Terms and Conditions

I. Preamble with contents of General Terms and Conditions

1. The following General Terms and Conditions regulate the contractual relationships between the commercial trading

TIS Technische Informationssysteme GmbH
Müller-Armack-Straße 8
46397 Bocholt

hereinafter referred to as TIS
and customers.

2. TIS is a provider of telematics and / or wireless solutions and provides services in this connection, which can complement the leading systems of its customers around the area of telematics and / or radio. Therefore, TIS cannot guarantee the functionality of the customer-driven system or take the responsibility for success.

TIS available under the following contact data:

Telephone: +49 2871 27220
Fax: +49 2871 272299
E-Mail: info@tis-gmbh.de

The Terms and Conditions are separated into the four following sections, marked by the roman I-IV labeled sections, with associated upper and lower digits:

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1. Contractual language is German.

2. These Terms are issued for the purpose of facilitating international understanding in two language versions, namely English and German. In the event of disputes the German version shall be the Relevant, that is, in particular, that in the event of disagreement on the interpretation of individual clauses of these Conditions, the terms and definitions of the German law are crucial.

V General provisions for all services

1. Contract parties
1.1. Only entrepreneurs and juristic persons are accepted as cutomers.
1.2. Consumers will be excluded as a customer.

2. Validity of these Terms and Conditions
2.1. These terms and conditions apply exclusively to all services provided by TIS
2.2. Terms to the contrary are not recognized by TIS
2.3. If the customer is a merchant, they apply for all future business relations even if not expressly agreed again.
2.4. TIS has the right to modify or supplement the general terms and conditions or the special terms and condition for services at any time.
2.5. Customers have the right to contradict modifications or additions.
2.6. If the written contradiction does not take place within four weeks after receiving the notice of change, they will be effective according to the modification or addition.
2.7. Customers are reminded in the beginning of the period in written that the amendment or supplement notice shall be deemed accepted if not objected in writing within four weeks.
2.8. If the customer exercises the right of objection, TIS has the right to continue the contract under the same conditions or to terminate the contract at a term of one month to the end of the month.

3. Services, promised features and guarantees
3.1. TIS owes services with an industry state of the art at from time of the conclusion of contract.
3.2. TIS is not committed to expand the options of use according to the technical development for free without the conclusion of a maintenance contract.
3.3. The performance details and components are the result of the following listing (in descending order)

the contractual agreements,
the relevant service description,
the relevant special terms and conditions for services,
the relevant price list
the relevant specific terms of these terms and conditions
the relevant general terms of these terms and conditions.

3.4. Unless otherwise agreed, TIS owes services to be provided as separate from one another and single billable

services.

3.5. If particularly described properties are assigned to products, these properties represent a specification that cannot be understood in terms of a guaranteed property or quality or durability. Relevant properties are not guaranteed and appropriate guarantees are not agreed.

4. Subject to alterations

4.1. TIS has the right to alter the benefits promised or deviate from this, if the change or deviation is reasonably compatible with the interests of TIS,, for the customer.

4.2. Modification or variation is reasonable, if the customer is not worse or better, or do not deviate significantly from the services.

5. Reservation of the right to rescind

5.1. TIS is entitled to withdraw from the contract by resignation or dismissal, if this is justified by the facts, as far as continuing obligations are concerned, TIS is entitled to ordinary termination without good cause. This does not affect the right of extraordinary termination.

5.2. TIS is entitled to back out from parts of his duty to perfom by resignation or dismissal, if this is justified by the facts. As far as continuing obligations are concerned, TIS is entitled to ordinary termination without good cause. This does not affect the right of extraordinary termination also.

5.3. Modification and variation is justified,

5.3.1. if a third party alters or stops its service offer, which TIS uses to provide their own services,

5.3.2. if the customer breaches its duty with regard to the goods supplied under retention of title,

5.3.3. if the customer provides false information about his credit,

5.3.4. in case of impossibility, force majeure, strikes, natural disasters and

5.3.5. for breaches of a customer unless the customer has been given a reasonable grace period for the duty.

5.4. In the event of unavailability of advance payment TIS undertakes to inform the customer immediately about the non-availability of the service and refund already made payments immediately.

6. Conclusion of contract

6.1. Promotion of the products on the Internet or in catalogs by TIS is an unbinding request to our customers to make an offer, which is subject to change. This also applies to "non-binding offers" termed letters of TIS

6.2. The customer can place an order in writing, by telephone or in writing.

6.3. TIS can accept the offer either verbally or by written confirmation in writing or text form, or by delivery.

6.4. If the order confirmation from TIS differs from the offer of the customer, the confirmation represents a new offer. The acceptance takes place by the customer referring to the order confirmation.

6.5. TIS has the right to reject an offer.

7. Period of agreement and Termination

7.1. When there are continuing obligations,

7.1.1. concerning software, the term of the contract is initially 24 months and is extended by one quarter each, unless the contractual relationship is terminated in text form with a notice period of 4 weeks before the end of a term

7.1.2. concerning mobile components, the term of the contract is initially one month and is extended by one month at a time, unless the contractual relationship is terminated in text form with a notice period of 4 weeks at the end of a term

The date of receipt of the notice at the contracting party shall be conclusive.

7.2. The parties may terminate the contractual relationship immediately, if there is an important reason. An important reason exists in particular if the customer is paying the system usage charge or a substantial part of more than 2 consecutive months in arrears or in a period extending over more than two months, with the payment of an amount that is reaching the system usage charge for two months.

8. Dates and deadlines

8.1. Performance dates and deadlines for the commencement of services are only binding if expressly confirmed by TIS and if the customer has met all the influence conditions for execution of the service in time.

8.2. For the beginning and the calculation periods, which are related to the term and the end of the contract (e.g., minimum contract periods), the date used in the order conformation for the first deployment of service takes effect.

8.3. In case of a responsible, unpredictable, unavoidable and an obstacle of service away from the influence of TIS, dates and periods move for an appropriate amount time.

8.4. If the service of TIS is delayed, the customer is only entitled to withdraw if TIS is responsible for the delay and an adequate period for the service delivery set by the customer has expired.

9. Delivery dates / partial delivery / delivery times / risk

9.1. Delivery dates declared by the customer, require our confirmation to be valid.

9.2. Partial deliveries are permissible if they are reasonable for the customer.

9.3. Delivery is unfree ex factory.

9.4. The beginning of the specified delivery period requires that the customer leaves all of the information, documents and other items as agreed. The delivery period is complied if the delivery item has left our factory or our warehouse, or we have informed the customer that the goods are ready until the deadline.

9.5. The delivery period is extended appropriately in the context of labor disputes, strikes and lockouts, or government regulations or orders, or if unforeseen obstacles that lie outside the control of assets of TIS occur, where such obstacles of evidence on the production or delivery of the products to be supplied object have considerable influence. This applies even if the circumstances arise in the supply.

9.6. The risk of accidental loss and accidental deterioration of the Deliverables shall pass with the delivery to the carrier or any other person to carry out the shipment to the customer. The handover is the same, if the customer is in default of acceptance. Moreover, the risk for Deliverables goes to the customer upon receipt of notice of readiness.

9.7. Shipping route, type and means of dispatch are left to TIS unless otherwise expressly agreed without any guarantee of the fastest and cheapest transportation. Here, the interests of the customer are adequately addressed. Upon request, TIS will insure the goods to be delivered at the customer's expense against theft, breakage, transport, frost, fire and water damage and other hazards to be designated by the customer, if possible.

9.8. If the shipment is delayed at the request of the customer, TIS will begin to charge the costs of the storage one month after the charge indicator of readiness.

10. General collaboration duties of the customer

10.1. The customer must provide all necessary information and documents to TIS from his sphere. If necessary to provide the service the customer will provide the employees of TIS access to its premises and / or existing information technology infrastructure.

10.2. If the customer performs his obligation duties not, not in time or incomplete an is responsible for that

10.2.1. TIS can make an offer to provide these services itself instead of the customer,

10.2.2. the periods affected by the delay postpone adequate , if the these cannot be adhered.

10.2.3. Any claims for compensation from TIS and / or the right to terminate, if necessary, or to withdraw without prejudice are not affected.

10.3. Specific duties of collaboration arise, unless otherwise agreed, as a supplement to the provisions of the special conditions of contract above.

11. Credit analysis and provision of security

11.1. If there are founded doubts to the creditworthiness of customers before or after the conclusion of contract, because it is expected due to the subsequent upper section gathered information, that the enforcement of claims against the customer will be connected with considerable difficulties, particularly because he is in arrears with commitments from other (existing or earlier) contracts or those contracts were not settled according to the contract or similar cases are present, TIS is allowed to request a provision of adequate security in the form of an interest-bearing deposit or a several guarantee by a EU-based financial institution or limit the access to its services if the is not or not enough given or the security does not provide sufficient protection against bad debt offering (for example, if the customer has made the affidavit or has not complied with a request for their release), or another serious cause is present, such as the customer has made incorrect statements or there is a reasonable suspicion that the customer uses or intends to use the services in an improper intention. A possibly paid provision of security will be released after completion of the contract if the customer has settled all claims of TIS

11.2. TIS is entitled to set off the security against such claims, that arenot paid by the customer in spite of reminder.

11.3. TIS has to grant the security deposit back, if the conditions above are no longer existing.

11.4. In addition, TIS can deny a contract due to lack of credit.

12. Credit agency / SCHUFA / CEG / BÜRGEL

12.1. TIS is entitled to obtain information from credit reporting agencies within the context of credit check.   TIS is also entitled to transfer information to credit reporting agencies required for the collection of customer data due to any breach of contract (eg requested default summons in case of uncontested claims, court order for uncontested claims, established enforcement orders, compulsory enforcement measures). TIS can get information about data, if they arise from other customers relationships a fair credit reporting agency. The respective data transmission and storage is done in the context of data protection regulations and only to the extent necessary to protect the legitimate interests of TIS, a counterparty of the credit agency or the public, and thus the legitimate concerns of the customers are not affected.

12.2. If the consent to obtain information from the Schufa, the CEG, Creditreform or BÜRGEL was released, it has the following scope:

"I / We agree that TIS transmits data about the application, admission and termination of this Agreement to the SCHUFA HOLDING AG, Kormoranweg 5, 65201 Wiesbaden (SCHUFA), and / or the CEG Creditreform Consumer GmbH, Hellersbergstraße 14, 41460 Neuss (CEG), and / or the BÜRGEL Business Information Ltd. & Co. KG, Postfach 500 166, 22701 Hamburg, or any other credit agency and that TIS receives information about me / us from SCHUFA / CEG / BÜRGEL. Independently,TIS will transmit information due to failure to meet contract obligations to SCHUFA / CEG / BÜRGEL (eg, termination for default payments, requested default summons in case of uncontested claims and compulsory enforcement measures). These messages may be purchased under the Federal Data Protection Act only after weighing all the interests involved. SCHUFA / CEG / BÜRGEL collects and transmits the data to their affiliates in the European internal market to give them this information to assess the credit worthiness of individuals. Contractors of SCHUFA / CEG / BÜRGEL are primarily banks, credit card companies and leasing companies.

In addition, SCHUFA / CEG / BÜRGEL furnish particulars on information of trade, telecommunications and other companies, that provide goods and services on credit. SCHUFA / CEG / BÜRGEL makes personal information available only if a legitimate interest in it was presented credible in each case. To identify the debtor SCHUFA / CEG / BÜRGEL transmit personal data. SCHUFA / CEG / BÜRGEL is entitled to transmit a probability value, calculated from its database, to its contract partners (Score method).

I / we can get information from SCHUFA / CEG / BÜRGEL on my / our stored data (SCHUFA HOLDING AG, Kormoranweg 5, 65201 Wiesbaden, www.schufa.de; CEG Creditreform Consumer GmbH, Hellersbergstraße 14, 41460 Neuss , www.cegplus.de; BÜRGEL Business Information GmbH & Co. KG, Postfach500166, 22701 Hamburg)."

13. Defects Classification / Classification Process / Customer Participation

13.1. Unless otherwise agreed, as a part as the warranty and the service a distinction is made between the following four classes:

13.1.1. A service preventing deficiency exists when the use of the respective service is impossible or severely restricted.

13.1.2. A service interference deficiency exists when the use of that service is severely limited.

13.1.3. A slight deficiency exists when the use is possible with slight restrictions.

A service preventing defect exists, even if the slight deficiencies are resulting in a considerable restriction of the use of individual services.

13.1.4. No deficiency exists, but service preventing or –interference deficiencies occur.

13.2. TIS decides on the classification of the limitations encountered when service preventing, service interference and slight deficiencies or defect, with due to the account of the views of the customer, with particular consideration of the following reasons:

13.2.1. TIS leaves in its function as a provider of telematics software a part of the software used by the customer.

13.2.2. Customers therefore use mainly leading third-party software, usually consisting of a freight forwarding software, an ERP system or an inventory control system, which exchanges data through a software interface with the Software of TIS

13.2.3. The third-party software used by the customer is not able to process the data to the interfaces of the software provided by TIS or is not able to work with the data delivered from the TIS Software. In both cases, there is no shortage of services available from TIS, unless otherwise agreed.

13.2.4. The customer agrees to cooperate in finding, in particular to provide TIS the data delivered by the third party software or the data used after the delivery of the software for the purpose of verification.

14. Liability for defects

14.1. There is basically a legal defect liability law, unless otherwise provided.

14.2. TIS shall warrant that the services are free of defects that prevent the suitability for the contractual use or reduce.

14.3. A minor defect or significant reduction in functionality is irrelevant.

14.4. TIS is not liable for the consequences of improper handling, use, maintenance and operation of the goods or the consequences of normal wear and tear of wearing parts such as Batteries, Screen Protectors, printer ribbons, printer, color transparencies, printer paper or the failure to follow the operating instructions.

14.5. Defects liability claims by the customer shall not extend to the software or hardware that was changed by the customer or that he does not use in an agreed system environment, unless the customer proves that this use is not the cause of the reported shortage.

14.6. The reproducibility or detectability of the defects are required for the claims of the customer.

14.7. The customer has to check the good immediately after the delivery by TIS within purchase agreements and contracts for work and materials if possible in the ordinary course of business and an notify TIS. The customer has to send TIS the information useful for the detection in written, if no other form is agreed. He has to meet the measures which facilitate the identification of defects and their causes. If the customer fails to report, then the goods shall be deemed approved unless there is a defect which could not be detected in the report. If such a defect is discovered later, the announcement must be made immediately after the discovery, otherwise the goods will be considered in regard to this defect as approved. If TIS has fraudulently concealed the defect, TIS can not rely on those rules.

14.8. Moreover, the customer has to report the defects immediately, unless otherwise agreed. to form the error message. He has to meet the measures which facilitate the identification of defects and their causes.

14.9. Product specific warranty provisions are also included in the special provisions for special services. They are complementary and in the event of a conflict with the terms of these general rules of priority.

14.10. If liability is not excluded or not excludable by law, liability is limited to foreseeable, typical damage.

15. Event of default

15.1. In case of default, the customer can set an appropriate deadline to TIS for the service. A period is appropriate when it is measured at least 3 weeks. After this period, the customer can cancel the contract in whole or in part.

15.2. The customer is obliged to declare on the request of TIS, if he rescind from the contract because of the delay or if he insists of the service. This request has to be performed during the period referred to the first sub-paragraph of this section (Event of default) with a reasonable notice prior to its expiration. Until the receipt of the response at TIS, TIS is entitled to perform.

15.2.1. If the customer is calling for compensation instead of the service and no date for the end of the loan periods is agreed in the contract, the duty of payment is limited to pay two times the monthly compensation for the affected product.

15.2.2. The right to the service is excluded if the customer has requested compensation instead of the service.

15.2.3. If there is a date for the end of a loan period provided in the contract, the compensation is limited to 8% of the total reward for the affected product.

15.3. Customer claims for compensation of lost profits are excluded.

15.4. The limitations will not apply where damages are affected from the loss of life, limb or health or claims under the Product Liability Act or guarantees are concerned. The liability for breach of duties, which makes the proper execution of the contract possible and which compliance is expected regularly by the customer shall not be affected. The same applies to breaches of TIS vicarious agents.

15.5. Product Specific provisions are also included in the special provisions for special services. They are complementary and in the event of a conflict with the terms of these general rules of priority.

15.6. If liability is not excluded or turns out to be not excludable by law, liability is limited to foreseeable, typical damage.

16. Other Liabilities

16.1. The liability is finally covered for delay under the overall number of delays and defects liability under the Upper Section of liability for defects.

16.2. In addition, TIS shall be liable for damages as follows:

16.2.1. for material damage up to 100,000 € per contract;

16.2.2. liability for financial loss is limited to 100,000 € per contract.

16.2.3. Claims for lost profits are excluded.

16.2.4. In case of loss of data TIS is only liable for those expenses, which is required at proper data security by the customer to restore the data. For slight negligence of TIS this liability occurs only if the customer has performed a proper backup immediately before the action, leading to loss of data, took place.

16.3. The limitations will not apply if damages from the loss of life, limb or health or claims under the Product Liability Act are affected or guarantees are concerned. The liability for the breach of obligations, which makes the proper execution of the contract in the first place and which the customer can usually trust to shall remain unaffected. The same applies to breaches of TIS agents.

16.4. In negligent property and financial losses, we are only liable for breach of a contractual obligation, but the amount is limited to the conclusion of the contract and foreseeable contractual damage.

17. Rights of use

The rights of use arise from the special provisions for special services.

18. Infringement of intellectual property rights

18.1. If a third party claims any claims of infringement of intellectual property rights through the use of the delivered products and this will affect or forbid the use, then TIS is liable as follows:

18.1.1. TIS will change or replace the products at its discretion and at its expense the, to infringe the intellectual property rights, but basically match the agreed functional and performance characteristics in a reasonable manner to the customer, or dispense the customer of license fees to the patent holder or Third. If TIS fails to do so in appropriate conditions, then TIS has to take back the products with refund against the compensation minus an amount that considers the time of use. In this case, the customer is obligated to return the products.

18.1.2. Condition for the liability of TIS is that the customer notifies TIS immediately of third party claims, does not acknowledge the alleged infringement and the he either cedes all dispute including any out-of-court settlements to TIS or makes it himself only in agreement with TIS. Necessary court and legal costs of the customer caused by the legal defense shall be borne by the TIS

18.1.3. If the customer discontinues the use of mitigation reasons or other good reason, he is obliged to point out to the third, that an acknowledgment of the infringement is not connected with the cessation of use.

18.1.4. Unless the customer is responsible for the alleged infringement itself, claims against TIS are excluded.

18.1.5. Further claims by the customer due to a violation of property rights of third parties are excluded.

18.2. The limitations will not apply if damages from the loss of life, limb or health or claims under the Product Liability Act are affected or guarantees are concerned. The liability for the breach of obligations, which makes the proper execution of the contract in the first place and which the customer can usually trust to shall remain unaffected. The same applies to breaches of TIS agents.

18.3. The limitations and exclusions of liability do not apply if the damages are covered by public liability insurance of TIS and the insurer pays.

18.4. If liability is not excluded or turns out to be not excludable by law, liability is limited to foreseeable, typical damage.

19. limitation

Claims under the upper digits of liability for defects, delay, other liability prescribe in a period of 3 years from the knowledge, but not later than 5 years after delivery, unless nothing else addicts from the special provisions for special services.

20. Retention of title

20.1. Ownership of the goods supplied by TIS until full payment of all claims arising from the business relationship with the customer stay in the ownership of TIS and may not be pledged or transferred as security.

20.2. In case of seizure or other interference by third parties, the customer is obliged to inform TIS thereof immediately.

20.3. The securities will be released upon request of the customer, if the value of the securities exceeds the secured claims by more than 25%.

21. Compensation

21.1. The amount of compensation, the due date and billing are resulting from the contract and the special provisions for special achievements of the terms and conditions.

21.2. Prices are ex-factory and exclude VAT.

21.3. Unless otherwise agreed, invoices are due immediately without deduction.

21.4. The package is derived from the contract.

21.5. If an upstream supplier of TIS increases or decreases a price with effect for TIS, TIS passes it to the customer.

21.5.1. Increases are excluded, if delivery dates within 4 months after the contract are agreed. If the price increase is of over 10% compared to the previously prevailing price, the customer can cancel within 30 days of their release from the contract.

21.5.2. Reductions are passed from TIS to the customer without notice.

21.6. If a price adjustment is agreed with continuous obligations for services, unless otherwise agreed the following applies:

21.6.1. An increase considers earliest 9 months after delivery of the product, further increases are considering earliest 9 months after the effective date of the previous increase.

21.6.2. An increase will take effect three months after the announcement.

21.7. Insofar coast accounting on basis of actuals is agreed, daily rates are calculated by, travel costs and incidental expenses depend on the current price list of TIS, unless otherwise agreed.

21.8. Per calendar day will not be paid more than a daily rate, unless otherwise agreed. An agreed daily rate can only be charged if at least 8 time hours were worked. If less than 8 hours are done per day, they are proportional to invoice. Commenced hours are paid as full hours, if an hourly rate is agreed.

22. Billing

22.1. According to § 14 UStG, invoices can be sent electronically with subject to the consent of the recipient.

22.2. TIS is entitled to send invoices as a pdf bill via e-mail (e-billing).

23. Privacy / Secrecy

23.1. The customer is responsible to provide TIS all information, legal requirements and knowledge which are required for the observance of data protection and confidentiality.

23.2. Before handing over a volume to TIS, the customer is responsible for the deletion of data worth being protected, unless otherwise agreed.

23.3. The customer and TIS ensure that all persons entrusted with the processing or fulfillment of the contract observes the legal provisions and the privacy. The obligation required under data protection law on privacy has to start before the first start of the activities and has to be proofed if requested.

23.4. The customer and TIS ensure that all technical and organizational measures are taken which are necessary to ensure the implementation of the provisions of the foregoing sub-paragraph, in particular in § 9 BDSG mentioned requirements.

23.5. The customer and TIS may cancel the contract in whole or in part if they comply with the obligations fault within a reasonable period or violate privacy regulations intentionally or grossly negligent.

23.6. The customer and TIS are obliged to handle all information obtained in the framework of the contract confidential information, business and trade secrets confidential, particularly not to pass them on to third parties or otherwise as to contractual purposes.

23.7. TIS is allowed to include the name of the customer and a brief description of the service provided in a reference list. All other advertising information to the customer are discussed in advance with him.

24. Textual form

The contract and any amendments thereto, and all contract-related statements, disclosure and documentation requirements must be in textual form, unless another additional form is agreed.

25. Contractual exclusion of setoff

The customer is not entitled to set off its claims against payments due, unless the claims are undisputed or legally binded.

26. Applicable Law, Place of Jurisdiction and Ancillary Agreements

26.1. The contract including these General Terms and Conditions is subject to substantive law of the Federal Republic of Germany. The provisions of the Vienna UN Convention dated 11th April 1980 on Contracts for the International Sale of Goods (CISG) shall not apply.

26.2. In case of disputes, the registered office of TIS shall be the place of jurisdiction if

26.2.1. The customer is a merchant or

26.2.2. the customer has no general jurisdiction in the Federal Republic of Germany or

26.2.3. the customer is a legal entity under public law.

26.3. TIS is entitled to sue in any other jurisdiction provided by law.

26.4. No ancillary agreements have been made.

27. Salvatorius clause

27.1. If any provision of the contract or these terms and conditions become invalid, the validity of the remaining provisions shall not be affected.

27.2. The parties will cooperate to replace invalid provisions by regulations which comply with the invalid provisions, as far as possible.

28. Information on third-party software and rights to use third-party software

28.1. It is possible that the use of the software by TIS causes with the licensing terms of the third party software used by the customer that the customer must purchase additional rights to use this software of these suppliers.

28.2. The customer is responsible for procuring rights to use third party software.

VI Special provisions for individual services

1. Provisions for the transfer of software

1.1. General provisions for the transfer of software

1.1.1. Subject of the contract

1.1.1.1. The following conditions apply to the transfer and use of software in each case the version licensed in the contract.

1.1.1.2. They do not apply for additional services such as installation, integration, configuration and customization of the software to meet customer needs.

1.1.1.3. Proper data backup is up to the customer, unless otherwise agreed.

1.1.2. The nature and extent of the service

1.1.3. TIS provides the software to the customer with the provisions of the contract.

1.1.3.1. The documentation of the software can be delivered in German and printed or printable form, unless otherwise agreed.

1.1.3.2. The software was checked at an appropriate time before each delivery to the customer (so there is a delivery) with a current anti-virus program TIS said that the review found no evidence of damage functions in the software.

1.1.4. Rights of use

1.1.4.1. Software is protected by copyright.

1.1.4.2. Software is provided to the customer for its intended use. The scope of the intended use and the type and extent of the rights arise from the agreement and these terms and conditions.

1.1.4.3. The intended use is determined by the system and operational environment of the software at the time of initial assignment. In the case of porting software to hardware, purchased to a later date, it can lead to use restrictions that must be cleared for payment.

1.1.4.4. The Customer commits to ensure the use of the software with appropriate technical and organizational measures.

1.1.4.5. The customer is entitled to make a copy of the software for backup purposes. The proper backup copies of software are serving part of their intended use.

1.1.4.6. Use in a system environment different than agreed requires the consent of TIS. If a system environment defined in the contract is not operational, the temporary use of another suitable one is permitted until the error in any other suitable environment is fixed.

1.1.4.7. The customer agrees, to avoid to bring the software into another code form, unless that it is allowed by the copyright regulations.

1.1.4.8. TIS informs the customer about in the software copying- and use-locks, as far as they are known.

1.2. Special provisions for the transfer of software

1.2.1. Temporally unlimited transfer of software

1.2.1.1. Rights of use

1.2.1.1.1. If no other rights of use are granted, TIS grants the customer the right to use the following software:

1.2.1.1.1.1. the non-exclusive right of use

1.2.1.1.1.2. the rights of use in the system environment agreed in the contract,

1.2.1.1.1.3. the transferable right of use, with the restriction of sub-section 1.2.1.1.2,

1.2.1.1.1.4. the continuing and irrevocable right of use, with the restriction of sub-section 1.2.1.2.

1.2.1.1.2. If the customer is entitled to transfer the rights of use to a third party, and he makes this, he has to pay its obligations to the third parties. Upon such a transfer the usage rights of the customer expire. The same applies for return transfers. All existing copies of the software must be deleted or returned to TIS.

1.2.1.2. Extraordinary Termination of Rights of use

1.2.1.2.1. If the customer violates the agreed usage rights of use or rights of the owner serious, TIS can terminate the rights of use of software extraordinary.

1.2.1.2.2. In the event of termination, the customer is required to delete the original of the software affected by the termination, including documentation and all copies and return them to TIS.

1.2.1.2.3. At the request of TIS, the customer makes a statement about the cancellation.

1.2.1.2.4. The customer is entitled to retain a copy of the software for testing and archival purposes, if an agreement was reached. The other statutory provisions shall remain unaffected.

1.2.1.3. Compensation

1.2.1.3.1. The compensation in the case of a purchase contract or work contract is due immediately.

1.2.1.3.2. In the case of the conclusion of a work contract, the payment is due upon acceptance.

1.2.1.3.3. Where partial services are agreed these regulations shall apply accordingly.

1.2.1.4. Liability for defects, defects liability period

1.2.1.4.1. If the obligation of TIS for defect removal is not precluded by contract, the following applies:

1.2.1.4.1.1. The obligation of TIS defect removal relates to the most recent, adopted version of the software by the customer. Unless otherwise agreed, a new version is to be borne by the customer if it is used to prevent or eliminate defects. The customer is not required to adopt a new version, if it is not reasonable, because the new version differs significantly from the agreed contract specifications. If the customer dies not takes over a new version for that reason its other rights under these General Conditions remain intact.

1.2.1.4.1.2. On release of a new version of the software, the replaced version has to be destroyed or surrendered at the request of TIS.

1.2.1.4.1.3. If a new version contains more functionality or more features than the contractually owed as amended ("supererogation"), the customer has to pay a transfer fee only, if he wants to use the supererogation. An obligation to use the supererogation does not exist.

1.2.1.4.1.4. TIS can correct the defect at its option by removing, bypassing or replacement. Corrective action includes the delivery of a printed or printable instruction for the documentation, if necessary.

1.2.1.4.2. If TIS does not correct the defects within a reasonable time limit, the customer may set a period of grace. If the repair or replacement does not occur within the time period or if it failed for any other reason, the customer can demand a reasonable reduction in price.

1.2.1.4.3. The warranty period is 12 months after delivery, unless otherwise agreed. The warranty period for defects in subsequent performance also ends with the expiry of the warranty period referred to in the preceding sentence.

1.2.2. Temporary Use of Software (rent / SaaS / Test- and Demonstration-purposes)

1.2.2.1. Rights of use

If no other right if use are agreed, TIS grants the customer the following rights of use to the software:

1.2.2.1.1. the non-exclusive right of use

1.2.2.1.2. the right of use in system environment agreed in the contract,

1.2.2.1.3. the non-transferable right of use

1.2.2.1.4. the temporary and terminable right of use.

1.2.2.1.5. The same applies to the provision for test and demonstration purposes for the period of testing or demonstration.

1.2.2.2. Duration and termination of rights of use

1.2.2.2.1. The duration of the transfer of the software results from the contract.

1.2.2.2.2. If the customer violates the agreed usage rights or rights of the owner serious, TIS can terminate the

rights of use of the software affected greatly. This implies an unsuccessful reminder having been sent ahead by TIS.

1.2.2.2.3. In the event of termination, the customer is required to delete the originals of the software affected by the termination, including documentation and all copies and return them to TIS. At the request of TIS, the customer makes a statement about the cancellation. The customer is entitled to retain a copy of the software for testing and archival purposes, if an appropriate agreement was reached in the contract.

1.2.2.2.4. The other statutory provisions shall remain unaffected.

2. Development of software for the purpose of subsequent transfer

2.1. Subject of the contract

2.1.1. Unless otherwise agreed in the contract, the conditions of the upper sections 1.1 and 1.2 of this section shall apply.

2.1.2. In addition the following provisions shall apply.

2.2. Acceptance

2.2.1. Unless otherwise agreed, the acceptance of the software takes place in several phases, specifically as follows:

2.2.1.1. Delivery to the customer,

2.2.1.2. Installation at the customer in a test environment or in the system environment,

2.2.1.3. Two-week test phase of the customer,

2.2.1.4. Immediate start of the elimination of defects discovered during testing by TIS.

2.2.1.5. After correction of all deficiencies TIS will request the customer to declare the decline

2.2.1.6. The acceptance can be declared within 7 working days. If Customer does not declare within that time, the software is considered as accepted.

2.3. Compensation

2.3.1. The amount of compensation is determined by the contract.

2.3.2. Unless otherwise agreed, the fee is payable in installments, namely

2.3.2.1. 50% with order,

2.3.2.2. 25% after the transfer or delivery or installation,

2.3.2.3. 5% after completion of the testing phase

2.3.2.4. 20% after acceptance.

2.4. Liability for defects, defects liability period

2.4.1. If the obligation of TIS for the remedying of defects is not precluded by contract, the following applies:

2.4.1.1. The obligation of TIS for remedying of defects relates to the most recent, version of the software adopted by the customer.

2.4.1.2. On release of a new version of the software, the replaced version has to be destroyed or surrendered at the request of TIS

2.4.1.3. If a new version contains more functionality or more features than the contractually owed as amended ("supererogation"), the customer has to pay a transfer fee only if he wants to use the supererogation. An obligation to use the supererogation does not exist.

2.4.1.4. TIS can correct the defect at its option by removing, bypassing or replacement. Corrective action includes the delivery of a printed or printable instruction for the documentation, if necessary.

2.4.1.5. If TIS does not correct the defects within a reasonable time limit, the customer may set a period of grace. If the repair or replacement does not occur within the time period or if it failed for any other reason, the customer can demand a reasonable reduction in price.

2.4.2. The warranty period is 12 months from acceptance, unless otherwise agreed and has not TIS fraudulently concealed the defect. The warranty period for defects in subsequent performance also ends with the expiry of the warranty period referred to in the preceding sentence.

3. Maintenance of software

3.1. The nature and extent

3.1.1. TIS provides maintenance services for software, as agreed in the offer and by personnel who are qualified to perform the agreed maintenance services.

3.1.2. The Software version maintained is the version at the time of the delivery date under consideration of the maintenance by now, that means the existing maintenance that is owed is the maintenance of the latest published version. Old versions should not be maintained.

3.1.2.1. If the customer uses the software not in the system environment declared in the offer, he is not entitled to get maintenance services.

3.1.2.2. If the customer uses the software not corresponding to the right of use agreements of the licensing agreement, he is not entitled to get maintenance care services.

3.2. Customer Participation

3.2.1. The customer will assist TIS in the provision of contractual services to a reasonable extent. The customer will inform TIS especially about rights of use and, if necessary, about the extent of the right to edit of third or the software specified in the order. The customer has to provide the necessary information and documentation in timely manner. Any further involvement services must be agreed separately. Contact persons are exclusively the responsible contact persons named in the contract.

3.2.2. The customer must inspect the goods immediately after delivery by TIS, to the extent feasible in the ordinary course of business, to investigate and, if he sees a defect, inform TIS immediately.

3.2.3. The customer has to advice TIS, indicating the known and reported defects with information useful for their detection, if no other form of defect advice is agreed.

3.2.4. He has to meet the measures within the reasonable, which facilitate the identification of defects and their causes.

3.2.5. Upon request, the customer must notify the system environment for the software listed in the offer.

3.2.6. The customer is obliged to inform TIS on its operating conditions and on changes on these operating conditions timely an software listed in the offer if they impact on the contractual services of TIS.

3.2.7. If teleservices are agreed, the customer will provide the necessary technical facilities and provide access to the system according to the agreement.

3.2.8. Proper data backup is up to the customer.

3.3. Customer participation in software maintenance/ reporting or defects

3.3.1. The parties to the agreement are exclusively those responsible in the contract. The customer has to take the necessary measures, which make it possible to identify deficiencies and their causes.

3.3.2. The notification of defects must always be made via the TIS ticket system as well as via the telephone number provided by trained key users. The notification shall accurately describe the deficiency (in particular, conditions under which it occurs, symptoms and effects of the defect).

3.3.3. The customer shall provide TIS on-site access to the neccesary extend to its own premises and access to the necessary hardware and software as well as the required technical facilities for its regular business hours. Insofar as the urgency of the care service requires, the access is also granted outside the regular business hours of the client.

3.3.4. The customer will appoint a qualified employee who is available as a contact person and is authorized to make the necessary decisions for the execution of the contract.

3.3.5. Upon request, the customer must communicate the system environment for the software listed in the offer.

3.3.6. The customer is obliged to inform TIS of his / her application environment as well as of any changes to this application environment and the software specified in the offer, as long as these have an impact on TIS contractual services.

3.3.7. In the case of agreed tele services, the customer shall provide the necessary technical facilities and allow access to the system according to the agreement.

3.3.8. The customer is responsible for the proper data backup.

3.4. Servicelevelagreements

3.4.1. The customer can agree with TIS, within which time the services are to be provided.

3.4.2. Unless otherwise agreed, TIS will react to the notification of a defect by the Customer within the following time limits ("Response Times"):

3.4.2.1. In the event of preventing the operatin, within 4 hours after receipt of the notification.

3.4.2.2. In the event of malfunctions within 8 hours of receipt of the notification.

3.4.2.3. For other defects within one business day after receipt of the notification.

3.4.3. Unless otherwise agreed, TIS will remedy any deficiencies within the following periods ("Elimination Periods"):

Preventive defects within 2 business days after receipt of the notification.

Operational defects within 5 working days after receipt of the notification.

Other defects within 10 business days after receipt of the notification, but at the latest with the next program version of the software.

3.4.4. If it is foreseeable that a defect can not be remedied within the periods defined above, TIS will provide a workaround ("workaround") within the time limits specified therein.

3.4.5. Precondition for the beginning of the respective times is that the customer

3.4.5.1. uses the ticket system provided by TIS,

3.4.5.2. uses the provided service telephone number to display the respective defect also by telephone and

3.4.5.3. that the hardware on which the deficient software is located has been placed in an environment that TIS can access and update. For this purpose,

3.4.5.3.1. that the terminals are placed in a WLAN environment accessible to TIS

3.4.5.3.2. hat the end users must participate, with the responsibility for the customer's contribution to the customer's contribution.

3.5. Rights of use

3.5.1. The obligation for the delivery of patches includes the obligation to grant usage rights in the nature and extent, as they exist for the software listed in the offer, unless otherwise agreed.

3.5.2. The customer shall notify TIS about changes of the rights of use and - if necessary - changes in the editing rights of third parties.

3.6. Compensation

3.6.1. A lump-sum compensation listed in the offer, is the pay for all agreed services, unless otherwise specified in the contract.

3.6.2. The monthly fee is calculated according to the proposed scope of users.

3.6.3. An compensation for expenses listed in the offer, is the pay for the time spent on care services, unless otherwise agreed.

3.6.4. Cost of materials has to be paid separately.

3.6.5. Periods of waiting of TIS, responsible by the customer, are paid as working hours.

3.6.6. Travel time, travel costs, charges and standby-fees are paid as specified in the offer.

3.6.7. The obligation to pay the flat fee will begin with delivery of the product.

3.6.8. The lump sum compensation is payable calendar quarterly in advance.

3.6.9. TIS is entitled under the general regulations to require the compensation, TIS requires for new contracts according to the price list.

3.6.10. TIS is required to pass on cuts without prior notice.

3.7. Legal Consequences for Breach of Maintenance Services

3.7.1. If the Maintenance Service is not provided under the contract and TIS is responsible for this, TIS is committed to provide the maintenance service at no extra cost to the customer within a reasonable period of time in accordance with the contract.

3.7.2. An immediate reprimand of the customer is required within 1 week after the latest knowledge.

3.7.3. If the fulfillment of the maintenance services fail in accordance with the contract because of reasons caused by TIS even within an appropriate extension set by the customer, the customer has the right to terminate the agreement for the affected software without notice.

3.7.4. If the continuation of the contract is unacceptable for the customer due to the nonconforming fulfillment and upon expiry of the grace, taking into account all the circumstances of the case and weighing the interests of both parties, the customer may terminate in whole or in part.

3.7.5. In the event of termination, TIS has the right to compensation for the service provided up to the effective date of termination. The compensation is not payable for those services for where the customer can proof within 3 weeks after the declaration of termination that they are not available to him and without interest.

3.7.6. The right of extraordinary termination for another important reason remains unaffected. TIS has in this case, the right to compensation for services provided up to the effective date of termination. The compensation is not payable for those services for where the customer can proof within 3 weeks after the declaration of termination that they are without interest.

3.7.7. If an available patch is not delivered according to contract within 4 days of disorder and TIS is responsible for this, TIS provides lump-compensation for damages from the 5th day. The precondition is that the software can

not be used as intended in case of the error for which the patch was intended.

3.7.8. With lump-sum compensation, the amounts of compensation for damages is 5/30 of the monthly flat fee for the software for which the patch is determined. The obligation to pay for the compensation for damages shall be limited to 100 calendar days.

3.7.9. In case of compensation for expenses the amount of compensation for damages should be 0.4%, maximum 8% of the current contract value. If there is a functional relationship between the faulty software and another software in the contract and this software can not be used, too, the compensation for defects will be calculated from the monthly payable care compensation for the faulty and the other software. The precondition is that the functional relationship is specified in the offer.

3.7.10. If the customer enforces a compensation for defect, it remains by TIS to prove that no or only minor damage has occurred.

4. Hosting services

4.1. performance obligations

4.1.1. TIS guarantees an availability of the server of 99% annual average. This does not include times when a server is not reachable due to technical or other problems that can not be influenced by TIS (force majeure, third party, etc.). TIS can restrict access to the services if the demand for network security, the maintenance of network integrity, especially the avoidance of serious disturbances of the network, software or stored data requires it.

4.1.2. The customer has no right to have the same IP address for the entire contract period.

4.1.3. If TIS is in default with service, the customer is only entitled to cancel the contract if TIS does not meet a reasonable grace period set by the customer. The deadline must be in writing. The written form can be replaced by electronic form, if the customer adds his name to the Declaration and provides the electronic document with a qualified electronic signature in the Signature Act. The grace period must be at least three weeks.

4.2. Liability

4.2.1. TIS is liable for damages under the general provisions of these terms and conditions.

4.2.2. In the scope of the Telecommunications Customer Protection Ordinance (TKV), the liability provisions of § 7 paragraph 2 TKV are unaffected in any case.

5. Services by TIS within manufacturer hardware-service

5.1. TIS provides services for the processing of the device manufacturer offered hardware service in accordance with the service specifications.

5.2. TIS receives the defective devices, checks for the presence of a hardware failure and directs the device on to the manufacturer. After the repair by the manufacturer TIS installs the latest software, if necessary, and returns the device to the customer.

5.3. The rules for other services apply in addition.

6. Other services

6.1. Kind and size

6.1.1. TIS provides other services on the offered terms.

6.1.2. The customer bears the responsibility for the project and the success.

6.1.3. Proper data backup is up to the customer.

6.1.4. Services in the meaning of a contract to produce a work are not included in the offer.

6.1.5. TIS provides its services at the current state of the art and by qualified staff to provide the service.

6.2. Collaboration between TIS and the customer

6.2.1. Contact persons are only the mentioned contact persons.

6.2.2. The customer will submit requests for the service to the named contact person and does not give any instructions to other persons employed by TIS.

6.2.3. The persons appointed by TIS do not enter any employment relationship with the customer, even if they provide services on its premises.

6.3. Exchange of persons

6.3.1. If a person is replaced by another person and a training is required, this is at the expense of TIS. When

choosing, TIS will take care of the interests of the customer.

6.3.2. The Customer may request the replacement of a person with a ground to perform the contract demand, if the personit has failed repeatedly and seriously violate contractual obligations. The costs associated with the replacement costs are charged to the customer.

6.4. Rights embodied in the service results

6.4.1. TIS grants the Customer a nonexclusive, temporary, revocable, non-transferable right to use the services provided under the offer to use embodied service results, unless this is the purpose and application range of the offer.

6.4.2. These rights include the agreed interim results, training materials and tools.

6.4.3. Deviations from these terms and regulations require the agreement.

6.5. Participation by the Customer

6.5.1. The customer will assist in the provision of TIS services appropriately.

6.5.2. He will make the complete and necessary information and documents available in a timely manner. Any further participation must be agreed separately.

6.6. Compensation

6.6.1. A compensation for expenses listed in the offer, is the pay for the amount of time of the services, unless otherwise agreed.

6.6.2. Material costs will be paid separately.

6.6.3. Periods of waiting caused by the customer are paid as working hours.

6.6.4. TIS creates monthly bills afterwards, unless otherwise agreed.

6.6.5. A compensation for expenses is due upon receipt of a verifiable bill, unless another form of service report is agreed. The performance record shall also be approved if and when the customer does not submitted any objections within 7 calendar days after receipt of objections.

6.6.6. A fixed price offered in the offer, is the pay for all contracted services, unless otherwise agreed. A fixed price is due after the complete rendering of the service, unless otherwise agreed. Prerequisite for the travel times.

6.6.7. Travel costs and incidental expenses are reimbursed in accordance with the agreements.

6.7. Performance quality disturbance

6.7.1. If the service is not provided under the contract or is faulty and TIS is responsible, TIS is obliged to provide the services according to the contract at no additional cost to the customer within a reasonable time. A period is appropriate when it is measured at least 3 weeks.

6.7.2. The prerequisite is a reprimand of the customer, which must occur immediately, within 1 week after the latest knowledge.

6.7.3. If the offered Service fails complete or in major parts for reasons caused by TIS within an appropriate extension explicitly set by the customer, the customer is entitled to terminate the contract.

6.7.4. In this case, TIS has the right to compensation for the service provided up to the effective date of termination.

6.7.5. This compensation is not payable for those services where the customer can proof within 3 weeks after termination of the declaration that they are not available to him or without interest.

6.7.6. The right of extraordinary termination for good cause remains unaffected.

6.7.7. Further claims by the customer due to performance quality problems are excluded.

6.7.8. The limitations of liability shall not apply to intent or gross negligence and not for the injury to life, limb or health or for claims under the Product Liability Act, or if guarantees are concerned. The liability for breach of duties, which makes the proper execution of the contract in the first place and may rely on their compliance with the customer, shall also be unaffected. The same applies to breaches of TIS agents.

6.8. Changes in the service

6.8.1. The customer can demand a change of the service after the conclusion of contract as part of the performance of TIS for payment, unless this is unreasonable for TIS.

6.8.2. The amendment process must be documented, unless otherwise agreed.

6.8.3. TIS has to notify the customer within 15 days whether the change in demand for them is not reasonable or not feasible.

6.8.4. The amendment request is reasonable and practicable, TIS notifies, whether a comprehensive examination is

required or not.

6.8.5. If an extensive review of the request for change is required, TIS has to simultaneously submit a corresponding test range offer with information about the compensation.

6.8.6. The customer will either accept or reject the testing offer, within 10 days.

6.8.7. If an extensive review of the requested change is not required, TIS has to present either a realization offer of quoting performance period, scheduled appointments and effects to make the payment or agree to carry out the proposed changes.

6.8.8. The customer will accept offer of TIS within the offer validity period or reject it.

6.8.9. Agreed changes to services must be documented by appropriate binding adjustments of the offer.

6.8.10. The customer and TIS may agree that the services affected by the change request will be suspended until the necessary adjustment of the contractual agreements. If the necessary adjustments of the agreements were not reached within the offered validity period of offer realization, the work shall proceed on the basis of the contract. The performance period shall be extended by the number of working days that were a result of the request for change or review of the request for change, the work stopped. TIS may require a compensation expense or an appropriate increase of the agreed fixed price for the duration of the interruption, except that employee of TIS could be otherwise used or malicious use has failed in the time of the interruption.

7. Transfer of hardware

7.1. Temporally unlimited transfer of hardware (purchase)

7.1.1. The nature and extent of the service

7.1.1.1. TIS provides products according to the offer.

7.1.1.2. The installation and integration of the hardware in the system environment of the customer is in the responsibility of the customer, unless otherwise agreed.

7.1.1.3. The hardware can be supplied with documentation in German or in English and in printed or printable form, unless otherwise agreed.

7.1.1.4. The customer is obliged to dispose the hardware listed in the contract or recover. The customer will dispose the packaging.

7.1.1.5. Proper data backup, in case of their need, is up to the customer.

7.1.2. Compensation

7.1.2.1. The total price of the individual service "purchase of hardware" shown in the offer is the compensation for all contractual services purchase, unless otherwise agreed.

7.1.2.2. The fee is due immediately after delivered or provided.

7.1.2.3. If partial services are present these conditions shall apply accordingly.

7.1.3. Liability for defects, defects liability period

7.1.3.1. If the obligation of TIS for corrective action is not excluded by contract, the following applies:

7.1.3.1.1. The obligation of TIS for corrective action relates to the most recent, adopted version of the Hardware by the customer.

7.1.3.1.2. TIS can correct the defect at its option, by removal or replacement. Corrective action includes the delivery of a printed or printable instruction for the correct documentation, if necessary.

7.1.3.2. If TIS does not includes the corrective action within a reasonable time limit, the customer may set a deadline. If the repair or replacement does not take place within the time period or if it failed for any other reason than the customer can demand a reasonable reduction in price.

7.1.3.3. If TIS is responsible for the deficiency, the customer has the right to demand compensation for defects, if the legal requirements are present.

7.1.3.3.1. If there is no date for the transfer period provided in the contract, the claim for compensation for defects is limited to two times the monthly compensation for the affected product.

7.1.3.3.2. If there is a date provided for the end of the transfer period, the claim for compensation for defects is limited to 8% of the total compensation for the affected product.

7.1.3.3.3. Customer claims for compensation of lost profits are excluded.

7.1.3.3.4. Liability limits do not apply if damage is affected from the loss of life, limb or health or claims under the Product Liability Act or guarantees are concerned. The liability for breach of duties remains unaffected, which makes the proper execution of the contract in the first place and may rely on their compliance with the customer. The same applies to breaches of TIS agents.

7.1.3.4. If liability is not excluded or as it turns out by law, not excludable, liability is limited to foreseeable, typical damage.

7.1.3.5. The warranty period is 12 months after delivery, unless otherwise agreed. The warranty period for defects in subsequent performance also ends with the expiry of the warranty period referred to in the preceding sentence.

7.1.3.6. A liability for defects in case of second-hand goods shall be excluded. This shall not apply to claims for damages and reimbursement of expenses due to defects on the basis of the "Liability" section. The period of limitation shall also remain unaffected in cases of delivery recourse on the basis of sections 445 a and 478 BGB;

7.2. Temporary provision of hardware (rental)

7.2.1. The nature and extent

7.2.1.1. TIS provides customers the hardware in the contract agreed scope and time period.

7.2.1.2. The installation and integration of the hardware in the system environment of the customer is in the responsibility of the customer, unless otherwise agreed.

7.2.1.3. The hardware can be supplied with documentation in German or in English and in printed or printable form, unless otherwise agreed.

7.2.1.4. Proper data backup is, in case of their need, up to the customer.

7.2.2. Compensation

7.2.2.1. The agreed fee is payable monthly, payable by the 3rd Business day of the month (payment received by TIS

7.2.3. Rights of the customers in case of defects of the rented hardware.

7.2.3.1. Strict liability for initial defects is excluded.

7.2.3.2. TIS can fix deficiencies, at its option by removing, bypassing or replacement. Corrective action includes the delivery of a printed or printable instruction for the correct documentation, if necessary.

7.2.3.3. An extraordinary termination of the customer for good cause for failure to grant the contractual use is only permitted if TIS has been given a reasonable opportunity to remedy the defect and latter failed.

7.2.3.4. A failure of the remedial measures can only be assumed, if it is impossible, if it is denied or unreasonably delayed, if there are doubts about the prospects of success, if the customer has written set a reasonable deadline for eliminating to TIS with reference to the turnover intentions unsuccessful at spreading, or when there is any other unreasonable due for the customer. A time limit is appropriate if it is at least 3 weeks.

7.2.3.5. The rights of the customer due to defects are excluded, unless he changes the products and services or allow them to be changed without the prior consent of TIS, unless the customer proves that the changes will not unduly impact on TIS for analysis and disposal of the defects. The rights of the customer due to defects remain unaffected if the customer is entitled to carry out changes, especially if TIS is in delay with the removal or the immediate removal of the defect is necessary to preserve or restore the stock of the leased property. The substitute performance must be carried out professionally and clearly documented.

7.2.3.6. An obligation to pay compensation for defects of TIS occurs only if the customer has set TIS a reasonable deadline to remedy the situation, and this period has elapsed.

8. Maintenance of hardware

8.1. The nature and extent

8.1.1. TIS provides maintenance services for contract units, as agreed in the offer and by personnel who are qualified to perform the agreed care services.

8.1.2. The rectification of faults or failures caused by acts of violence by third parties, force majeure, equipment not maintained by the customer or caused by improper treatment (non-compliance with instructions and contrary to ordinary use) by the Customer or its employees, is not owed by TIS as part of this contract.

8.1.3. TIS reserves the right to put not contractually owed services by the customer but retrieved and unused services into account at the applicable rates of payment.

8.2. Customer Participation

8.2.1. The customer will assist TIS in the provision of contractual service performance to a reasonable extent. The customer is obliged to describe errors and problems as accurately as possible. The customer provides the necessary information and documentation complete and in a timely manner. The Contacts of the parties are only

the in the contract named contact persons.

8.2.2. The customer has to provide the indication, with information useful for their detection, if no other form of defect advice is agreed.

8.2.3. He has to meet within reason, the measures which facilitate the identification of defects and their causes.

8.2.4. As far as remote maintenance is possible and useful, the customer will allow access to the system.

8.2.5. Proper data backup is up to the customer.

8.3. Acceptance

8.3.1. The Customer acknowledges TIS each individual repair work performed on the basis of the service contract by signing the work evidence presented by TIS. He will test the provided repair work hereinafter immediately and explain the decrease, if the service was rendered properly or there are no significant shortcomings. The customer will give notice of every defect without delay.

8.3.2. If the customer has not explained the acceptance within a period of 7 working days after providing of the requested service, and made no defect claims, the work is considered accepted. TIS informs the customer of the importance of such silence.

8.4. Compensation

8.4.1. A lump-sum compensation listed in the offer, is the pay for all agreed services, unless otherwise specified in the contract.

8.4.2. The monthly fee is calculated according to the proposed scope of users.

8.4.3. An compensation for expenses listed in the offer, is the pay for the time spent on care services, unless otherwise agreed.

8.4.4. Cost of materials has to be paid separately.

8.4.5. Periods of waiting of TIS, responsible by the customer, are paid as working hours.

8.4.6. Travel time, travel costs, charges and standby-fees are paid as specified in the offer.

8.4.7. The obligation to pay the flat fee will begin with delivery of the product.

8.4.8. The lump sum compensation is payable calendar quarterly in advance.

8.4.9. TIS is entitled under the general regulations to require the compensation, TIS requires for new contracts according to the price list.

8.4.10. TIS is required to pass on cuts without prior notice.

8.5. Legal Consequences for Breach of Maintenance Services

8.5.1. If the Maintenance Service is not provided under the contract and TIS is responsible for this, TIS is committed to provide the maintenance service at no extra cost to the customer within a reasonable period of time in accordance with the contract.

8.5.2. An immediate reprimand of the customer is required within 1 week after the latest knowledge.

8.5.3. If the fulfillment of the maintenance services fail in accordance with the contract because of reasons caused by TIS even within an appropriate extension set by the customer, the customer has the right to terminate the agreement for the affected software without notice.

8.5.4. If the continuation of the contract is unacceptable for the customer due to the nonconforming fulfillment and upon expiry of the grace, taking into account all the circumstances of the case and weighing the interests of both parties, the customer may terminate in whole or in part.

8.5.5. In the event of termination, TIS has the right to compensation for the service provided up to the effective date of termination. The compensation is not payable for those services for where the customer can proof within 3 weeks after the declaration of termination that they are not available to him and without interest.

8.5.6. The right of extraordinary termination for another important reason remains unaffected. TIS has in this case, the right to compensation for services provided up to the effective date of termination. The compensation is not payable for those services for where the customer can proof within 3 weeks after the declaration of termination that they are without interest.

8.5.7. If a service is not furnished according to contract within the agreed deadline plus 4 days of disorder and TIS is responsible for this, TIS provides lump-compensation for damages from the 5th day. The precondition is that the software can not be used as intended in case of the error for which the patch was intended.

8.5.8. Unless TIS makes a workaround available, the performance is not deficient; In this context, TIS is entitled to make changes to the configuration of the equipment, if and insofar the operability of the individual equipment or the total equipment is not affected.

8.5.9. With lump-sum compensation, the amounts of compensation for damages is 5/30 of the monthly flat fee for

the hardware for which the service is determined. The obligation to pay for the compensation for damages shall be limited to 100 calendar days.

8.5.10. In case of compensation for expenses the amount of compensation for damages should be 0.4%, maximum 8% of the current contract value. If there is a functional relationship between the faulty hardware and another hardware in the contract and this hardware can not be used, too, the compensation for defects will be calculated from the monthly payable care compensation for the faulty and the other hardware. The precondition is that the functional relationship is specified in the offer.

8.5.11. If the customer enforces a compensation for defect, it remains by TIS to prove that no or only minor damage has occurred.

8.6. Servicelevelagreements

8.6.1. The customer can agree with TIS, within which time the services are to be provided.

8.6.2. Unless otherwise agreed, TIS will react to the notification of a defect by the Customer within the following time limits ("Response Times"):

8.6.2.1. In the event of preventing the operatin, within 4 hours after receipt of the notification.

8.6.2.2. In the event of malfunctions within 8 hours of receipt of the notification.

8.6.2.3. For other defects within one business day after receipt of the notification.

8.6.3. Unless otherwise agreed, TIS will remedy any deficiencies within the following periods ("Elimination Periods"):

Preventive defects within 2 business days after receipt of the notification.

Operational defects within 5 working days after receipt of the notification.

Other defects within 10 business days after receipt of the notification, but at the latest with the next program version of the software.

8.6.4. If it is foreseeable that a defect can not be remedied within the periods defined above, TIS will provide a workaround ("workaround") within the time limits specified therein.

8.6.5. Precondition for the beginning of the respective times is that the customer

8.6.5.1. uses the ticket system provided by TIS

8.6.5.2. uses the provided service telephone number to display the respective defect also by telephone and

8.6.5.3. that the hardware has been placed in an environment that TIS can access.

VII Definitions

Acceptance
Acceptance in accordance with § 640 BGB.

Part Payment
Particial Payment of the agreed fee before before maturity. A claim for part payments may be agreed in EVB-IT system contracts.

Adaptation Programming
see Customizing

Installation of hardware
Unpacking and installing of the hardware, connecting to the grid at the customer and testing the device.

Decommissioning
A decommissioning occurs when the contractual hardware is not installed by Customer or its agents or operated by third parties for him.

User supplied system components
The user supplied system components form the entire system with the components developed or delivered by TIS. The user supplied system components can both parts of the customers existing system environment at the time of the contract conclusion as well as later occurring components of the customer to perform its services as agreed.

Standby time
Times when TIS receives (error-) messages (usually the business hours of TIS

Serviceability
The system or the partial delivery is contractual available to the customer. As part of system services, the serviceability refers only to the agreed system components if the system service is not agreed for the whole system.

CISG
United Nations Convention on Contracts for the International Sale of Goods

Customizing
Customizing of software or system components to the agreed requirements for system supply or maintainance of operational readiness (eg, configuration of system components to achieve operational readiness).

Data protection, proper
Backup includes all technical and / or organizational measures to ensure the availability, integrity and consistency of the systems, including data stored on these systems and data used for processing purposes, programs and procedures. Proper data backup means that the measures taken permit depending on the data sensitivity immediate or short-term restoration of the status of systems, data, programs or procedures to recognized impairment of the availability, integrity and consistency due to a damage-acting event, the measures include at least the production and testing of the reconstruction capability of copies of software, data and procedures in defined cycles and generations.

Data loss
Loss (deletion) or loss of integrity and consistency of data.

Operational environment
Hardware and system software (including communication services), where the standard software is used at the customer, and their locations.

Remote maintenance
Services of maintenance of software and hardware with no local presence (eg, remote data transmission).

Warranty period
That means the statute of limitations in terms of the legal provisions.

Hardware
Devices or machines, including their optional add-on devices, according to manufacturer's specifications, which are listed in the contract, such equipment or machinery are specified by their manufacturers generally with part numbers (type designation may be supplemented by model name).

Custom Software
Software programs, program modules, tools, etc. that were created to fulfill a contract for the needs of clients of TIS including the related documentation. This includes adaptations of standard or custom software on the source-level, but not customizing.

Installation
All necessary measures for the introduction of the software in the agreed system environment and to achieve the agreed executability of the Software, including all necessary checks and controls to create the overall system and to achieve operational readiness.

Maintenance
Measures for the preservation and restoration of the target state, and to identify and assess the actual situation.
The measures include:
Inspection: measures to identify and assess the actual condition,
Repair: Measures to restore the required condition,
Maintenance: Measures to maintain the required condition.

Integration
Integration of system components in the agreed system environment or system components and materials provided to each other.

Key-User
Employee of a company which launches a new software. The Key-User is specialized in the software, supervises it and trains colleagues.

Configuration
Parameterization of function variables and control data of system components to the agreed system environment to build the entire system and to achieve operational readiness.

Copying or barrier of use
Measures to restrict the copiability and / or possible use of a system component

Delivery
Generic term of system delivery and partial deliveries

Cost of materials
Expenses of TIS for the use and consumption of raw materials, supplies and other products as part of service delivery.

Minimum contract period
The period during which a notice of dismissal is excluded.

Additional costs
Expenses of TIS which are necessary for the provision of goods and services. They are not included in the agreed remuneration and are neither travel nor material costs

Rights of use
Rights granted to licensee by the licenser.

Use of hardware, intended
A proper use of hardware is given in compliance with the particular hardware of the environmental conditions, guidelines for installation, operating and care instructions, specified by TIS

Parameterization
The customization of software, most standard software on the users requirements by setting the attributes within the software.

Patch
Correct a deficiency and / or a disruption in the software

Patch
Generic term for bypass, patch, update, upgrade and release / version, including any related documentation.

Object code
Interim results of a compiler and source code compilation process of a program.

Lump sum fixed price
Includes the construction price, the bid price for system services, the bid price for the further development and adaptation of the overall system as well as the bid price for other services, in each case if a fixed price was agreed.

Program status
Generic term for patch, update, upgrade and release / version.

Source code
Code of a program in the version of the programming language.

Reaction time
Period to commence within TIS has to begin with the fault or defect rectification work. The period begins with receipt of the fault or defect report within the agreed service hours and will run during the agreed service hours.

Reaction period
Period within TIS has to begin the repair work. It begins with the receipt of fault report within the agreed service hours and takes place only during the agreed service hours.

Traveling expenses
Expenses of TIS for arrival and departure to the place of the agreed services, if not equal to the service office, which normally are not part of the cost of manpower. Expenses may include: travel expenses, overnight accommodation allowance, additional travel costs, etc.

Release/Version
New stage of development of standard software, which differs considerably from the previous release or version of the function and / or range of data (such as 4.5.7 5.0.0 Æ)

SaaS
Software as a Service = rent within the meaning of § 535 BGB of software

Defect as to quality
Definition of "defect as to quality" in § 434 BGB.

Compensation for damages instead of service
Instead of compensation for damages instead of performance a replacement for expenses can be d is required under § 284 BGB.

Damage function
Unwanted function by the user, which can endanger the availability of data, resources or services, data confidentiality or integrity of data inadvertently or intentionally.

Rights
Intellectual property rights or copyrights.

Damaging software
Software with not agreed function, which at least has the purpose to compromise the integrity of data or to interfere the availability of data, resources or services, the confidentiality of data or, for example Viruses, worms, Trojan horses e.g.

Service times
Times within which the customer is entitled to contractually agreed services by TIS.

Software
Generic term for standard software and custom software.

Software installation (installation)
Induction of software performance on a given hardware according to an agreed procedure.

Software integration (integration)
The coupling of different software systems (standard software or custom software) into an overall system between previously separate software systems, where data and information are exchanged active, process-oriented and automated.

Standard Software
Software programs, program modules, tools, etc. that have been developed for the needs of a majority of consumers in the market and not specifically for the clients of TIS including the related documentation.

Disturbance day
Everyone on the course of the reaction period following calendar day within the agreed service hours, at which the hardware and / or the software cannot be used as intended.

System component
Part of the system, e.g. Hardware or standard software. This includes on the basis of the contract surrendered new program patches.

System environment
Technical, geographic and professional organizational environment in which the deliverable system is integrated.

Rights
Intellectual property rights, copyrights and neighboring rights.

Partial delivery
Delivery of a part of the system.

Teleservice
Services in exercise of technical facilities for remote communication from a location outside of the location of the system.

Teleservice Teleservice performance
Care services that are provided by means of agreed communication facilities and appropriate communication services from a remote location and where the customer holds the necessary infrastructure (cables, modems).

Teleservice Agreement
The Teleservice Agreement describes the technical and organizational arrangements for carrying out maintenance work by telecommunication services across networks.

Textual form
Textual form for the purposes of these General Terms and Conditions, is the statement of intent in a deed or in another, for the permanent reproduction in writing appropriate manner, that makes the name of the person making the statement and the conclusion of the statement by signature or otherwise identifiable.

Interim solution
A solution that helps bridge the cancellation of the customers hardware and / or software to the repair of TIS. The bridge gives the customer the ability to achieve the same functional results as with the work affected by the disordered hardware.

Bypass
Temporary bridging of a defect in the standard software without interfering with the code (source or executable code).

Workaround
Temporary bridging of a defect and / or a disturbance in the standard software.

Hardware transfer
Shift from hardware to a new location.

Update
Bundling of multiple defects fixes and / or fault fixes and minor functional improvements if necessary and / or

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modification of the standard software (eg Æ 4.1.3 4.1.4).

Upgrade
Bundling of multiple defects fixes and / or fault fixes and more functional than minor enhancements and / or modification of the standard software (eg 4.1.3. Æ 4.2.0).

Version/Release
see Release / Version.

Contract completion date
Date, TIS has done everything agreed, that the customer can explain the decrease. This means in particular that the total system is already on the date of declaration of operational readiness and essentially free of defects, providing that the customer has the time to do the functional test by the contract completion date.

Delay-Day
Each calendar day, with which TIS is exceeded in default after the time limit.

On-site Service
Maintenance services that are provided at the location of the standard software, if not agreed upon a different point of delivery.

Pre-installation
Pre-installation of the (standard) software on a given hardware prior to delivery.

Removable media
A media that can be changed according to manufacturer's specification by the user, this includes for example Removable disks, CDs, tape cassettes / magnetic volumes, USB sticks, SD cards.

Tool
Tools for the development, management and maintenance of software.

Recovery time
Period within which TIS has to successfully complete the problem or defect rectification work. The period begins with receipt of the fault or faults message and runs only during the agreed service hours.

Additional delivery
Further, after the conclusion of contract agreed delivery (eg call option other hardware).