the retention of title exists. Access of third parties, for example for distraints or confiscation, and damages or the destruction have to be reported to us immediately. The reports have to be sent in writing or by fax.
- 12.3 We have the right to take the conditional goods back, after unsuccessfully extending the timeframe and after cancellation of the contract, if the client violates the contract, especially if the payments of secure receivables are late.
- 12.4 The client does not have the right to process the conditional good, mix them with other objects or connect them to other objects.
- 12.5 The client has the right to sell the conditional goods only as part of an orderly business operation, if the client contractually bought the conditional goods for the purpose of resale. We can ban the resale, if the client is late with his payment from the business relationship. The client has to reserve ownership for the object sold, if the client allows his customers to defer payments. The client does not have the right to sell the conditional goods without this condition.
- 12.6 If a resale or another sales business exists, then the client transfers already now the purchase price claims or other payment claims including all additional rights against his customer as a precaution to us. It has the same security purpose as the conditional good. The client has the right to a resale or another use of the conditional goods only, if it is certain, that the claims from this sale will be

transferred to us. The claim from the sales will only be transferred up to the invoice value of the conditional goods, if the conditional goods get sold by the client together with other goods not delivered by us. The client will now assign from the current account a part of the account balance (including a respective part of the final account balance) to us, which is equivalent to the claim, if the transferred claim becomes part of a current invoice.

- 12.7 The client can collect the claims assigned to us, until we revoke this right. We can only revoke this right, if the client does not meet his payment obligations to us in an orderly manner, or if circumstances in accordance with item 3.6 sentence 1 of these terms and conditions become known to us. We can request that the client informs us immediately about the assigned claims and its debtor, that he provides all the information required to collect these claims, that he hands over all related documents to us and that he informs the debtor about the assignment, if the conditions for revoking this right are met. We also have the right to inform the debtor about the assignment when these conditions are met. All retention rights of the client are excluded in this case.
- 12.8 The client must inform us on request at all times about the whereabouts of the conditional goods.
- 12.9 If the ownership reservation is not legal or feasible in accordance with the above listed condition in the country in which the conditional goods are, then the security which comes closest in the laws of this country is automatically agreed upon. The client has the duty to act immediately on our request, if actions are required by the client in this context.
- 12.10 Copyrighted usage and utilization rights, which are assigned permanently (permanent software assignment paid once) can be revoked at any time until the payment of the licence fee is received in full and cannot be assigned by the client. This is also valid if the licence condition qualify the licence assignment as irrevocable.

13. Confidentiality

The contract parties agree formally, that all information received, as part of this contract and its implementation, about the internal issues of the other party and about the contract purpose, will be confidential. This is also true for the content of the main and basic contract, especially its conditions. The contract parties will also obligate their employees, representatives and agents to a confidential treatment of the information of internal issues. This obligation is also valid up to three years after the conclusion of the contract.

14. Final conditions

- 14.1 We have the right to indicate the name of our client and characterize him as such, as part of marketing activities, marketing documentation or other publications, especially publications with advertising content. We also have the right to report benchmark data of the contract as part of our legal obligation for stock exchange publication.
- 14.2 Jurisdiction for all potential disagreements from the business relationship between us and the client is, at our choice, Berlin, Augsburg or the location of the client. Berlin is the exclusive jurisdiction for complaints against us. Compulsory legal conditions for excluded jurisdictions are not covered by this regulation.
- 14.3 The relationships between us and the client are exclusively subject to the laws of the Federal Republic of Germany. The convention of the United Nation about contracts for international sales of goods dated April 11, 1980 (CISG) is not valid here.
- 14.4 The validity of the remaining regulations are not affected, if individual conditions of these terms and conditions become invalid in part or completely.

Status 11/08/2005

Standard software licence agreement

1. We assign usage rights for the software delivered by us to the client once the licence fee is completely paid. This usage right, if not agreed otherwise, is non-exclusive (basic), timely unlimited and non-transferrable. The usage right gives the client the right to load, display, run and store the software. The software can only be used at the installation location (= client address in accordance with the main contract) of the client as listed in the main contract. The client has to ask for our approval in advance, if he wants to use the software at a different location. The software can only be used on the associated hardware delivered by us, if the software is part of a system delivered by us that includes hardware, as long as its exchange, failure or other operational reasons of the client justify the usage on a different hardware platform.
2. The client has also the right to produce a back-up copy of our software. This back-up copy must be marked with the name of our company, the name of the software and the version number. Other copies including prints of the software code on a printer are not permitted.
3. The permanent sales or donation of the software to others is only permitted to the client under the condition, that he does not keep any copies of the software, that he commits the third party to the adherence of the conditions of this contract and that he informs us immediately of the name and the address of the third party and sends us a copy of the statement, which confirms that the third party agrees to the existing licence conditions.
4. The usage of the software is limited to the agreed upon and documented number of (a) clients and/or servers or on computers, identified in the main contract, which does not exceed the maximal usage of the (b) MIPS value listed in the main contract (number of installed MIPS [million instructions per second] or (c) exceed the usage value for IBM MVS or OS390 and z/OS operating systems or (d) exceeds the processing of the receipt amount or (e) value of Managed SAM IDs. A Managed SAM ID is defined as a single characteristic of the SAM User ID, which can be connected to the administered target systems via several Logon IDs or user accounts. These can represent either internal or external SAM users. An external SAM user is an identified or anonymous user of the company's network and other IT systems of a SAM client, who (a) acts on his own behalf (which means that he does not represent the SAM client or any other legal person) and (b) acts with the intention to receive services or goods of the SAM client. He/she is only authorized to use parts of the corporate network or other IT systems of the SAM client that have been made available especially for this purpose. Internal SAM users are all users that are not external SAM users. Employees or subcontractors of the SAM client or computer resources with user IDs are generally internal SAM users. The licenced number of Managed SAM User IDs, which are not explicitly listed in the main contract for the administration of external SAM users, can be used for the administration of internal SAM users. The appropriate relevant MIPS values are calculated based on the current publications of the Gartner-Group on the World Wide Web. The values of a different group, comparable to the Gartner Group, will be used if the publication is not available.
5. We will expand the usage right that we gave to the client by the MIPS values, usage values or receipt amounts and the resulting fee from our then valid price list, if the client wants the software on a larger (a) number of clients and/or servers or on computer with a larger (b) MIPS or (c) usage value (d) larger receipt amount processing or (e) larger value of managed SAM IDs than indicated in the main contract (expanded usage). Any agreement about the expansion of the usage right will be agreed to in a separate contract, which will replace the existing main contract for the software in question and for this item.
6. The assignment of sub-licences is not permitted if not agreed otherwise. The usage of the software or the offering of computer services with the products for third parties (outsourcing service) is not permitted, if it is not agreed otherwise in the main contract.
7. Some programs contain computer software from third party suppliers, such as ObjectPool by Sapiens, IBM Intelligent Miner by IBM, Siron by Tonbeller, etc. The conditions of the main contract and these general terms and conditions are valid without restriction for these computer programs and the respective succession products. The licence conditions of the suppliers are also valid. The client is not permitted to run other computer programs based on the above mentioned third party software. He can use the software as part of the overall solution. He relieves us of all claims, which may result from a violation of this obligation.
8. The client does not have the right, without prior written approval, to make the

software and the accompanying manuals (the original or a copy) available to third parties, especially not through leasing or in any other manner. Providing software access in accordance with item 3 is excluded from the limitations of transferring the software to a third party.

9. The client is not permitted to translate, process or change the software without our prior written approval.
10. A decompilation of the program code into a different display format is not permitted.
11. The client has the obligation to prevent unauthorized access of third parties to the software or to the other licenced material by implementing appropriate measures. The delivered original data carrier and the back-up copy have to be stored in such a way, that unauthorized third parties have no access. The stored software must be completely erased, before machine readable data carriers (e.g. disks), data storage devices or data processing equipment are destroyed, sold or otherwise transferred.
12. The client commits to the above listed conditions. The client agrees to pay a contract penalty in the amount of the licence fee for the respective software multiplied by five in case of a violation. The proof of lower damage or no damage by the licensee or the proof of higher damage by the licensor is possible.
13. The general terms and conditions of Beta Systems Software AG/Kleindienst Solutions GmbH & Co. KG are also valid.

Status: 08.11.2005