

General Terms and Conditions Software purchase.

1 Parties to the agreement

The agreement is concluded between T-Systems International GmbH (hereinafter referred to as T-Systems), Hahnstraße 43d, 60528 Frankfurt am Main, Germany (registered with Frankfurt am Main Local Court HRB 55933) and the customer.

2 Subject matter of the agreement

- 2.1 The subject matter of the agreement is specified in these General Terms and Conditions, the prevailing licensing terms of the manufacturer and the relevant Service Specifications and Price Lists. These set forth the terms governing the sale of software.
- 2.2 Diverging provisions shall be made in writing. The provision of a guarantee for specific characteristics (condition) shall require written confirmation by T-Systems in order to be valid.
- 2.3 The customer's general terms and conditions shall not become a part of the agreement, even if they are attached to requests for proposals, orders, acceptance declarations, etc. and if no objection is made.

3 Agreements and proposals

- 3.1 Unless otherwise stipulated by a separate arrangement, the agreement shall be deemed established upon receipt of the order confirmation, or upon provision of the service by T-Systems at the latest.
- 3.2 Dates or deadlines for the delivery of goods and the performance of services stipulated in agreements shall be binding only if they were designated as such in writing by T-Systems.
- 3.3 All offers by T-Systems are subject to change, unless explicitly stated otherwise in the offer. T-Systems reserves the right to deviate slightly from the offer for technical reasons even after the offer has been accepted by the customer.

4 Shipping and transfer of risk

- 4.1 For any shipment in conjunction with the provision of services, the risk shall be transferred to the customer as soon as T-Systems has delivered the items to the person responsible for shipping.
- 4.2 The customer shall inspect the external condition of the shipment and the service without undue delay upon receipt and report any transport damage to the person responsible for shipping, secure the evidence, and inform T-Systems and the sender by telephone and in writing without undue delay.

5 Services provided by T-Systems

- 5.1 The scope of software goods and services as well as the authorized application environment are described in the relevant product description and additionally in the user manual. The product description and user manual shall, as a rule, be written in the language of the manufacturer.
- 5.2 The software shall be delivered as an object code in machine-readable form on a suitable data medium.

6 The customer's duties and obligations

- 6.1 T-Systems and its vicarious agents [*Erfüllungsgehilfen*] shall be indemnified against all claims by third parties that are based on the illegal use of the software and the services connected therewith by the customer or with the customer's consent, or which arise, in particular, from litigation involving data protection, copyright, or other laws in conjunction with the use of the software. The customer shall notify T-Systems in writing without undue delay if third parties claim that it has violated their rights. The customer shall not recognize any violation of rights claimed by third parties and either have any and all disputes handled by T-Systems or handle such disputes only in agreement with T-Systems.
- 6.2 Copyright notices, serial numbers and any other features that serve to identify the program may under no circumstances be

removed or modified. The same applies to preventing such features from being displayed on screen.

7 Rights of use

- 7.1 Following payment in full, T-Systems shall grant the customer a non-expiring, non-exclusive right, which cannot be sublicensed, to use the software and accompanying documentation or online help for its own internal use on the operating systems described in the agreement.
- 7.2 The customer may create a full copy of the software for backup purposes. The customer shall mark this copy as a backup copy and provide it with the copyright notice of the original data carrier. Beyond this, the customer shall have no right to copy the software. Partial reproduction of the written materials for internal purposes is permitted to the extent required by use of the software for its intended purpose. Additional manuals can be obtained through T-Systems if required.
- 7.3 If the software is resold, the customer may transfer rights to the software and the user manual to the same extent as they are transferred to it for the performance of this agreement. The customer shall be obligated to hand over program copies or to destroy any copies not handed over and to contractually obligate third parties, in turn, to use the software and the user manual only to the extent pursuant to Item 7.1 of these contractual terms and conditions.
- 7.4 To the extent not expressly permissible according to the Copyright Act or by agreement, the customer may neither carry out itself nor have a third party carry out reverse engineering, disassembly or decompiling of the software.
- 7.5 For every culpable case of enabling third parties to make use of the software and the user manual, of producing an unauthorized copy or of using the software on additional computers contrary to the terms of the agreement, the customer shall pay compensation for damages in the amount of the purchase price. The damage compensation shall be higher or lower if T-Systems proves that the loss suffered was greater or the customer, that it was less. T-Systems reserves the right to assert other claims for damages.
- 7.6 The customer shall, upon request, provide T-Systems with all information required to assert claims against third parties, in particular, it shall inform T-Systems of their names and address and, without undue delay, of the nature and scope of any claims it has against these third parties arising from the unauthorized provision of the program.

8 Reservation of ownership

T-Systems shall retain ownership and rights to be granted until the amount owed has been paid in full. Until this time, the rights shall only be preliminary rights and may be withdrawn by T-Systems at its discretion. If T-Systems asserts reservation of ownership, the customer's right to further use the software shall lapse. All program copies made by the customer must be deleted.

9 Terms of payment

- 9.1 Compensation and ancillary costs are, in principle, net prices plus any applicable statutory taxes and duties.
- 9.2 The amount due shall be paid to the account indicated on the bill. It shall be credited to the account within ten days after receipt of the bill. In the event that the customer furnishes a SEPA direct debit mandate, T-Systems shall not debit the agreed account with the billed amount until the seventh day following receipt of the invoice and the SEPA Pre-notification.
- 9.3 The customer may only offset undisputed counterclaims or counterclaims that have become res judicata. The customer shall only be entitled to assert a right of retention for counterclaims arising from this agreement.
- 9.4 For any direct debit not honored or returned, the customer shall

reimburse T-Systems for the costs it incurred to the extent that the customer was responsible for the event giving rise to the costs.

10 Changes in General Terms and Conditions, Service Specifications and prices

T-Systems shall have the right to change the General Terms and Conditions, the Service Specifications or the prices within a suitable notice period, provided that the change is reasonably acceptable to the customer, taking T-Systems' interests into account. The customer shall be notified of the change in writing. If changes are made to the customer's detriment, the customer shall have a special right of termination from the time the change goes into effect. In its change notice, T-Systems shall bring the customer's attention to this special termination right as well as to the fact that the change will go into effect unless the customer exercises its special termination right within the specified period.

11 Default

If the customer does not accept the software on the agreed date, T-Systems may grant it an additional reasonable period of time [*Nachfrist*] for acceptance. If the software has still not been accepted after this additional period of time, T-Systems shall be entitled – without prejudice to its legal rights arising from default – to rescind the purchase agreement and instead of the service to demand damage compensation as a lump-sum payment that falls due immediately and amounts to 20 % of the purchase price as well as compensation for services already provided. The payment shall be higher or lower if T-Systems proves that the loss suffered was greater or the customer, that it was less.

12 Defect in quality [*Sachmangel*]

- 12.1 T-Systems warrants that the software shall fulfill the functions described in the accompanying documentation to the extent the software is used on the operating system described in the agreement.
- 12.2 If the software has defects, the customer may demand that T-Systems, at its own choice, either make subsequent improvements or provide the service again (subsequent performance [*Nacherfüllung*]). If the deviation of the service from the agreed condition is insignificant, the customer may only demand a reduction in payment. If the deviation of the service provided by T-Systems from the contractually agreed condition is insignificant and does not limit its serviceability, the customer shall not have any claim due to defects in quality.
- 12.3 If T-Systems has provided services to detect a fault after a problem was reported, and if no defect in quality is found, the customer shall bear the costs resulting therefrom. In calculating the costs, T-Systems shall use the rates of remuneration valid at the time of service.
- 12.4 The liability for defects in quality shall not apply to services provided by T-Systems that have been modified or otherwise interfered with by the customer, unless the customer proves that the intervention did not cause the defect. The liability for defects in quality shall also not apply if the customer fails to report the defect to T-Systems in writing without undue delay after it becomes apparent, or if the service is not used under the contractually agreed conditions as stipulated in the documentation.
- 12.5 In order for the defect to be properly remedied, it must be adequately described by the customer and thus be identifiable by T-Systems. In addition, the documentation required to remedy the defect must be made available to T-Systems for inspection.
- 12.6 Claims of the customer arising from necessary expenses incurred for the purpose of subsequent performance – in particular, the cost of transportation, labor and materials – shall be precluded hereby to the extent that the expenses are increased by the fact that the service was provided at a place of performance other than the one stipulated in the agreement.
- 12.7 Software defects shall be remedied, at the election of T-Systems, by providing an update status of the software or a workaround. Until such time that an update status is provided, T-Systems shall provide temporary solution for working around the defect, if T-Systems can be reasonably expected to do so at a reasonable cost.
- 12.8 Claims of the customer arising from a defect in quality shall be subject to a limitation period of one year from the commencement of the statutory limitation period. This restriction shall not apply to compensation claims that are

based on the violation by T-Systems of claims to subsequent performance in the event of defects. Compensation claims based on refusal to provide subsequent performance may only be asserted within the statutory period of limitation if the claim to subsequent performance is asserted by the customer within the reduced period for material defect claims.

13 Defect in title [*Rechtsmangel*]

A defect in title shall exist if the rights required to use the software as provided by the agreement have not been effectively granted after the software is handed over. In the event of defects in title, T-Systems shall honor its warranty, at its own choice, by providing the customer with a legally unobjectionable way to use the software or by taking back the software at the billed price minus a reasonable compensation for usage. The latter shall be permissible only if T-Systems cannot be reasonably expected to provide a different remedy.

Claims of the customer arising from a defect in title shall be subject to a limitation period of one year from the commencement of the statutory limitation period.

14 Liability

- 14.1 T-Systems shall be liable to the customer
 - a) for any damage caused by wilful intent or gross negligence on the part of its legal or vicarious agents,
 - b) in accordance with the Product Liability Act and
 - c) for damages arising from loss of life, bodily injury or damage to health caused by the provider, its legal or vicarious agents.
- 14.2 T-Systems shall not be liable in the event of slight negligence unless a significant contractual obligation has been violated whose fulfillment is a prerequisite for the proper performance of the agreement or the infringement of which jeopardizes the achievement of the purpose of the agreement, and upon whose compliance the customer can normally rely. This liability for any property or pecuniary damage shall be limited to foreseeable damage that is typical for the agreement. This shall also apply to lost profit and unachieved savings. Liability for any less direct consequential damage shall be precluded. If a one-time payment is agreed upon, the liability for property damage and pecuniary damage shall be limited to 10 % of the net order volume per damage event, and to 25 % of the net order volume for all damage occurring within a single contract year. If a recurring payment is agreed upon, the liability for property damage and other damage shall be limited to 10 % of the net annual charge per damage event, and to 25 % of the net annual charge for all damage occurring within a single contract year. Further liability can be agreed between the Parties upon conclusion of the agreement for an additional charge. A separately agreed liability amount shall have priority. Liability as stipulated under 14.1 shall remain unaffected by this paragraph. In addition to and with priority, T-Systems liability in the event of slight negligence - irrespective of the legal grounds - shall be limited to EUR 2.5 million. Liability according to 14.1 b) shall remain unaffected by this paragraph.
- 14.3 T-Systems shall only be liable for claims for damages based on a warranty if this is explicitly incorporated in the guarantee. In the case of slight negligence, this liability is subject to the limitations set out under 14.2.
- 14.4 In the event of a loss of data, T-Systems shall be liable only for the necessary cost of recovering the data in cases where the customer has properly backed up the data. In the case of slight negligence on the part of T-Systems, this liability shall apply only if the Customer properly backed up the data immediately prior to the event leading to the data loss.
- 14.5 Items 14.1 through 14.4 shall apply accordingly to claims for the reimbursement of expenses and any other liability claims asserted by the customer against T-Systems.

15 Export

The customer shall observe, on its own responsibility, the import and export regulations to be applied to the products or services provided, in particular the regulations of the United States of America. The customer shall pay any customs duties, fees and other charges that are incurred for the cross-border delivery of products and services. The customer shall carry out all legal and administrative procedures in connection with the cross-border delivery of products or services on its own responsibility.

16 Confidentiality

The parties shall be obligated toward each other for an unlimited period of time to treat as confidential any business and trade secrets as well as any details specified as being confidential that become known to them in connection with the performance of the agreement. Information may be divulged to third parties not involved in carrying out the order only with the prior written consent of the other party. Affiliated companies of the parties to the agreement as defined by Section 15 et seq. of the German Stock Corporation Act [*Aktiengesetz - AktG*] are not third parties. The parties to the agreement shall also require their employees and any third parties involved to accept these obligations.

17 Force majeure

- 17.1 T-Systems shall not be liable for occurrences of force majeure that significantly hinder proper contractual performance or temporarily hamper or render impossible the due performance of the agreement by T-Systems. Force majeure shall be deemed to include all circumstances that are independent of the intention and influence of the parties, such as natural disasters, governmental measures, decisions by authorities, blockades, war and other military conflicts, mobilization, internal unrest, terrorist attacks, strikes, lockouts and other work-related unrest, confiscation, embargoes or other circumstances that are unpredictable, serious and not due to the parties' fault and that occur following the conclusion of this agreement.
- 17.2 If one of the parties is prevented from fulfilling its contractual obligations due to force majeure, this shall not be considered to be a violation of the agreement, and the periods set out in the agreement or on the basis of the agreement shall be extended reasonably, depending on the duration of the impediment. The same shall apply if T-Systems depends on the service of a third party, and this service is delayed as a result of force majeure.

17.3 Each party shall undertake all necessary and reasonable actions within its control in order to limit the extent of the consequences which were caused by the force majeure. The party affected by force majeure shall in each case notify the other party in writing of the beginning and end of the impediment without undue delay.

18 Miscellaneous

- 18.1 If any provisions of the agreement are or become invalid or if a lacuna becomes evident, this will not affect the validity of the remaining provisions. In place of the invalid provisions, or to fill the lacuna, a commensurate provision shall be introduced that comes as close as possible to what the parties may be presumed to have intended according to the spirit and purpose of the agreement.
- 18.2 The place of jurisdiction for all disputes arising from or in connection with this agreement shall be Frankfurt am Main. Any exclusive place of jurisdiction shall have priority.
- 18.3 The customer shall not be entitled to transfer any rights and obligations under this agreement to a third party unless with the prior written consent of T-Systems.
- 18.4 The contractual relations between the parties shall be subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.