

## General Part

### 1. Scope

- 1.1 These General Terms and Conditions apply solely to companies, legal entities under public law or special funds under public law in terms of section 310 paragraph (1) of the German Civil Code (BGB) (hereinafter referred to as "Customer"). Any terms and conditions conflicting with or deviating from these Terms and Conditions shall not apply unless Beta Systems has explicitly consented to the application thereof in writing.
- 1.2 The General Terms and Conditions may be composed of the General Part, the Definitions as well as provisions contained in a Special Part (e.g. Special Terms "Software License for Perpetual Use or "Conditions for Software Maintenance"). The Individual Agreement closed with Customer defines which terms shall apply. In case of conflicting terms the order of priority shall be as follows: 1. Terms of the Individual Agreement, 2. Terms of the Special Part of the General Terms and Conditions of Beta Systems Group (IAM), 3. Terms of the General Part of the General Terms and Conditions of Beta Systems Group (IAM).

### 2. Offer and contract conclusion

- 2.1 All offers are non-binding, unless indicated otherwise in writing. The Individual Agreement comes into effect upon Beta Systems' written confirmation of Customer's purchase order or upon the execution of the delivery or services. Oral agreements require Beta Systems' written confirmation in order to be legally binding.
- 2.2 Beta Systems reserves any and all property rights and copyrights on any documents being provided to Customer such as offers and estimation of costs. Such documents are subject to the confidentiality obligations of section 9 of these General Part of General Terms and Conditions.

### 3. Prices and Payment

- 3.1 All prices are quoted in € and are net prices excluding the applicable rate of value added tax. They are exclusive of packing, transportation, handling costs, customs duties or other public fees. These costs and fees will be invoiced separately.
- 3.2 All invoice amounts have to be paid without any deduction no later than 14 days after receipt of the invoice. Unless explicitly agreed otherwise Beta Systems does not grant any of cash discounts.
- 3.3 Customer shall only be entitled to set off claims if its counterclaims are legally enforceable or have not been disputed by Beta Systems.

### 4. Deliveries, passing of risk, license keys and delivery time

- 4.1 Beta Systems shall, at its sole discretion, deliver the Software either on data media or by making it available for download. In case of physical shipment, Beta Systems shall deliver to the address mentioned in the Individual Agreement unless otherwise agreed. In any case, Beta Systems has the right to make the Product Documentation available online for download only. Customer must report damages and losses during shipment, wrong deliveries or incomplete deliveries immediately in writing. Delivery shall be made "ex works". In case the Software is provided online for download, the risk shall pass to Customer at the time Beta Systems makes the Software available for download and informs Customer accordingly. Beta Systems does not owe the installation, customization or implementation of the Software or training, unless agreed otherwise in writing.
- 4.2 The Product Documentation for the contractual Software is delivered at Beta Systems' option either in English or German.
- 4.3 The technical required system environment for the operation of the Software (e.g. database, operating system) shall be communicated by Beta Systems on request (also before conclusion of the Individual

Agreement). It is furthermore also listed in the Product Documentation of the Software.

- 4.4 The use of the Software requires license keys. Beta Systems shall send these to Customer upon receipt of full payment. Should Beta Systems decide to submit license keys in advance before receiving full payment, these keys may be revoked at any time.
- 4.5 Delivery dates for goods and/or services are always estimates, unless otherwise agreed in writing.
- 4.6 Beta Systems' failure to comply with any agreed fixed delivery dates entitles Customer to rescind the Individual Agreement only if Customer fixed a reasonable additional time period and if Beta Systems failed to perform its duty within that time period.
- 4.7 In case of any delay in delivery or unenforceability, the liability of Beta Systems shall be limited in accordance with section 8 of these General Part of the General Terms and Conditions. Beta Systems shall be entitled to partial deliveries, unless it would be unreasonable for Customer to accept such partial delivery. Each partial delivery shall be deemed a separate transaction.
- 4.8 If the delay is based on circumstances for which Beta Systems is not responsible and which are beyond the reasonable control of Beta Systems (Force Majeure) for instance in cases of war, natural disasters, strike or regular action, the obligations of Beta Systems under the agreement will be suspended for the duration of the Force Majeure event. Delivery dates shall be suspended appropriately. Beta Systems shall notify Customer in writing. If the end of such Force Majeure event is not predictable and if in due consideration of the interests of both parties one of them cannot be expected to be bound by the Agreement, the party may terminate the Agreement by giving written notice. Further claims of the parties, especially liability claims shall be excluded in the event of Force Majeure.
- 4.9 Customer will strictly comply with all applicable import and export regulations for goods and services, particularly those of the United States. Customer has the sole responsibility to handle legal or regulatory proceedings in connection with cross-border deliveries or services, except as otherwise expressly agreed.
- 4.10 The Software contains Open Source Software. A current list of the Open Source Software contained as well as the respectively applicable open source software licence conditions will be made available to the Customer on request (also before conclusion of the contract). In addition, the Open Source Software and the respective applicable open source software licence conditions are listed in the Product Documentation of the provided Software. If Beta Systems provides the Open Source Software or makes it available for download, this is done free of charge.

### 5. Place of Fulfillment

The place of fulfilment is at Beta Systems' option either Berlin or Cologne, if not specified otherwise.

### 6. Warranty Claims

- 6.1 The agreed quality of the contractual Software or Deliverables is determined exclusively by Beta Systems' Product Documentation or, if existent, additional specifications. Upon request, this information will be made available to the Customer (also before conclusion of the Individual Agreement). Public statements, promotion and advertisements, e.g. in flyers, presentations or on websites don't represent contractual quality information. Customer has to ascertain that the Software is suitable for the intended purpose on the basis of product information provided by Beta Systems.
- 6.2 Customer must install the Software delivered by Beta Systems immediately and test it for its functionality and for deficiencies. If the defect is discovered later within the warranty period, Customer has to report defects in writing immediately. The defect must be described in a comprehensible format.

- 6.3 Customer's warranty claims are excluded, if the defect is not reproducible or cannot be identified with the help of handwritten or mechanical records.
- 6.4 Beta Systems will remedy the defect in the Software or the Deliverables either by eliminating the defects or, at its election, by providing to Customer a replacement software, that is free of defects within a reasonable time frame. Beta Systems may, at its election, remedy the defect by providing a workaround with an equivalent functionality or by providing a program which eliminates the defect (such as a Fix or Service Pack). Beta Systems may also provide a new software version (e.g. Product Release or Product Version) which eliminates the defect. Delivery of workarounds, programs remedying the defect or of new program versions shall be deemed as cure of the defect. Customer shall accept such delivery if the essential functionalities remain unaffected and if it would not be unreasonable to require Customer to do so. Beta Systems is allowed at least two subsequent efforts to remedy the defect. In case of a failure, Customer has the right to reduce the remuneration or rescind the contract. These rights shall also apply if Beta Systems refuses to cure the defect or if it would be unreasonable to expect Customer to accept the choice of cure.
- 6.5 Warranty claims are excluded in case of insubstantial deviation from the agreed quality, in case of only insignificant impairment of serviceability, or if the defect is caused by use of the contractual Software which is not in compliance with its Product Documentation, external influences or other causes beyond Beta Systems' control, e.g. use of the Software in a system environment or on a platform which is not compliant with the Product Documentation. The liability for defects is not applicable, if Customer modifies the Software or has it modified by third parties without Beta Systems' consent, unless Customer can show that the respective defect is not caused by the modification and that the defect resolution will not be made impossible or unacceptable by the modification. This is also true for unauthorized use with third party hardware or software or use of the Software, which is not contractual and/or appropriate. In these cases, Customer must cover the additional cost for remedying a defect. If Beta Systems provides defect identification or elimination services without being under obligation to do so, Beta Systems is entitled to remuneration based on the then current hourly rates. Beta Systems is also entitled to remuneration for additional work it does to eliminate any defect that arises out of Customer's failure to properly execute its duty to collaborate.
- 6.6 With respect to defects in Third-Party Software delivered by Beta Systems, which cannot be cured by Beta Systems due to legal or technical reasons, Beta Systems will – at its option – either enforce the applicable warranty on behalf of Customer or will assign to Customer the rights Beta Systems obtains from the vendors of such Third-Party Software. If such warranties are not enforceable against the third party, Customer's warranty claims against Beta Systems set forth under these General Part of General Terms and Conditions shall remain in full force and effect.
- 6.7 Customer has the obligation to support Beta Systems to the greatest possible extent in remedying the defect, especially by providing required information.
- 6.8 The warranty claims become statute-barred in 12 months. The statute of limitation starts with the date at which Beta Systems completes the delivery duties. The reduced statute of limitation does not apply in cases of Beta Systems' wilful intent or gross negligence, fraudulent concealment of a defect, injury to life, limb and health as well as in the case of a liability according to the German Product Liability Act.
- 6.9 The limitation of liability pursuant to section 8. of these General Part of General Terms and Conditions shall apply to claims for damages or claims for reimbursement of expenses of the Customer.
- 6.10 Whilst Beta Systems is checking the existence of a defect, the statute of limitation shall be suspended in accordance with statutory law. This shall not result in a recommencement of the period of limitation.
- 6.11 Warranty claims and liability claims of the Customer against Beta Systems regarding the Open Source Software delivered free of charge are excluded except in case of intent and gross negligence and in case of fraudulently concealed defects (in corresponding application of the regulations of section 521 et seqq. of the German German Civil Code (BGB)).
- 7. Industrial property rights**
- 7.1 Beta Systems is liable for the violation of third party rights only if the delivered Software and services are used as specified in the contract, in particular in the environment of use as agreed upon. Customer has to provide proof for compliance with contract. Should a third party file a claim based on infringement of a copyright or other industrial property rights or competition law against Customer, Customer will inform Beta Systems without undue delay. Upon Beta Systems' demand, Customer shall cease use of the Software or Deliverables immediately and shall inform the third party that such cessation does not imply any recognition of the claimed infringement. Beta Systems shall have full control over the dispute with the third party.
- 7.2 If Beta Systems violated the rights of a third party, Beta Systems may choose at its option and at its expense to either
- procure the right for Customer to use the contractual Software or Deliverables,
  - modify the contractual Software or Deliverables to make it noninfringing;
  - or, if these alternatives are not commercially reasonable, terminate the services or the license for the applicable program less a reasonable amount for use. Customer's interests are adequately taken into account.
- 7.3 For damages and reimbursement of expenses section 8 applies accordingly.
- 8. Liability**
- 8.1 Beta Systems is liable to Customer
- for intent and gross negligence, also by their legal representatives and agents,
  - for damages resulting from injury to life, limb or health by Beta Systems or its legal representatives or agents and
  - under the German Product Liability Act.
- 8.2 Beta Systems is not liable for damages caused by slight negligence, unless this negligence concerns the breach of essential contractual duties (cardinal obligations). An essential obligation is an obligation whose fulfillment is a prerequisite for the proper execution of the agreement, the violation of which jeopardizes the achievement of the purpose of the agreement, and upon whose fulfillment Customer can normally rely. In this case the liability of Beta Systems shall, however, be limited to the typical losses foreseeable when the agreement was concluded.
- 8.3 The liability for consequential damages is excluded.
- 8.4 For each claim, the liability for slight negligence is limited to 50 % of the value of the respective contract, in case of recurring fees the liability is limited to the amount of the annual remuneration. The total liability, in the aggregate, for any and all claims, resulting from or in any way related to the Agreement shall not exceed the total compensation payable by Customer under the Individual Agreement.
- 8.5 For the loss of data, Beta Systems shall be liable only if Customer has backed up its data at adequate intervals in a suitable form, so that it can be recovered at a reasonable cost. Beta Systems is not liable for

damages which result from the fact that Customer interrupts or withdraws the usage of the software.

- 8.6 For all claims for damages against Beta Systems the time bar comes into effect after a period of one year. That period begins at the point in time specified in the German Civil Code (BGB), section 199 paragraph 1. The foregoing provisions in this section notwithstanding, the time bar comes into effect not later than three years after the claim arises.

The provisions in sentences 1 to 3 in this section do not apply to liability for intent or gross negligence, fraudulent concealment of a defect, injury to life, limb and health, or liability under the German Product Liability Act.

- 8.7 For reimbursement of expenses and other liability claims of Customer against Beta Systems the above listed regulations apply accordingly.
- 8.8 For the Open Source Software provided free of charge, the regulation according to section 6.11 applies with regard to the liability of Beta Systems towards the Customer.
- 8.9 The provisions set out above are also valid for Beta Systems' organs, legal representatives, employees and other agents and assistants.

## 9. Confidentiality

- 9.1 The contracting parties undertake to treat the confidential information and trade secrets ("Confidential Information") of the respective other contracting party obtained within the framework of the concluded Individual Agreement as strictly confidential without any time limit, to protect it appropriately from access by third parties and to use it only within the framework of the performance of the Individual Agreement.

- 9.2 Confidential Information shall be deemed to include, in particular and regardless of the form (e.g. written, electronic, oral, digitally embodied or otherwise) in which it is provided:

- a) software products, software specifications, source code, know-how, inventions, business processes, business policies or practices, financial information, research and development activities, pricing, training procedures, business plans, business relationships, human resource planning, advertising and marketing strategies.
- b) Any documents and information of the disclosing party which are the subject of technical and organisational confidentiality measures and which are marked as confidential or are to be regarded as confidential according to the nature of the information or the circumstances of the transmission.
- c) The existence of the Individual Agreement and its content, in particular its terms and conditions.

The obligation of confidentiality does not apply to information that is already lawfully known to the parties or becomes known outside the contract without a breach of a confidentiality obligation. The obligation of confidentiality shall also not apply if the contractual partner is subject to a legal or official obligation of disclosure.

Confidential information may only be made accessible to those employees who require the information for the implementation of the Individual Agreement within the framework of the agreed rights and obligations. These employees shall (within the scope permitted by labour law) be obligated by the contracting parties to maintain confidentiality accordingly.

- 9.3 The Parties are aware that unencrypted electronic communication (e.g. by email) poses security risks. Both parties waive their right to claim damages which arise due to the use of unencrypted communication, unless the parties agreed on using encryption.

## 10. Termination

The parties may terminate an Individual Agreement at any time for just cause. Beta Systems reserves the right to terminate for just cause where (i) Customer does not fulfil payment obligations within a

reasonable time frame or (ii) where Customer is in breach of major contractual obligations.

## 11. Final Provisions

- 11.1 Beta Systems Software AG and its affiliated companies within the meaning of section 15 et seqq. German Stock Corporation Act (AktG) are entitled to name Customer as part of marketing activities, marketing documentation and other publications, especially publications with advertising content. Beta Systems has the right to report benchmark data of the Individual Agreement as part of its obligations for stock exchange publication.

- 11.2 Beta Systems reserves the right to assign the Individual Agreement to an affiliated company within the meaning of section 15 et seqq. German Stock Corporation Act (AktG) without Customer's consent unless it would be unreasonable to require Customer to accept the assignment.

- 11.3 The sole place for jurisdiction for all disputes directly or indirectly arising from the parties' business relationship shall be Berlin.

- 11.4 The relationship between Beta Systems and the client is exclusively subject to the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

- 11.5 Changes of or amendments to these General Terms and Conditions and to the Individual Agreement including the written form requirement set forth in this clause, must be in writing.

- 11.6 If one or more provisions of these General Terms and Conditions or the Individual Agreement are or become invalid or void, the validity of the remaining provisions shall remain unaffected thereof.