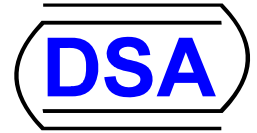# General Terms and Conditions

DSA Daten- und Systemtechnik GmbH

1 Scope

1.1 Our deliveries, services, offers, software licenses and maintenance are provided solely based on these Terms and Conditions.

1.2 In addition, our rates apply in the valid version at the time of conclusion of the contract.

1.3 Since our products are not intended for end consumers, our Terms and Conditions only apply to businesses.

1.4 Counter-confirmations of our customer with reference to his terms and conditions or purchasing conditions are hereby contradicted.

1.5 Our General Terms and Conditions also apply to all future transactions with our customer.

2 Offers

2.1 Offers in brochures, advertisements, etc. are without obligation and subject to confirmation, also with respect to prices. We shall be bound to specially prepared offers for 42 calendar days starting from the date of the offer, unless other validity dates are stated in the offer.

2.2 We retain the ownership and copyrights to all information and documents provided – also in electronic form. Our offer documents, drawings, descriptions, samples and cost estimates may not be disclosed, published, copied or otherwise made available to third parties without our approval. Upon request, the documents shall be returned without retaining copies.

2.3 We shall be informed of legal or official requirements for the preparation of offers, for the rendering of services, for the acquisition of the right of use of the software or for performing maintenance by the inquirer or by our customer.

3 Conclusion of contract

3.1 A contract shall come about only through our written order confirmation. The extent of our services shall be conclusively determined by our written order confirmation in addition to the written attachments to the confirmation.

3.2 Information in offers or order confirmations that is based on an obvious error, particularly a typographical or computational error, shall not be binding for us. Instead, the obviously intended information shall apply.

3.3 In the event of conversion to a larger CPU (MIPS) or additional computers at the usage site of our customer, the software can be purchased by paying the difference (license and maintenance) according to the valid price list at the time. We reserve the right to charge administrative fees for the conversion.

3.4 We retain the right during execution of the order to diverge from the offer documents or from the order confirmation if legal or technical standards need to be considered during the implementation.

3.5 Subsidiary agreements, amendments, supplements or other deviations from these Terms and Conditions shall be valid only if we have expressly agreed to them. Such agreements shall be made in writing.

4 Prices

4.1 The prices of the offer apply only when ordering the full extent of the offered services.

4.2 The prices do not include the costs of packaging, insurance, freight and return of the packaging.

4.3 The prices are net prices plus the applicable value added tax at the time of the service.

4.4 For services within the European Union, our customer shall notify us of his VAT ID number in due time prior to the agreed delivery period in order to prove that he is exempt from the German value added tax. In the event of failure to provide us with all information in due time, we reserve the right to charge the applicable value added tax.

4.5 If after the calculation it turns out that our rendered service is subject to value added tax in the recipient country based on that country's value added tax law, we shall be entitled to charge the value added tax in retrospect.

4.6 The customer shall bear all taxes, fees and duties in connection with the service outside of the Federal Republic of Germany. Amounts already paid by us shall also be reimbursed to us by the customer.

5 Delivery term

5.1 Compliance with the agreed performance date requires that all business and technical issues between us and the ordering party have been clarified and the latter has fulfilled all obligations. If this is not the case, the delivery term will be extended accordingly.

5.2 The delivery term shall deemed complied with if notification of readiness to deliver has been given by the date of its expiration. If there is to be acceptance of the delivery, the acceptance date is decisive, or alternatively our notification of readiness to accept.

5.3 Compliance with the delivery term is subject to the correct and timely delivery by our suppliers. We shall notify the customer of any delays as they become apparent.

5.4 If the failure to comply with the delivery term is due to force majeure, labor disputes, delay in obtaining governmental approvals or other events beyond our control, the delivery term shall be extended accordingly.
This also applies if we should be in delay with the performance of our service. We shall notify the customer of any delays as they become apparent.

6 Services

6.1 Deliveries are subject to the INCOTERMS 2010; the term of delivery EXW DSA Daten- und Systemtechnik applies. Risk is transferred to our customer upon delivery in accordance with the INCOTERMS.

6.2 For software licenses and maintenance of the same, the risk is transferred to our customer upon delivery of the software licenses or acceptance of the maintenance.

6.3 For work performance, the risk is transferred to our customer upon acceptance of the work.

6.4 If the delivery or acceptance is delayed or stopped due to circumstances for which we are not responsible, the risk is transferred to our customer starting with the day of notification of readiness to deliver or to accept.

6.5 At the request of our customer, deliveries shall be executed or insured on his behalf and for his account.

6.6 Our customer shall procure the permits, export and import papers required for his use of the products and software licenses at his own expense.

7 Our rights concerning software licenses

7.1 For software products of our suppliers included in the scope of delivery, the terms and conditions of the suppliers have priority. If they are not available, we will provide them to our customer on request. Our Terms and Conditions apply in supplementation to the terms and conditions of our supplier. In the event that the terms and conditions of our supplier are invalid, our Terms and Conditions shall apply.

7.2 Our customer receives a single, non-exclusive right of use for an unlimited period for our software products and the accompanying documentation. This right of use is not transferable.

7.3 We remain the owner of all copyrights that apply to the software of this contract. Our customer and we are in agreement that we are to be regarded as the owner of all copyrights to the software, regardless of whether the software enjoys effective patent protection or copyright protection.

7.4 We shall retain the source code (source program) of the manufactured software, unless stipulated otherwise by the contract. If we provide the license material only in machine language (object code), then (re-)conversion, even partially, into the source language (source code) is not permitted.
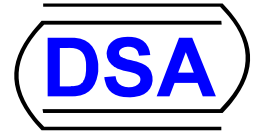
7.5 All licenses listed in the contract may be neither transferred nor disseminated by our customer to third parties without our written permission. We may not refuse this permission in bad faith. As a prerequisite for permission, the third party must agree to the continued validity of the existing contract conditions with respect to himself. In the event of a founded suspicion that the third party would violate the contract conditions, in particular by making unauthorized copies, any transfer is prohibited.

7.6 Our customer shall be obligated to ensure with the due care of a prudent businessman that the software and the accompanying material be used only for his own internal purposes according to the content of the contract and will not be disclosed to third parties or used by them.

8 Right of use of our software licenses

8.1 Use is permitted only by our customer with data of our customer and only at the contractually stipulated usage site and on the contractually stipulated computer. A change in the rights of use is permitted only with our prior written approval. A change in the usage site is permitted as long as the other conditions remain the same. Our customer shall be obligated, immediately after such a change, to destroy all copies at the previous usage site or transfer them to the new usage site and to notify us of this in writing.

8.2 Our customer is not authorized, himself or via third parties, to duplicate the software in any form, except for archiving purposes, without our written approval. In an emergency, a substitute computer may be used for purposes of preservation or reconstruction. Copies may not be disseminated to third parties.

8.3 Unauthorized modification or editing of the software by our customer is not permitted. Modifications or editing may be performed only by us in return for suitable remuneration. Our customer may contract a third party to perform the work if we are unable or unwilling to carry out the work. A period of three weeks is set for our review of the acceptance of the contract.

8.4 Our customer is prohibited from removing or modifying serial numbers or characteristics serving to identify the program.

9 Software maintenance

9.1 Within the framework of the maintenance contract we will keep the software in a functioning condition, according to the specifications of the user manual delivered with the object code of the software.

9.2 Licenses – unless otherwise stipulated in writing – will be sold only together with a maintenance and support package (hereinafter "maintenance").

9.3 We shall provide the following services to our customer within the framework of the maintenance and after payment of the maintenance fees:
- At our option, the elimination of the reproducible error in the software and the provided documentation or information on measures for a temporary workaround to prevent errors.
- Depending on the maintenance contract, dispatch of the newest version of the software and the latest changes to existing versions (patches or updates) on the stipulated data carrier after ordering by our customer and dispatch of the corresponding documentation.
- Hotline support in the event of software problems that occur, provided they are described exactly by our customer. We shall ensure that a help desk is available by telephone for our customer, in the event of such problems, daily (Mo-Fr) from 9:00 a.m. to 5:00 p.m. (MET).

9.4 The maintenance fee is payable before the start of each maintenance period and is valid for one entire year starting from the date of delivery.

9.5 The maintenance contract can be terminated in writing by either party starting from the second year of operation with notice of 3 months before the beginning of a maintenance period. Otherwise, the maintenance contract is automatically extended for an additional year.

9.6 As long as our software is maintained by us, we will correct or replace the software or take required measures in order to eliminate reported software errors in due time.

9.7 Troubleshooting will be initiated by us without delay and, depending on the urgency and technical feasibility, carried out as quickly as possible. If it is determined that an error processed by us is not an error in the delivered software or was not caused by us, our customer shall be obligated to reimburse us for the costs of the troubleshooting based on our rates.

10 Work performed on the premises of our customer

For work performed by our employees or our agents on the premises of our customer, the following applies:

10.1 Our customer shall inform our personnel at his own expense of existing safety regulations and risks and take all measures necessary to protect human life and property at the workplace.

10.2 Our customer shall assist our personnel in carrying out the work to the extent necessary and at his own expense and will provide aids, such as preparing the construction site or workplaces, providing tools and lifting gear, providing water, electricity and a network connection, etc.

10.3 The assistance provided by our customer must ensure that our work can be started immediately upon arrival of our personnel and can be carried out without delay up until the time of acceptance.

10.4 If our customer fails to meet his obligations, then we shall be entitled, however not obligated, to carry out the duties incumbent on our customer in his stead and at his expense.

10.5 If a service cannot be rendered for reasons beyond our control, services already rendered by us and expenses incurred shall be compensated by the customer.

10.6 Parts replaced in a substitution procedure shall become our property.

11 Conditions of payment

11.1 Payments shall be made to one of our bank accounts without deductions.

11.2 Payments of the customer are due 30 days after the invoice date on our invoice. For compliance with this deadline, the value date of the payment to one of our accounts is decisive.

11.3 If our customer is in delay with his payment obligation, we are entitled to claim interest on arrears for the amount of 5 % above the applicable basic interest rate (Section 247 of the German Civil Code) of the European Central Bank, published by the German Federal Bank. The right to assert claims for further damages remains unaffected by this clause.

12 Reservation of title

12.1 The sold goods remain our property until full payment of the purchase price. Upon payment of the last installment the ownership of the goods is transferred to our customer. Until full payment of the purchase price, our customer shall be obligated not to dispose of the goods through sale, pledging, renting, loaning or any other manner.

12.2 If our customer is domiciled in the Federal Republic of Germany, then the following diverging stipulations apply:
- Our customer is authorized to resell our reserved goods in ordinary business transactions. Our customer hereby assigns all claims against third parties arising from the resale to us, namely for the amount of the respective invoice value (including the statutory value added tax). Irrespective of this assignment of claims, our customer shall remain authorized to collect the claims.
- Processing or restructuring of our goods by our customer shall take place solely on our behalf. In the event of processing with other goods not belonging to us, we are entitled to co-ownership of the new object in proportion of the invoice value of our reserved goods to the purchase price of the other processed goods (at the time of processing).
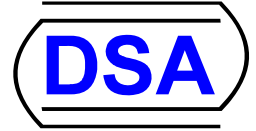
13   Warranty

13.1 If the service or delivery item provided by us is defective, if warranted characteristics are lacking or if a damaged state occurs within the warranty period as a result of faulty workmanship or materials, we have the option to deliver a replacement or remedy the defect, under the exclusion of further warranty claims of our customer. Multiple remedies are permissible. Unless otherwise agreed, remedies will be carried out on our premises.

13.2 We guarantee that the software, after delivery and installation and when used according to the contract by our customer, will function on the computers stated in the contract and that the service rendered by us will be performed by skilled personnel.

13.3 The warranty period is 12 months and begins with the date of delivery or acceptance. If, for contracts for work, more than 6 months elapse between delivery and acceptance, then the warranty period begins after expiration of the sixth month after delivery.

13.4 In divergence from the above clauses, in the event that the subject matter of the contract is a commercial transaction for both parties pursuant to Section 343 of the German Civil Code, then the following applies:
In these cases, our customer shall be obligated to inspect the goods immediately upon delivery and to give notice of any defects. Upon notice of defects, we are then initially entitled to either deliver a replacement or remedy the defect. If the elimination of the defect or a proper delivery of a replacement fails, our customer is entitled to reduce the remuneration or cancel the contract. Failure of the remedy or delivery of a replacement is given only after we fail to eliminate the defect or effect a proper replacement delivery at least three times within a period of three weeks each time.

13.5 Claims for obvious defects can no longer be asserted after delivery or acceptance. Otherwise, for the purpose of compliance with the warranty claims, the customer must notify us in writing of such defects without delay, however no later than two weeks after delivery. The defective objects must be made available for our inspection in the original condition at the time that the defect was detected.

13.6 Insignificant, reasonable deviations in the dimensions and designs, in particular in the event of repeat orders, shall not be deemed cause for complaint, unless absolute compliance was expressly stipulated. Technical improvements and necessary technical modifications shall also be deemed compliant with the contract, as long as they do not constitute a deterioration in the fitness for use.

13.7 In the event of failure to comply with our operating or maintenance instructions, modifications to the products, replacement of parts or use of consumable materials that do not conform to the original specifications, all warranties shall be voided, if the customer does not refute a correspondingly substantial assertion that one of these circumstances initially caused the defect.

13.8 The warranty does not cover normal wear and tear.

13.9 The stipulations of the warranty in our Terms and Conditions do not apply to the sale of used objects. Such objects are delivered under the exclusion of any warranty.

14   Liability

14.1 Claims for damages from a positive violation of contractual obligations, from negligence at the time of conclusion of the contract and from unauthorized actions, which are not simultaneously based on the violation of a primary contractual obligation by us, are excluded, for claims both against us and against our vicarious agents, insofar as the damage was not intentional or due to gross negligence. This does not apply to claims for damages in connection with warranted qualities, which the ordering party should insure against the risk of consequential damage caused by a defect. Claims for damages according to the Product Liability Act remain unaffected.

14.2 We shall not be liable in the event of force majeure, notwithstanding statutory regulations to the contrary.

14.3 Also we shall not be liable for damages, the occurrence of which the customer could have prevented through reasonable measures – particularly program and data backups and sufficient product training for the user.

15   Violation of proprietary rights.

We shall be responsible for our property rights to the software provided in accordance with the contract and shall be obligated to defend these rights at our discretion against all infringements by third parties and to indemnify our customer from all claims asserted against our customer by third parties due to violation of proprietary rights through the software.

16   Transferability of claims

Our customer is not entitled, without our permission, to transfer to third parties, in whole or in part, his claims, rights and obligations from contracts concluded with us. This also applies to warranty claims.

17   Applicable law, venue

17.1 These Terms and Conditions and all legal relations between us and our customer shall be governed by the laws of the Federal Republic of Germany, under exclusion of all international and supra-national regulations, particularly the UN Sales Convention.

17.2 All disputes that arise from a contractual relationship between us and our customer or that relate to the violation, termination or invalidity of this relationship will be conclusively resolved in accordance with the Rules of Arbitration of the DIS German Institution of Arbitration, under exclusion of recourse to the courts. The negotiating language shall be English, or if both parties agree, German.

18   Severability clause

If any provision of these Terms and Conditions should be or become invalid, this shall not affect the validity of all other provisions and agreements between our customer and us.

Revised: October, 15th 2012