

## General Part

### 1. Scope

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

### 2. Offer and contract conclusion

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

### 3. Prices and Payment

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

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

- 4.1 Beta Systems DCI shall, at its sole discretion, deliver the Software either on data media or by making it available for download. In case of physical shipment, Beta Systems DCI shall deliver to the address mentioned in the Individual Agreement unless otherwise agreed. In any case, Beta Systems DCI has the right to make the Product Documentation available online for download only. Customer must report damages and losses during shipment, wrong deliveries or incomplete deliveries immediately in writing. Delivery shall be made "ex works". In case the Software is provided online for download, the risk shall pass to Customer at the time Beta Systems DCI makes the Software available for download and informs Customer accordingly. Beta Systems DCI does not owe the installation, customization or implementation of the Software or training, unless agreed otherwise in writing.
- 4.2 The Product Documentation for the contractual Software is delivered at Beta Systems DCI's option either in English or German.
- 4.3 The use of the Software requires license keys. Beta Systems DCI shall send these to Customer upon receipt of full payment. Should Beta Systems DCI decide to submit license keys in advance before receiving full payment, these keys may be revoked at any time.
- 4.4 Delivery dates for goods and/or services are always estimates, unless otherwise agreed in writing.

- 4.5 Beta Systems DCI's failure to comply with any agreed fixed delivery dates entitles Customer to rescind the Individual Agreement only if Customer fixed a reasonable additional time period and if Beta Systems DCI failed to perform its duty within that time period.

- 4.6 In case of any delay in delivery or unenforceability, the liability of Beta Systems DCI shall be limited in accordance with section 8 of these Terms and Conditions. Beta Systems DCI shall be entitled to partial deliveries, unless it would be unreasonable for Customer to accept such partial delivery. Each partial delivery shall be deemed a separate transaction.

- 4.7 If the delay is based on circumstances for which Beta Systems DCI is not responsible and which are beyond the reasonable control of Beta Systems DCI (Force Majeure) for instance in cases of war, natural disasters, strike or regulatory action, the obligations of Beta Systems DCI under the agreement will be suspended for the duration of the Force Majeure event. Delivery dates shall be suspended appropriately. Beta Systems DCI shall notify Customer in writing. If the end of such Force Majeure event is not predictable and if in due consideration of the interests of both parties one of them cannot be expected to be bound by the Agreement, the party may terminate the Agreement by giving written notice. Further claims of the parties, especially liability claims shall be excluded in the event of Force Majeure.

- 4.8 Customer will strictly comply with all applicable import and export regulations for goods and services, particularly those of the United States. Customer has the sole responsibility to handle legal or regulatory proceedings in connection with cross-border deliveries or services, except as otherwise expressly agreed.

- 4.9 If applicable, the use of Open Source Software is referred to in the Product Documentation. Customer shall download the Open Source Software - if needed - on the terms of the rights owner. In case Beta Systems DCI delivers Open Source Software as an exception, this delivery is a service free of charge.

### 5. Place of Fulfillment

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

### 6. Warranty Claims

- 6.1 The agreed quality of the contractual Software or Deliverables is determined exclusively by Beta Systems DCI's Product Documentation or, if existent, additional specifications. Public statements, promotion and advertisements, e.g. in flyers, presentations or on websites don't represent contractual quality information. Customer has to ascertain that the Software is suitable for the intended purpose on the basis of product information provided by Beta Systems DCI.
- 6.2 Customer must install the software delivered by Beta Systems DCI immediately and test it for its functionality and for deficiencies. If the defect is discovered later within the warranty period, Customer has to report defects in writing immediately. The defect must be described in a comprehensible format.
- 6.3 Customer's warranty claims are excluded, if the defect is not reproducible or cannot be identified with the help of handwritten or mechanical records.
- 6.4 Beta Systems DCI will remedy the defect in the Software or the Deliverables either by eliminating the defects or, at its election, by providing to Customer a replacement software, that is free of defects within a reasonable time frame. Beta Systems DCI may, at its election, remedy the defect by providing a workaround with an equivalent functionality or by providing a program which eliminates the defect (such as a fix or service pack). Beta Systems DCI may also provide a new software version (e.g. Product Release or Product Version)

- which eliminates the defect. Delivery of workarounds, programs remedying the defect or of new program versions shall be deemed as cure of the defect. Customer shall accept such delivery if the essential functionalities remain unaffected and if it would not be unreasonable to require Customer to do so. Beta Systems DCI is allowed at least two subsequent efforts to remedy the defect. In case of a failure, Customer has the right to reduce the remuneration or rescind the contract. These rights shall also apply if Beta Systems DCI refuses to cure the defect or if it would be unreasonable to expect Customer to accept the choice of cure.
- 6.5 Warranty claims are excluded in case of insubstantial deviation from the agreed quality, in case of only insignificant impairment of serviceability, or if the defect is caused by use of the contractual Software which is not in compliance with its documentation, external influences or other causes beyond Beta Systems DCI's control, e.g. use of the Software in a system environment or on a platform which is not compliant with the Product Documentation. The liability for defects is not applicable, if Customer modifies the Software or has it modified by third parties without Beta Systems DCI's consent, unless Customer can show that the respective defect is not caused by the modification and that the defect resolution will not be made impossible or unacceptable by the modification. This is also true for unauthorized use with third party hardware or software or use of the Software, which is not contractual and/or appropriate. In these cases, Customer must cover the additional cost for remedying a defect. If Beta Systems DCI provides defect identification or elimination services without being under obligation to do so, Beta Systems DCI is entitled to remuneration based on the then current hourly rates. Beta Systems DCI is also entitled to remuneration for additional work it does to eliminate any defect that arises out of Customer's failure to properly execute its duty to collaborate.
- 6.6 With respect to defects in Third-Party Software delivered by Beta Systems DCI, which cannot be cured by Beta Systems DCI due to legal or technical reasons, Beta Systems DCI will – at its option – either enforce the applicable warranty on behalf of Customer or will assign to Customer the rights Beta Systems DCI obtains from the vendors of such Third-Party Software. If such warranties are not enforceable against the third party, Customer's warranty claims against Beta Systems DCI set forth under these General Terms and Conditions shall remain in full force and effect.
- 6.7 Customer has the obligation to support Beta Systems DCI to the greatest possible extent in remedying the defect, especially by providing required information.
- 6.8 The warranty restrictions as set forth above do not apply in cases of damage claims which Customer may claim under the statutory warranty rights.
- 6.9 For claims for damages or reimbursement of expenses the limitation of liability as set forth in section 8 of these Terms and Conditions shall apply.
- 6.10 The warranty claims become statute-barred in 12 months. The statute of limitation starts with the date at which Beta Systems DCI completes the delivery duties. The reduced statute of limitation does not apply in cases of Beta Systems DCI's wilful intent or gross negligence, fraudulent concealment of a defect, injury to life, limb and health as well as in the case of a liability according to the German Product Liability Act.
- 6.11 Whilst Beta Systems DCI is checking the existence of a defect, the statute of limitation shall be suspended in accordance with statutory law. This shall not result in a recommencement of the period of limitation.
- 6.12 Beta Systems DCI shall not be responsible for defects in Open Source Software. Warranty claims against Beta Systems DCI with regard to Open Source Software are excluded.
- 7. Industrial property rights**
- 7.1 Beta Systems DCI is liable for the violation of third party rights only if the delivered Software and services are used as specified in the contract, in particular in the environment of use as agreed upon. Customer has to provide proof for compliance with contract. Should a third party file a claim based on infringement of a copyright or other industrial property rights or competition law against Customer, Customer will inform Beta Systems DCI without undue delay. Upon Beta Systems DCI's demand, Customer shall cease use of the Software or Deliverables immediately and shall inform the third party that such cessation does not imply any recognition of the claimed infringement. Beta Systems DCI shall have full control over the dispute with the third party.
- 7.2 If Beta Systems DCI violated the rights of a third party, Beta Systems DCI may choose at its option and at its expense to either
- procure the right for Customer to use the contractual Software or Deliverables,
  - modify the contractual Software or Deliverables to make it noninfringing;
  - or, if these alternatives are not commercially reasonable, terminate the services or the license for the applicable program less a reasonable amount for use. Customer's interests are adequately taken into account.
- 7.3 For damages and reimbursement of expenses section 8 applies accordingly.
- 8. Liability**
- 8.1 Beta Systems DCI is liable to Customer
- for intent and gross negligence, also by their legal representatives and agents
  - for damages resulting from injury to life, limb or health by Beta Systems DCI or its legal representatives or agents and
  - under the German Product Liability Act.
- 8.2 Beta Systems DCI is not liable for damages caused by slight negligence, unless this negligence concerns the breach of essential contractual duties (cardinal obligations). An essential obligation is an obligation whose fulfillment is a prerequisite for the proper execution of the agreement, the violation of which jeopardizes the achievement of the purpose of the agreement, and upon whose fulfillment Customer can normally rely. In this case the liability of Beta Systems DCI shall, however, be limited to the typical losses foreseeable when the agreement was concluded.
- 8.3 The liability for consequential damages is excluded.
- 8.4 For each claim, the liability for slight negligence is limited to 50 % of the value of the respective contract, in case of recurring fees the liability is limited to the amount of the annual remuneration. The total liability, in the aggregate, for any and all claims, resulting from or in any way related to the Agreement shall not exceed the total compensation payable by Customer under the Individual Agreement.
- 8.5 For the loss of data, Beta Systems DCI shall be liable only if Customer has backed up its data at adequate intervals in a suitable form, so that it can be recovered at a reasonable cost. Beta Systems DCI is not liable for damages which result from the fact that Customer interrupts or withdraws the usage of the software.
- 8.6 For all claims for damages against Beta Systems DCI the time bar comes into effect after a period of one year. That period begins at the point in time specified in the German Civil Code (BGB), section 199 (1). The foregoing provisions in this section notwithstanding, the time bar comes into effect not later than three years after the claim arises.

The provisions in sentences 1 to 3 in this section do not apply to liability for intent or gross negligence, fraudulent concealment of a defect, injury to life, limb and health, or liability under the German Product Liability Act. For reimbursement of expenses and other liability claims of Customer against Beta Systems DCI the above listed regulations apply accordingly.

- 8.7 Beta Systems DCI is not liable for any damages arising from the use of Open Source Software, this is also true, if Beta Systems DCI delivered the Open Source Software or indicated the necessity of the use of the Open Source Software in the documentation. The liability for Open Source Software is not excluded if it is required by law.
- 8.8 The provisions set out above are also valid for Beta Systems DCI's organs, legal representatives, employees and other agents and assistants.

#### **9. Confidentiality**

- 9.1 The Parties formally agree to treat all confidential information (e.g. trade and business secrets, information marked as confidential or information that ought to be treated as confidential) disclosed in connection with the performance of the Individual Agreement as strictly confidential. This shall also apply to the content of the Individual Agreement, especially its conditions. All confidential information shall be used exclusively for the purpose of the Individual Agreement. The Parties shall obligate their employees, representatives or authorised agents correspondingly. This obligation is valid for a further period of three years after the Individual Agreement has ended.
- 9.2 The Parties are aware that unencrypted electronic communication (e.g. by email) poses security risks. Both parties waive their right to claim damages which arise due to the use of unencrypted communication, unless the parties agreed on using encryption.

#### **10. Termination**

The parties may terminate an Individual Agreement at any time for just cause. Beta Systems DCI reserves the right to terminate for just cause where (i) Customer does not fulfil payment obligations within a reasonable time frame or (ii) where Customer is in breach of major contractual obligations.

#### **11. Final Provisions**

- 11.1 Beta Systems DCI is entitled to name Customer as part of marketing activities, marketing documentation and other publications, especially publications with advertising content. Beta Systems DCI has the right to report benchmark data of the Individual Agreement as part of its obligations for stock exchange publication.
- 11.2 Beta Systems DCI reserves the right to assign the Individual Agreement to an affiliated company within the meaning of section 15 AktG without Customer's consent unless it would be unreasonable to require Customer to accept the assignment.
- 11.3 The sole place for jurisdiction for all disputes directly or indirectly arising from the parties' business relationship shall be Berlin.
- 11.4 The relationship between Beta Systems DCI and the client is exclusively subject to the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
- 11.5 Changes of or amendments to these General Terms and Conditions and to the Individual Agreement including the written form requirement set forth in this clause, must be in writing.
- 11.6 If one or more provisions of these General Terms and Conditions or the Individual Agreement are or become invalid or void, the validity of the remaining provisions shall remain unaffected thereof.