

BITKOM's General Contractual Terms and Conditions for PLATO AG

- BITKOM GCTC - (as of: 01/21/2015)

1. Remuneration, Payment, Service Protection, Deadlines

1.1 Unless agreed otherwise, remuneration is calculated after completion of work at the Provider's prices generally applicable at the time of entering the contract. Remuneration is essentially net prices plus the statutory VAT incurred.

The Provider can invoice monthly. If services are remunerated after completion of work, the Provider shall document the type and duration of the activities and shall send this documentation with the invoice.

1.2 All invoices essentially must be paid to the payment office at the latest by the 14th calendar day after receipt thereof without any deductions.

1.3 The Customer can offset or withhold payments due to defects only to the degree the Customer is entitled to actual payment claims due to material defects or defects in title related to service. For other claims arising out of defects, the Customer can withhold payments only in a proportion, taking the defect into consideration. Section 4.1 applies accordingly. The Customer has no right of retention if the claim arising out of defect has lapsed. Additionally, the Customer can only offset or exercise a right to withhold payment for claims that are undisputed or established in a legally binding way.

1.4 The Provider reserves the right to retain title and rights to the services up until the remuneration owed has been completely paid; authorized retentions due to defects as set forth in Section 1.3 Sentence 2 shall be considered. Furthermore, the Provider reserves the right to retain title up until the Customer meets all the Provider's claims arising out of the business relationship.

The Provider is authorized, for the duration of a Customer's payment default, to prohibit the Customer from further use of services. The Provider can assert this right only for a reasonable time period, generally at the most for 6 months. Rescinding the contract is not permitted during this time. §449 para. 2 BGB remains unaffected.

If the Customer or their buyers return the services, the Provider is not permitted to rescind the contract when receiving the returned services, unless the Provider has expressly declared cancellation. The same holds for seizure of goods subject to retention of title or the Provider's rights to goods subject to retention of title.

The Customer may neither pledge nor assign as collateral items that are subject to retention of title or legal reservations. The Customer is only permitted as a reseller to resell items in the normal business procedure under the condition that claims against the Customer's buyers in connection with the resale have been validly assigned to the Provider and the Customer transfers title to his buyer when paid. By entering into this contract, the Customer assigns to the Provider as a security his future claims in connection with such sales to his buyers, of which assignment the Provider hereby accepts.

If the value of the Provider's rights to collateral exceed the amount of the secured claims by more than 20%, the Provider will release a corresponding proportion of the security rights at the Customer's request.

1.5 The Customer is obligated to impose the contractually agreed limitations on the recipient in the event of a permitted transfer of rights of use to supplies and services.

1.6 If the Customer does not settle a claim that is due at the payment date as stated in the contract, in whole or in part, the Provider can cancel the agreed payment terms for all claims. Furthermore, the Provider is authorized to perform other services only against advance payment or against security in the form of a performance guarantee from a credit institution or credit insurer accredited in the European Union. Advance payment must cover the respective invoice period or - for one-time payments - remuneration from that period.

1.7 In the event of the Customer's economic inability to meet his obligations to the Provider, the Provider can end any exchange contracts with the Customer by means of cancellation, can terminate continuing obligations by means of termination without notice. §321 BGB and §112 InsO remain unaffected. The Customer shall inform the Provider in writing and in advance about pending insolvency.

1.8 Fixed service deadlines must exclusively be agreed expressly in documented form. The agreement of a fixed service deadline is subject to the reservation that the Provider receives services from his suppliers in a timely fashion and as stated contractually.

2. Collaboration, Obligation to Cooperate, Confidentiality

2.1 The Customer and the Provider each shall appoint a contact person. Communication between the Customer and the Provider shall occur, unless agreed otherwise, through these contact persons. The contact persons shall promptly make all decisions related to executing the contract.

The decisions must be documented in a binding way.

2.2 The Customer is obligated to support the Provider as necessary and to create all of the conditions necessary to carry out the order in his operational sphere. For this, he shall be provided with, in particular, necessary information and enable remote access to the Customer's system as far as possible.

If for security reasons or other reasons a remote access is not possible, the deadlines affected thereby shall extend reasonably; for other effects, the parties to the contract shall agree to an appropriate rule. The Customer shall also ensure that technically trained staff shall be available to support the Provider.

If agreed in the contract that services can be provided on the Customer's site, the Customer shall provide sufficient work spaces and work materials at no charge if requested by the Provider.

2.3 The Customer shall promptly report in writing any defects in a comprehensible and detailed way, providing information of all the information appropriate to recognize and analyze the defect. In particular, the work steps, which led to the occurrence of the defect, the manifestation and the effects of the defect must be indicated. Unless agreed otherwise, the Provider's relevant forms and procedures are used.

2.4 The parties to the contract are obligated to keep confidential all business and trade secrets as well as other information identified as confidential, which are announced when executing the contract. Transferring such information to persons who are not involved in entering into, executing or carrying out the contract may only take place with the written consent of the other party to the contract. Unless agreed otherwise, this obligation ends after expiration of five years after the information was announced, but for ongoing obligations not before they end.

The parties to the contract shall also impose these obligations on their employees and third parties possibly involved.

2.5 The parties to the contract are aware that electronic and unencrypted communication (e.g. per email) is laden with security risks. Thus, for this type of communication they will not assert any claims that are based on a lack of encryption, unless encryption had been agreed previously.

3. Disruptions to Providing Service

3.1 If a cause, for which the Provider is not responsible, including strike or lockout, interferes with complying with deadlines ("disruption"), the deadlines are postponed by the period of the disruption, if necessary including a reasonable re-start phase. One party to the contract must immediately inform the other party to the contract about the cause of a disruption occurring within his area of responsibility and the period of postponement.

3.2 If expenditures increase due to a disruption, the Provider can also request remuneration for the additional expense, unless the Customer is not responsible for the disruption and its cause is outside of his area of responsibility.

3.3 If the Customer can rescind the contract due to the Provider not having provided the service appropriately and/or if the Customer can request compensation instead of service or affirms this, the Customer shall declare in writing upon Provider's request within a reasonable set period, whether he is asserting these rights or wants to have the service provided. In the event of cancellation of the contract, the Customer shall reimburse the Provider for the value of the previously existing opportunities for use; the same holds for deterioration from proper use thereof.

If the Provider defaults on providing service, the Customer's compensation for damages and compensation for expenses due to the default for each completed week of default is limited to 0.5% of the price for the part of the contractual service that can not be used because of default. The default liability is limited to a total of at least 5% of the remuneration for all contractual services affected by default; for ongoing obligations related to remuneration of relevant services for the full calendar year. As a supplement and as a priority, a percentage rate agreed when entering the contract applies to the remuneration agreed when entering the contract. This does not apply, if default is based on the Provider's gross negligence or with wrongful intention.

3.4 In the event of a delay of service, the Customer has a right to rescind the contract within the scope of the legal provisions only if the delay was caused by the Provider.

If the Customer asserts compensation to damages or expenditures instead of service that are authorized due to delay, then he is authorized to request 1% of the price for the part of the contractual service that can not be used due to the delay for every completed week, but a maximum of 10% of the price; for ongoing obligations related to remuneration of relevant services for the full calendar year. As a supplement and as a priority, a percentage rate agreed when entering the contract applies to the remuneration agreed when entering the contract.

4. Material Defects and Compensation for Expenditures

4.1 The Provider issues a guarantee for the quality of the services under the contract. There are no claims due to material defects for only a negligible deviation from the Provider's quality of services under the contract.

Claims due to defects also do not exist for excessive or inappropriate use, normal wear and tear, malfunction of components in the system's environment, non-reproducible software errors or software errors provable by the client, or for damages that are incurred due to other external influences that are not a prerequisite under the contract. This also applies to subsequent changes or maintenance performed by the Customer or a third party, if these make analysis and correction of the material defect more difficult.

Section 6 applies as a supplement to claims to compensation for damages and claims to compensation for expenditures.

4.2 The statute of limitation for claims to material defects is one year from the legal beginning of the statute of limitation period. The legal periods for recourse as set forth in §479 remain unaffected. The same applies if the law as stated in §438 para. 1 no. 2 or §634a para. 1 no. 2 BGB prescribes longer periods for a wrongful or grossly negligent violation of obligation by the Provider, for malicious concealment of a defect and in cases of injury to life, body or health and for claims arising out of the Product Liability Law.

The Provider's processing of a report made by the Customer about a material defect only leads to slowing down the statute of limitation, if the legal requirements for it are present. A new beginning of the statute of limitation does not take effect thereby.

Subsequent performance (new delivery or remedy) can exclusively exert an influence on the statute of limitation for the defect triggered by subsequent performance.

4.3 The Provider can request remuneration for his effort, if

a) the Provider becomes active due to a notification without there actually being a defect, unless the Customer could not recognize with reasonable effort that there was no defect, or

b) a reported malfunction can not be reproduced or otherwise can not be proven by the Customer as a defect, or

c) if additional expenditures are incurred due to the Customer not having met his normal obligation (see also Section 2.2, 2.3 and 5.2).

5. Defects in Title

5.1 For violation of third party rights committed by the Provider's service, the Provider is liable only to the degree the service is used unchanged in accordance with the contract and especially in the environment of use intended by and as agreed under the contract.

The Provider is liable for third party rights only within the European Union and the European Economic Community and at the location of use of the contractual service. Section 4.1 Sentence 1 applies accordingly.

5.2 If a third party asserts vis-à-vis the Customer that a service from the Provider violates his rights, the Customer shall promptly inform the Provider. The Provider and, if applicable, his suppliers are authorized, but not obligated, to the degree permitted to ward off the claims asserted at their expense.

The Customer is not authorized to recognize third party claims before Customer has given Provider a reasonable opportunity to ward off the third party rights in other ways.

5.3 If through the Provider's service third party rights are violated, the Provider, at his own expense and at his own discretion, shall

a) generate for the Customer the right to use the service or

b) organize the service in a way that it is free of legal violations or

c) take back the service and refund the remuneration paid by the Customer for it (minus a reasonable reimbursement for use), if the Provider can not achieve other remedy with reasonable effort.

The Customer's interests shall be appropriately considered in doing so.

5.4 Customer's claims due to defects in title lapse in accordance with Section 4.2. Additionally, Section 6 applies to Customer's claims to compensation for damages and compensation for expenditures; Section 4.3 applies accordingly to additional expenditures of the Provider.

6. The Provider's General Liability

6.1 The Provider is always liable to the Customer

a) for damages caused with wrongful intention or from gross negligence by the Provider or one of his legal representatives or assistants,

b) as stated under the Product Liability Law and

c) for damages arising out of injury to life, body or health for which the Provider, his legal representatives or assistants are responsible.

6.2 The Provider is not liable for slight negligence, unless he has violated a substantial contractual obligation, of which fulfillment is necessary to enable the proper execution of the contract or of which violation endangers attaining the contractual goal and of which compliance the Customer may regularly trust.

For material and pecuniary damages, this liability is limited to the foreseeable damages typical of the contract. This also applies to lost profit and savings that failed to materialize. Liability for other remote consequential damages is excluded.

For an individual instance of damage, the liability is limited to the value of the contract, for ongoing remuneration payment, the liability is limited to the amount of remuneration for the contract year, but not less than €50,000. Section 4.2 applies accordingly to the statute of limitation. The party to the contract can agree in writing when entering the contract for an additional liability, generally in exchange for a separate remuneration. The priority is an individually agreed liability total.

As a supplement and as a priority, the Provider's liability for slight negligence arising out of the contract and out of his giving compensation for damages and expenditures - irrespective of the legal reason - is on a whole limited to the percentage rate of the remuneration agreed in this contract, which was agreed when entering this contract. Liability as set forth in Section 6.1(b) remains unaffected by this paragraph.

6.3 On the basis of a guarantee declaration, the Provider is only liable for compensation, if this was expressly accepted in the guarantee. This liability for slight negligence is subject to the limitations as set forth in Section 6.2.

6.4 In the event of loss of data, the Provider is liable only for those efforts that are necessary for the Customer to restore the data with ordinary data security. In the event of slight negligence of the Provider, this liability only becomes effective if the Customer has conducted ordinary data security procedures, in accordance with their duty of care appropriate to the type of data involved, before the measure leading to data loss was initiated.

6.5 Sections 6.1 through 6.4 apply accordingly to the Customer's claims to compensation for expenditures or other liability claims against the Provider. Section 3.3 and 3.4 remain unaffected.

7. Data Protection

The Customer shall enter into agreements with the Provider that are necessary for possibly accessing personal data and in so doing shall comply with the special requirements for processing order data (§11 BDSG).

8. Miscellaneous

8.1 The Customer shall comply with import and export regulations applicable to the supplies or services, in particular those from the USA. For suppliers or services that involve border-crossing, the Customer shall cover customs, fees and other charges that are incurred. The Customer shall handle the legal and governmental procedures in connection with the supplies and services that involve border-crossing, unless expressly agreed otherwise.

8.2 German law applies. Application of the CISG is excluded.

8.3 The Provider shall provide his services on the basis of his General Terms and Conditions. The Customer's General Terms and Conditions are not applicable, even if the Provider has not expressly contradicted them.

The Customer's acceptance of services is deemed to be recognition of the Provider's General Terms and Conditions, waiving the Customer's General Terms and Conditions.

Other conditions are only binding if the Provider has recognized them in writing; in this case the Provider's General Terms and Conditions apply as a supplement.

8.4 Amendments and supplements to this contract can only be agreed in writing. If the written form is agreed (e.g. for termination, cancellation/rescinding the contract), electronic form is not sufficient.

8.5 Jurisdiction vis-à-vis a business person, a legal person under public law or a separate fund under public law is the Provider's domicile. The Provider can also file suit against the Customer at their domicile.

BITKOM's Contractual Terms and Conditions for Transferring Software (Purchase)

- BITKOM CTCTS -

1. Subject Matter of the Contract

1.1 The Software's nature and scope of service as well as the allowable environment of use follow from the respective program description, also from the operating instructions, unless agreed otherwise.

1.2 The Software shall be supplied in a way that it can be used (as a target program), including operating instructions (documentation about use or online help) and the installation instructions.

The operating instructions and the installation instructions can be provided to the Customer electronically as well.

If in the Provider's Software there are no interfaces to the Software supplied by Provider, §69d of the German Copyright Law is applicable. Before decompiling anything, the Customer shall request the necessary information from the Provider.

1.3 Unless agreed otherwise, the Software shall be installed and operated by the Customer. All other services of the Provider, which are provided at the Customer's request (especially preparation for use, installation and demonstration of successful installations, instructions, training and consultation) are remunerated based on expenditure.

2. Rights of Use to the Software and Unauthorized Use Prevention

2.1 The Provider grants the right to the Customer after full payment of the agreed remuneration to use the agreed Software within the scope stipulated by the contract. If the scope is not agreed in the contract, this is then a simple, non-exclusive right of use in perpetuity. This authorizes the Customer only to use the Software on a computer by one single user at a time. The right of use only includes use for internal purposes of the Customer.

An extended use beyond this must always be agreed contractually before commencement thereof. Remuneration is based on the scope of the right of use.

2.2 Transfer of the right of use to third parties is only permitted if the Customer completely abandons the right. The Customer is obligated to impose on the third party the obligations and restrictions of use relevant to the Client. This especially applies to the obligations as set forth in Section 3.5. The Customer shall confirm in writing of having abandoned his own use, upon the Provider's request.

2.3 The Customer may only copy the Software if this is necessary for use under the contract. Copyright notices in the Software may not be changed or deleted.

2.4 The Provider is authorized to take appropriate technical measures to prevent use that is contrary to the contract. Use of the Software on an alternative or subsequent configuration may not be significantly affected by this.

2.5 Ownership to the transferred copies is reserved until the remuneration owed is completely paid. If individual rights of use are granted before then, these are granted only temporarily and they can be freely revoked by the Provider.

2.6 The Provider can revoke the Customer's right of use, if, in a non-negligible way, the Customer violates the restrictions of use or other rules on preventing unauthorized use (see also Section 3.4 and 3.5). The Provider shall set a subsequent period of remedy for the Customer beforehand. In the case of recurrence and in special

circumstances that justify immediate revocation, bearing in mind interests of both sides, the Provider can declare revocation without setting a period of notice. The Customer must confirm to the Provider in writing that use has been suspended after revocation. The Provider shall grant the Customer a right of use again, after the Customer has presented and warranted in writing that there are no more violations against the right of use, and previous violations as well as their consequences have been eliminated.

3. Customer's Obligations

3.1 The Customer shall ensure that, at the latest at the time of delivery, technically trained staff shall be available to use the Software and to support the Provider.

3.2 The Customer shall promptly inform the Provider about changes in the environment of use. Section 1.1 remains unaffected thereby.

3.3 The Customer shall support the Provider if needed for correcting defects, in particular, if requested by the Provider, the Customer shall send a data carrier with the relevant Software and provide working equipment.

3.4 The Customer recognizes that the Software and the operating instructions and other documents - and future version of them as well - are protected under copyright law. In particular, the source programs are the Provider's trade secrets. The Customer shall take precautions in perpetuity that the source programs are not accessible to third parties without the Provider's consent. Transfer of source programs requires the Provider's consent, which may not be refused contrary to good faith. The Provider shall supply source programs only on the basis of an express agreement.

3.5 The Customer may do nothing that could foster unauthorized use. In particular, the Customer may not attempt to decompile the programs, unless Customer is authorized for this as stated in Section 1.2 para. 2. The Customer shall promptly inform the Provider if Customer gains knowledge that unauthorized access is pending or has occurred in Customer's field of responsibility.

4. Customer's Claims due to Defects

4.1 The Provider guarantees that the software is in accordance with the agreements as stated in Section 1.1 when it is used as stated under the contract.

The statute of limitation for claims due to defects commences upon delivery or - if the Provider installs it - when installation is completed. An extension to the scope of use (Section 2.1 para. 2) has no influence on the term of the statute of limitation.

Section 5 of the BITKOM GCTC also applies to defects in title.

Section 4 of the BITKOM GCTC also applies to material defects, according to the following rules in Section 4.2 - 4.4.

4.2 The Customer has claims due to defects only if the reported defect can be reproduced or can be proven in another way by the Customer. Section 2.3 of the BITKOM GCTC especially applies to providing notification about defects.

4.3 If the Customer is entitled to claims due to defects, the Customer first only has a right to subsequent performance within a reasonable period. Subsequent performance includes, at the discretion of the Provider, either remedy or delivery of a replacement software. The Customer's interests shall be appropriately considered in doing so.

4.4 If subsequent performance fails or if it should not be implemented for other reasons, the Customer can reduce remuneration in accordance with the legal requirements, rescind the contract and/or request compensation for damages or compensation for expenditures - within the scope of Section 6 of the BITKOM GCTC.

If subsequent performance is delayed, Section 3.4 of the BITKOM GCTC applies to the Provider's compensation for damages and compensation for expenditures.

The Customer shall exercise a right of choice to which Customer is entitled regarding these claims due to defects within a reasonable period, generally within 14 calendar days from the time when the Customer possibly takes note of the right of choice.

5. Validity of BITKOM GCTC

BITKOM's General Contractual Terms and Conditions (BITKOM GCTC) are also applicable.

BITKOM's Contractual Terms and Conditions for Maintaining Standard Software

- BITKOM CTCMSS -

A. Subject Matter of the Contract

A1. Item Serviced

The Provider shall provide the agreed maintenance services only for the current version of the standard software agreed as the item serviced ("Serviced Software") in exchange for the agreed remuneration. If in the contract third party software is expressly agreed as the Serviced Software, the restrictions described there apply to this.

The Provider shall provide - if agreed - the following maintenance services:

A2 Malfunction Management

2.1 Contractual Services

The Provider shall receive the Customer's reports of malfunctions, classify the malfunction in the agreed malfunction categories and

with the help of this classification implement the agreed measures to analyze and correct the malfunctions.

Malfunction management does not include any services that are connected with use of the Serviced Software in an environment of use that is not approved or that are connected with changes to the Serviced Software made by the Customer or third parties.

2.2 Receipt of the Customer's Reports of Malfunctions

The Provider shall receive the Customer's reports of malfunctions during his normal business hours and give it an ID. Upon request by the Customer, the Provider shall confirm to the Customer receipt of the malfunction report with a notification about the ID given to it.

2.3 Classification into a Malfunction Category

Unless agreed otherwise, the Provider shall classify the malfunction report received, after first inspecting it, into one of the following categories:

a) Serious Malfunction

The malfunction is based on an error in the Serviced Software, which makes use of the Serviced Software impossible or allows use only with significant limitations. The Customer can not reasonably handle this problem and for that reason is unable to complete urgent jobs.

b) Other Malfunction

The malfunction is based on an error in the Serviced Software, which limits the Customer's use of the Serviced Software in more than a negligible way without there being a serious malfunction.

c) Other Report

Reports of malfunction that do not fall into categories a) and b) are classified to the category other reports. Other reports are handled by the Provider only in accordance with the agreements reached on those matters.

2.4 Implementation of Measures to Correct Malfunctions

For reports about serious malfunctions and other malfunctions, the Provider shall promptly initiate relevant measures with the circumstances reported by the Customer, in order to locate the cause of the malfunction.

If the malfunction reported does not constitute an error of the Serviced Software after first analysis, the Provider shall promptly inform the Customer about this.

Otherwise the Provider shall arrange for appropriate measures to further analyze and correct the malfunction reported or - for third party software - to send the malfunction report to the distributor or the manufacturer of the Serviced Software together with the results of the analysis and with a request for assistance.

The Provider shall promptly provide the Customer with measures available to the Provider to deal with or correct an error in the Serviced Software, roughly instructions to deal with the Serviced Software or corrections. The Customer shall promptly implement such measures to deal with or to correct malfunctions and promptly report to the Provider again if there are any remaining malfunctions when implementing the measures.

A3 Transfer of New Versions

3.1 Contractual Services

The Provider shall transfer to the Customer certain new updates of the Serviced Software to keep them current and to prevent malfunctions. These updates of the Serviced Software include technical modifications, improvements, small functional expansions and patches with corrections of the Serviced Software or other relevant measures to deal with possible malfunctions. These new updates of the Serviced Software are called "New Versions".

Not included in maintenance service is transfer of upgrades with significant functional expansions or of new products or obligations to further develop the Serviced Software, unless expressly agreed otherwise.

3.2 Rights and Obligations for New Versions

The Provider shall provide the Customer with new versions of the software. The Customer shall promptly inspect the new versions and promptly object if there are any recognizable defects, to which §377 HGB applies accordingly. Malfunctions and defects are handled as set forth in Section A2. Section 4.1 and 2.3 of the BITKOM GCTC are applicable. If the Provider has supplied the Customer with a new version, the Provider shall also continue to service the previous version for an appropriate transitional period, which generally does not exceed three months.

If the Customer is entitled to claims due to defects, the Customer first only has a right to subsequent performance within a reasonable period. Subsequent performance includes, at the discretion of the Provider, either remedy or delivery of a replacement software. The Customer's interests shall be appropriately considered in doing so.

For new versions of third party software, the guarantee rules of the transfer contract between the Customer and the Provider apply to this third party software as a priority, unless agreed otherwise.

A4 Contact Point (Hotline)

4.1 Contractual Services

The Customer shall set up a contact point for the Customer, which is a Hotline. This point of contact processes the Customer's inquiries in connection with the technical requirements and conditions

of use of the Serviced Software, as well as individual functional elements. Section A2.1 is applicable.

No services are provided by the Hotline that are connected with use of the Serviced Software in an environment of use that is not approved or that are connected with changes to the Serviced Software made by the Customer or third parties.

4.2 Receipt and Processing Inquiries

The prerequisite for receipt and processing inquiries is that the Customer appoints expert and technically trained staff for communication with the Provider, who are assigned by the Customer internally to process inquiries by users of the Serviced Software. The Customer is obligated to address inquiries to the Hotline only via this staff appointed for communicating with the Provider and in so doing to use the forms supplied by the Provider. The Hotline accepts such inquiries via email, fax, and telephone during the Provider's normal business hours.

The Hotline shall process appropriate inquiries in the normal business procedure and answer them if possible. When answering a question, the Hotline can point the Customer to the documentation available to the Customer and other training material for the Serviced Software. If the Hotline is not able to answer the inquiry or not in a timely fashion, the Provider - if this is expressly agreed - will pass on the inquiry for processing, especially inquiries about Serviced Software that the Provider has not manufactured.

Other Hotline services, such as other contact hours and deadlines as well as the Provider's availability to be called in or deployed on site at the Customer's location must be expressly agreed in advance.

A5 Additional Services

Services going beyond Section A2. through A4. are not owed under this contract, but they require a separate agreement and are remunerated separately.

This can basically involve additionally agreed meetings on site at the Customer's location, consultation and support with changed software, clarification on interfaces to foreign systems, installation support and configuration support.

B. General Rules

The following rules apply equally to Malfunction Management (A2), Transfer of New Versions (A3) and the Hotline (A4).

B1 Term

1.1 Unless agreed otherwise, the service contract begins with delivery as set forth in the transfer contract for standard software.

1.2 After expiration of an agreed minimum term, if applicable, the service contract can be terminated in writing with a 3-month notice period at the end of a calendar year, but first at the expiration of the calendar year following the year when the contract was entered. Moreover, the contract can be terminated by the Provider and the Customer for due cause without complying with a period of notice.

1.3 Termination declarations are only valid if they are in writing.

B2 Remuneration

2.1 Flat-fee Remuneration

The Customer shall remunerate maintenance services by an ongoing flat-fee. The remuneration for service is owed in advance of an invoice period and shall be invoiced by the Provider to the Customer at the beginning of the invoice period. The invoice period is essentially the calendar year. In the event that the contract commences in the middle of an invoice period, the remuneration is owed pro-rata and is invoiced when the contract is entered.

2.2 Remuneration of Additional Services

Additional services, which are not satisfied by the flat-fee remuneration, are remunerated as set forth in Section 1.1 of BITKOM GCTC.

2.3 Adjustment to Remuneration

The Provider reserves the right to increase the remuneration first after expiration of 12 months, at the most one time per year with a 3-month announcement period in accordance with the trend of the "Index on Labor Costs for the Manufacturing and Service Industries". The Provider can also pass on increases in cost beyond this for third party supply services, unless the Provider has caused these increases in cost. As soon as the annual remuneration increases by more than 5%, the Customer is authorized to terminate the contract at the time when the increase takes effect with a period of notice of six weeks after receipt of the increase notice. In the event that the relevant costs are reduced, the Customer can also request a corresponding reduction first after expiration of 12 months.

B3 Right of Use

The Customer's right of use to new versions and other corrections to the Serviced Software correspond to the rights of use to the previous version of the Serviced Software. With regard to the rights of use, the rights to the new versions and other corrections after an appropriate transitional period - which generally is not more than one month - supersede the rights to the previous version and other corrections. The Customer may archive a duplicated copy.

B4 Customer's Obligations

4.1 The Customer shall promptly notify the Provider about changes in the environment of use, also in order to enable the Provider to give maintenance service. Moreover, the Customer warrants that the Serviced Software is used in an environment of use supported by the Serviced Software and in an environment of use that is ap-

proved. The Provider does not service software that is not used in the correct environment of use.

4.2 Unless agreed otherwise, the Customer shall store at their premises all documents, information and data supplied by the Provider in such a way that they can be reconstructed if there is damage and loss of the data carriers.

B5 Transfer

If Software is transferred within the scope of these Conditions and nothing else is agreed, this shall occur in the same way as it was when transferring the Serviced Software.

B6 Data Protection

To the degree the Provider can access personal data that is saved on the Customer's systems, the Provider is active as an Order Data Processor (§11 para. 5 BDSG) and the Provider will only use and process this data to execute the contract. The Provider shall follow the Customer's instruction when handling this data. The Customer shall bear any disadvantageous consequences of such instructions when executing the contract.

Details related to handling personal data in this respect shall by necessity be agreed between the parties to the contract in writing as set forth in §11 para. 2 BSG or other legal norms.

B7 Validity of BITKOM GCTC

BITKOM's General Contractual Terms and Conditions (BITKOM GCTC) are also applicable.

BITKOM's Contractual Terms and Conditions for Services

- BITKOM CTCS -

1. Subject Matter of the Contract

1.1 The Provider shall provide services as set forth in the conditions agreed in the following and under the contract, in exchange for the remuneration agreed contractually. The Customer shall bear the responsibility for follow up on the project. The Provider shall provide services in accordance with principles of professional conduct.

1.2 The subject matter of the contract can exist in a one-time service or also in parts, or can be established for a longer period.

2. Implementing the Service

2.1 The location of the service is the Provider's headquarters, unless agreed otherwise.

2.2 The Provider shall provide the service by means of appropriate employees. The Customer's claim that service be provided by specific employees of the Provider does not exist.

2.3 The Provider shall define the way in which service is provided, unless agreed otherwise.

2.4 The Customer is not authorized to give instructions to the Provider's employees involved with providing service.

2.5 If the Provider must present the results of the service in writing, only the written presentation is definitive.

3. Collaboration Obligations

3.1 The Customer shall ensure that the contact person appointed by Customer is completely available to the Provider in a timely way and at no charge when providing accurate and necessary documents, information and data, unless the Provider must supply them. Moreover, the Customer shall ensure they are updated. The Provider may assume the completeness and accuracy of these documents, information and data, unless the Provider recognizes or has to recognize that they are incomplete or inaccurate.

3.2 The Customer must monitor the Provider's service on these matters.

4. Rights of Use

4.1 The Provider grants to the Customer the non-exclusive and non-transferable right to the service results that the Provider supplied within the scope of the contract and transferred to the Customer, to use this right in perpetuity for their own internal purposes within the scope of the purpose of use under the contract, unless agreed otherwise.

4.2 Otherwise, all rights remain with the Provider.

4.3 The Provider can revoke the Customer's right of use, if, in a non-negligible way, the Customer violates the restrictions of use or other rules on preventing unauthorized use. The Provider shall set a subsequent period of remedy for the Customer beforehand. In the case of recurrence and in special circumstances that justify immediate revocation, bearing in mind interests of both sides, the Provider can declare revocation without setting a period of notice. The Customer must confirm to the Provider in writing that use has been suspended after revocation. The Provider shall grant the Customer a right of use again, after the Customer has presented and warranted in writing that there are no more violations against the right of use, and previous violations as well as their consequences have been eliminated.

5. Term

5.1 If the contract is concluded for an indefinite period of time, it can be terminated at the end of a calendar year with a 3-month period of notice. Termination is first possible at the expiration of the calendar year that follows the year when the contract was entered. An agreed minimum term remains unaffected by this termination right.

This does not apply, if something else is agreed.

5.2 The right to extraordinary termination for due cause remains unaffected.

5.3 Termination declarations are only valid if they are in writing.

5.4 Rescinding the contract is excluded.

6. Remuneration

6.1 Unless agreed otherwise, the Provider can increase remuneration at the earliest 12 months after entering the contract, if the increased remuneration corresponds to the Provider's current list prices. Other increases can occur at the earliest 12 months after the validity of a preceding increase. An increase is valid 3 months after it is announced.

The Customer has a termination right, if the rate of remuneration increases by more than five percent. The Customer can terminate the contract within one month of the receipt of the increase notice at the time when the increase takes effect.

6.2 Agreed proofs of expenditure are deemed to be approved if the Customer does not contradict them in writing and in detail within 21 days of receipt thereof and the Provider has made reference to the approval procedure in the proof of expenditure.

6.3 Travel costs and allowances as well as other expenditures are reimbursed in accordance with the Provider's price lists, unless agreed otherwise.

Travel time is not deemed to be working hours.

6.4 The Provider can request remuneration for his efforts, if additional expenditures are incurred due to the Customer not having met their obligations in a proper way (see Section 3 as well).

7. Service Disruptions

7.1 If the service is not provided as stated in the contract and if the Provider is responsible for this (service disruption), then the Provider is obligated to provide the service, in whole or in part, as stated in the contract within a reasonable period and without additional costs to the Customer, unless this is only possible with a disproportionate amount of expenditure.

This obligation of the Provider only exists if the Customer has objected to the service disruption in writing and immediately, at the latest by the end of two weeks after knowledge thereof, unless agreed otherwise.

7.2 Section 6 of the BITKOM GCTC applies to any claims to compensation for damages and claims to compensation for expenditures that go beyond this.

8. Validity of BITKOM GCTC

BITKOM's General Contractual Terms and Conditions (BITKOM GCTC) are also applicable.

BITKOM's Contractual Terms and Conditions for Work and Labor Contracts

- BITKOM CTCWLC -

1. Subject Matter of the Contract and Description of the Service

1.1 The Provider shall supply work and labor as set forth in the conditions agreed in the following and under the contract, in exchange for the remuneration agreed contractually.

1.2 The Provider is responsible for success only to the degree

a) the criteria for it were concretely and definitively defined upon entering the contract in the service description in view of the scope and effect, and that they have become the subject matter of the contract (agreed service criteria) and

b) the Customer meets his collaboration obligations in a timely and proper manner; unless these obligations have no effects on the services provided.

1.3 The service description is based on the Customer's functional and technical requirements which the Customer has announced. The service description shall convey the agreed service criteria (Section 1.2 a) and for instance, the final test criteria applied to it. Changes in the service description shall only take place as set forth in Section 4. The Provider shall provide any services related to analysis, planning and consultation for the service description only on the basis of a separate contract.

If not yet agreed in the service description, the parties to the contract shall reach an agreement by the time agreed in the contract, otherwise at the latest two weeks after signing the contract with the aid of the agreed service criteria on the testing material to be implemented for the review, i.e. test cases (Section 6.1 and 6.6e).

If the testing material had not been agreed within two weeks after the deadline planned for it, the Provider himself can define appropriate testing material in a binding way. The Customer's interests shall be appropriately considered in doing so.

1.4 If the Provider is under no obligation for a certain success under the work and labor contract, BITKOM's CTCS applies, unless agreed otherwise.

2. Collaboration of the Parties to the Contract

2.1 The contact persons (Section 2.1 of BITKOM's GCTC) shall promptly make all decisions related to executing the contract and be available for necessary information.

The decisions made by the contact persons must be documented.

- 2.2 The location of the service is the Provider's headquarters, unless agreed otherwise.

3 Collaboration Obligations

- 3.1 The Customer shall ensure that the contact person appointed by Customer is completely available to the Provider in a timely way and at no charge when providing accurate and necessary documents, information and data, unless the Provider must supply them. The Provider may assume the completeness and accuracy of these documents, information and data, unless the Provider recognizes or has to recognize that they are incomplete or inaccurate.
- 3.2 The Customer must transfer the testing material defined in accordance with Section 1.3 in a timely and orderly manner. If the Customer delays the transfer, the Provider is authorized to generate or acquire suitable testing material at the Customer's expense.

- 3.3 The Customer must report defects, especially as set forth in Section 2.3 of BITKOM's GCTC.

4. Procedures for Changes to Service

Both parties to the contract can recommend changes to the service description (Section 1.3) and services provided. The following procedure is agreed for this:

- 4.1 The Provider shall look through the Customer's recommendation for change and inform the Customer whether an extensive review of this recommendation for change is necessary or not.
- 4.2 If an extensive review of the recommendation for change is necessary, the Provider shall inform the Customer in a timely manner about the expected period of time necessary for this and the remuneration. The Customer shall accept or reject a review in a timely manner.
- 4.3 If an extensive review of the recommendation for change is not necessary or if the review requested is concluded, the Provider shall either
- a) submit a written offer to implement the changes (offer for change) to the Customer. The offer for change especially includes the changes to the service description and the effect on the service period, the planned deadlines, the testing material and remuneration; or
 - b) inform the Customer that the recommendation for change can not be implemented within the scope of the agreed services for the Provider.
- 4.4 The Customer shall either reject an offer for change within an acceptance period specified therein (commitment period) or accept it in writing in another agreed form. The Customer shall promptly notify the Provider of any rejection.
- 4.5 The Provider and Customer can agree that services affected by a recommendation for change be interrupted until the end of the review, or - if an offer for change is submitted - until the expiration of the commitment period.
- 4.6 Until the offer for change is accepted, work shall continue on the basis of the previously agreed contractual agreements. The service periods extend by the number of calendar days in which work was interrupted in connection with the recommendation for change or a review. The Provider can request a reasonable remuneration for the duration of the interruption (Section 4.5), unless the Provider uses or has to use his employees affected by the interruption in a different way or maliciously refrained from doing.
- 4.7 The change procedure is documented in writing or in electronic form on the Provider's forms, upon request by the Provider, unless agreed otherwise. Any change to the contractual agreement, especially to the service description, must be agreed in writing.
- 4.8 Section 4.2 through 4.7 apply accordingly to the Provider's recommendations for change.
- 4.9 Recommendations for change must be addressed to the contact persons (Section 2.1) of the parties to the contract.

5. Rights of Use

- 5.1 The Provider grants to the Customer the non-exclusive and non-transferable right to the service results that the Provider supplied within the scope of the contract and transferred to the Customer, to use this right in perpetuity for their own internal purposes within the scope of the purpose of use under the contract, unless agreed otherwise. Transfer of the right of use to third parties is only permitted if the Customer completely abandons the right. The Customer is obligated to impose on the third party the obligations and restrictions of use relevant to the Client. This especially applies to the obligations as set forth in Section 5.4. The Customer shall confirm in writing of having abandoned his own use, upon the Provider's request.
- 5.2 Otherwise, all rights remain with the Provider.
- 5.3 The Customer shall promptly inform the Provider if Customer gains knowledge that unauthorized access is pending or has occurred in Customer's field of responsibility. The Provider is authorized to take appropriate technical measures to prevent use that is contrary to the contract. Use of the services under the contract may not thereby be substantially restricted.
- 5.4 The Customer may do nothing that could foster unauthorized use. In particular, the Customer may not attempt to decompile the programs, unless he is authorized as set forth in §69d of the German Copyright Law for interfaces to software supplied by the Provider. Before decompiling anything, the Customer shall request the necessary information from the Provider.
- 5.5 The Provider can revoke the Customer's right of use, if, in a non-negligible way, the Customer violates the restrictions of use or

other rules on preventing unauthorized use. The Provider shall set a subsequent period of remedy for the Customer beforehand. In the case of recurrence and in special circumstances that justify immediate revocation, bearing in mind interests of both sides, the Provider can declare revocation without setting a period of notice. The Customer must confirm to the Provider in writing that use has been suspended after revocation. The Provider shall grant the Customer a right of use again, after the Customer has presented and warranted in writing that there are no more violations against the right of use, and previous violations as well as their consequences have been eliminated.

6. Final Acceptance

- 6.1 The Customer shall declare final acceptance within 14 calendar days after receipt of the Provider's written request of final acceptance, as long as no other deadline was agreed.
- During the period of review, the Customer can make sure that the work and labor is performed in accordance with the contract, if applicable with the aid of testing material (Section 1.3).
- 6.2 Unless agreed otherwise, a defect against which an objection is raised shall be classified to one of the following categories:

a) Category 1

The work and labor is laden with a defect that makes use impossible or allows use only with significant limitations.

b) Category 2

The work and labor is laden with a defect that restricts use without there being a Category 1 defect.

c) Category 3

The work and labor is laden with a defect that only negligibly restricts use.

- 6.3 In the event of a Category 1 defect, the Customer can refuse to declare final acceptance. This also applies if several Category 2 defects jointly lead to effects that are tantamount to Category 1 effects. The Provider shall properly correct defects reported (Section 3.3) with Category 1 effects in a reasonable period of time, such that there are no longer any Category 1 effects. If the review of this type of defect, its effect or its correction can not be conducted in a proper way, the review period reasonably extends for the work and labor affected thereby. Claims due to defects after declaration of acceptance remain unaffected.
- 6.4 Partial acceptance that has already been declared remains unaffected by later acceptance reviews and tests for other services. The same applies to reviews and tests that have already been conducted, unless these involve a defect or correction of a defect.
- 6.5 If there are not Category 1 defect effects, the service is deemed ready for acceptance.
- 6.6 The work and labor services are deemed as accepted - without express declaration and without the Provider's request for approval -
- a) if the Customer utilizes the work and labor services for purposes other than review purposes (Section 1.3), or
 - b) upon payment, unless the Customer has refused acceptance in a justified way, or
 - c) if the Customer makes no objections to any defect, which would prevent acceptance, within the period of review and testing as set forth in Section 6.1, or
 - d) if the Customer makes no objections to any defect, which would prevent acceptance, within a reasonable period set for the Customer by the Provider for this purpose and the Provider makes mention of this consequence when setting the period, or
 - e) if when using testing material (Section 1.3, 3.2) the tests can be conducted without defects occurring that prevent acceptance.
- 6.7 Unless agreed otherwise, identifiable partial services are also accepted individually in accordance with these rules.

7. Customer's Claims due to Defects

- 7.1 The Customer has claims due to defects only if the reported defect can be reproduced or can be proven in another way by the Customer. This also applies to defects for which rights are reserved when giving final acceptance. Section 3.3 especially applies to providing notification about defects.
- 7.2 If the Customer is entitled to claims due to defects, Customer first only has a right to subsequent performance within a reasonable period. Subsequent performance includes, at the discretion of the Provider, either correction of the defect or delivery or replacement.
- 7.3 If subsequent performance fails or if it should not be implemented for other reasons, the Customer can reduce remuneration in accordance with the legal requirements, rescind the contract and/or request compensation for damages or compensation for expenditures - within the scope of Section 6 of the BITKOM GCTC. The Customer is authorized to perform their own remedy for defects with costs, only if a defect has not been corrected despite expiration of a reasonable period for subsequent performance and the cause of this is the Provider.
- If subsequent performance is delayed, Section 3.4 of the BITKOM GCTC applies to the Provider's compensation for damages and compensation for expenditures. Section 6 BITKOM GCTC applies to compensation for damages or compensation for expenditures.

The Customer shall exercise a right of choice to which Customer is entitled regarding these claims due to defects within a reasonable period, generally within 14 calendar days from the time when the Customer possibly takes note of the right of choice.

- 7.4 Section 4 BITKOM GCTC applies to material defects as well; Section 5 BITKOM GCTC applies to defects in title as well. §641 para. 3 BGB remains unaffected.

8. Early Termination

- 8.1 If a minimum term of contract is agreed, an ordinary termination before the expiration of the minimum term is excluded.
- 8.2 If a minimum term is not agreed and if the Customer terminates the contract before final acceptance, then the Provider is authorized to request the agreed remuneration; however, the Provider must credit that which he saved in expenditures in view of the cancellation of the contract or that which he acquired or has to acquire from using his staff for other purposes or maliciously refrained from doing. Accordingly it is presumed that the Provider is entitled to 10 % of the remuneration agreed, which is incurred on the part of the work and labor service that has not yet been provided.

9. Validity of BITKOM GCTC

BITKOM's General Contractual Terms and Conditions (BITKOM GCTC) are also applicable.

These are the translations of the German PLATO Terms and Conditions into English for information purposes only. The legally binding Policies are written in German language.

The PLATO General Terms and Conditions in German language match the wording of the Standard General Terms and Conditions for IT Companies offered by BITKOM; only the formatting was changed (size and font as well as the paragraph formatting and number of columns). The valid and originally formatted BITKOM General Terms and Conditions for PLATO can be viewed at www.plato.de/agb or will be sent upon request.