



General Terms and Conditions of DSC Software AG

Address:
DSC Software AG
Am Sandfeld 17
76149 Karlsruhe, Germany

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1. Scope, Supplementary Contractual Provisions

- 1.1 These General Terms and Conditions | GTC of DSC Software AG | DSC shall apply to all contractual relationships with customers in connection with the provision of products and services of DSC and shall be deemed an integral part of the contract, unless otherwise agreed upon in writing in an individual agreement between DSC and the Customer. These GTC shall also apply to future business relationships with the same Customer and DSC shall not be required to make reference to their applicability for each individual contract with said Customer.
- 1.2 These GTC shall apply exclusively. Deviating, contrary or supplementary General Terms and Conditions of a customer shall only become integral parts of the contract if and to the extent that DSC expressly consents to their applicability in writing. Such consent shall be required in any event, in particular also if DSC, being aware of the Customer's general terms and conditions, provides a product or service to the latter without reservation.

2. Contract Negotiations, Execution of Contract, Written Form Requirement

- 2.1 All offers submitted by DSC shall be subject to change and non-binding. This shall also apply in the event that DSC did provide the Customer with catalogs, product descriptions or other technical documentation prior to the execution of the contract, and DSC reserves all property and copyrights for such catalogs, product descriptions or other technical documentation. Moreover, the pre-contractual obligation shall also be governed by the provisions of these General Terms and Conditions, in particular by the limitation of liability stipulated in subclause 11.
- 2.2 Each order for contractual software respectively commissioning with any other service by the Customer shall be deemed a binding offer to enter into a contract, unless otherwise provided for in the purchase order respectively commission or any other agreements. DSC shall have the right to accept this offer to enter into a contract within four weeks after receipt by DSC. Such acceptance shall either be declared in writing, e.g. through the issuance of an order confirmation or through the delivery of the contractual software respectively the rendering of the other services to the Customer.
- 2.3 To be legally effective, any terminations, notices and deadlines and other legally relevant declarations of intent by the Customer shall be made in writing. This shall also apply to any waivers of this written form requirement. Verbal ancillary agreements have not been made.

3. Consulting and Other Services Rendered by DSC

- 3.1 Based on separate orders commissioned by the Customer, DSC shall render various consulting and other services comprising the selection, introduction, installation, utilization as well as individual software adaptations in the field of PLM in SAP. The consulting and

other services to be rendered by DSC in each individual case shall be stipulated in the respective offer respectively order confirmation of DSC.

- 3.2 The concrete objectives, scope of the commission and procedures shall be specified by the Customer in close collaboration with DSC and defined in writing.
- 3.3 In the event that DSC should render support services to the Customer within the scope of projects, the Customer shall verify at regular intervals that the project objectives stipulated in writing are being complied with. Project management and responsibility shall accordingly remain solely with the Customer. DSC and the Customer shall mutually agree upon the type and depiction of the results respectively the documentation and record keeping for the project work as well as time targets and, in this context, shall define which of these tasks shall be handled by DSC.
- 3.4 DSC shall be required to assign qualified employees and shall continuously manage and supervise such employees during the execution of the order. DSC shall decide at its discretion which employees to assign or to replace.
- 3.5 In the event that Customer employees are assigned to render support within the scope of projects, the Customer shall ensure that such employees are being supervised by a competent employee. The Customer shall nominate a respective competent contact for commercial as well as technical matters and shall communicate this information to DSC prior to beginning project support work.
- 3.6 Whenever DSC is rendering support to the Customer in the adaptation and expansion of software by order of and based on instructions of the Customer, DSC shall owe the performance of the work, however not any related warranties and version updates, unless this has been expressly agreed upon in writing.
- 3.7 DSC shall render the consulting and other services regularly during the normal business hours from Monday through Friday, 8.00 AM to 5.00 PM, except on public holidays in Baden-Wuerttemberg, Germany.

4. Delivery of Contractual Software, Dispatch, Transfer of Risk

- 4.1 DSC shall provide the Customer with the contractual software designated in the offer respectively order confirmation in machine-readable format (object code) together with the respective product description and – if available – other application documentation, such as operating instructions, help files, other technical information and records.
- 4.2 Principally, contractual software shall relate to all products offered by DSC on the market in compliance with DSC's Pricing Conditions that have not been exclusively individually developed and provided for a particular customer.
- 4.3 The product description respectively any other documentation pertaining to the contractual software shall describe in detail the functions and performances attainable when using the contractual software in compliance with the contract.

- 4.4 The contractual software shall be provided in intangible form via download from the Internet via a link provided by DSC to the Customer and the pertaining license files as txt file via email.
- 4.5 Contractual software available as download shall be made available on DSC's REDPOINT portal. In order to download contractual software, the Customer must register.
- 4.6 DSC shall deliver the contractual software exclusively for utilization by the Customer for the contractually agreed upon purpose. The Customer shall not be entitled to a disclosure or utilization of the source code.
- 4.7 Unless otherwise provided for below, the performances by DSC within the scope of the provision of contractual software shall neither include the delivery of new versions of the contractual software, nor the installation, customer-specific adaptations/customizing, training or any other consulting respectively work performances beyond the provision of the contractual software. In particular, DSC shall also not render any support to the Customer if the latter intends to connect the contractual software with other software for the purpose of data exchange by utilizing the interfaces potentially comprised in the contractual software. The creation of such connections, as well as the aforementioned services, shall be provided by DSC only for an additional charge based on a separate agreement with the Customer.
- 4.8 Third-party software shall not be subject to these Terms and Conditions. Exclusively applicable for such third-party software shall be the respective manufacturer's pertinent utilization and licensing conditions. In the event that DSC also offers third-party software to the Customer in individual cases, the data sheet enclosed with this/such offer shall include the respective product description and name the manufacturer.
- 4.9 The risk of accidental loss and adverse impact on the condition of the object shall transfer to the Customer upon delivery. This shall also apply if the Customer is in default of acceptance.
- 4.10 Delivery deadlines for contractual software and other performances shall be deemed binding only if they have explicitly been confirmed to be binding by DSC in writing. In the event that such binding deadlines have been agreed upon, DSC shall not be in default until being notified by the Customer in writing.
- 4.11 Compliance with deadlines shall be contingent upon the Customer's timely provision of all information required for the delivery or for other performances and, in particular, Customer's rendering of the acts of participation incumbent on the Customer. In the event that the Customer does not fulfill these prerequisites, the deadline shall be reasonably extended. This shall not apply in the event that DSC is responsible for the delay.
- 4.12 In the event that a non-compliance with delivery deadlines is the result of force majeure, e.g. war, riots or similar events, such as strike, lock-outs or a late self-delivery by a supplier of DSC, the delivery deadlines shall be reasonably extended.
- 4.13 DSC shall have the right to perform partial shipments or render partial services. This shall not apply in the event that the Customer is not interested in receiving the respective partial shipments or services.

5. Service and Support Services by DSC

- 5.1 The services and support services as well as the rectification of software errors will be provided in compliance with the DSC Service Level Agreement | DSC SLA. The scope of services, response times, participation obligations and costs of the SLA are provided in the offer submitted by DSC.
- 5.2 In the event that the contractual software is supplied for permanent use (software license purchase), the Customer shall have the option to enter into a software update service agreement | SUS. This SUS includes a functional enhancement of the contractual software in the scope of the product standard. Should the Customer pay SUS fees, the Customer shall be entitled to download free of charge new program versions/updates of the contractual software via DSC's [REDPOINT](#) portal. In order to download contractual software, the customer shall register.
- 5.3 Following the end of the minimum term of 12 months, the SUS shall automatically extend by another 12 months, unless notice of termination has been given by one Party with three months' notice to the end of the 12 months' period. This shall be without prejudice to the mutual right to terminate the contract without notice for good cause.

6. Participation Obligations of the Customer

- 6.1 If necessary – in particular in case of ongoing projects – the Customer shall provide suitable rooms for DSC employees working on Customer's premises, in which documents, resources required for the work to be performed and data media may be stored as well.
- 6.2 If necessary, the Customer shall provide to DSC all required resources for the work to be performed in adequate quantities and at no cost to DSC, shall grant DSC employees access to all information required for the performance of their work at any time and at no cost to DSC and shall provide all required information to them in a timely manner.
- 6.3 Within the scope of the performances owed by DSC, the Customer shall render any required participation activities at no cost to DSC. This shall, in particular, include the provision of all required information to DSC, e.g. on Customer's objectives and requirements, without having to be asked to do so and in due time and the provision of expert staff to support DSC. The Customer and DSC shall each name a responsible contact who shall handle the communication. Moreover, the Customer shall in due time provide any facilities/equipment and work resources required for the installation or operation of the products respectively services and provide a remote access to the Customer's system, if possible. If it is not possible to provide remote access for safety or other reasons, any deadlines affected by this fact shall be extended by a reasonable period of time and the contracting parties shall find a reasonable arrangement for further consequences.
- 6.4 The Customer shall provide in both, the test and the productive systems, a suitable hardware and software environment and ensure their functionality, and at the same time verify and make sure with the required diligence that the system environment provided by

the Customer is free from any malicious software. The product description respectively any other documentation pertaining to the contractual software shall describe in detail the hardware and software environment required.

- 6.5 Prior to startup, the Customer shall test all functions of this contractual software using the Customer's system environment. This shall also apply to contractual software provided within the scope of a rectification of defects or of the SUS. Upon completion of the test, the Customer shall ensure that any contractual software provided to the Customer by DSC for this time frame that is no longer being utilized is immediately removed from the Customer's system environment. All copies possibly made thereof shall be destroyed or handed over to DSC.
- 6.6 To prevent damage, the Customer shall provide adequate data backup and take precautions against data loss and component (software) failure appropriate with regard to the type and importance of such data and components.
- 6.7 The Customer shall ensure the prevention of unauthorized access to the contractual software as well as to the software documentation by taking adequate precautions.
- 6.8 The Customer shall bear any disadvantages or additional expenses resulting from a breach of the aforementioned duties and shall be liable to DSC for any damage resulting therefrom.

7. Remuneration Terms, Payment Terms

- 7.1 The price for the respective product respectively service shall be based on the offer submitted by DSC.
- 7.2 Unless otherwise agreed upon in writing, travel expenses and per diem shall be billed separately. All prices shall be understood net ex warehouse without any deductions, plus applicable statutory sales tax as effective on the day of billing.
- 7.3 The settlement deadlines defined in the offer submitted by DSC shall apply to the settlement of accounts.
- 7.4 Invoices shall be due and payable without any deductions within 10 days after receipt, unless otherwise agreed upon in writing. The Customer shall be in default of payment upon expiration of said due date. In the event that the Customer is in default of payment, the late payment interest rate shall be 9 percentage points above the base interest rate pursuant to § 247 BGB [German Civil Code] annually.
- 7.5 DSC reserves the right to adjust prices in a reasonable manner if upon execution of the contract, cost decreases or cost increases occur. DSC shall submit evidence of this to the Customer upon request.
- 7.6 DSC shall have the right to adjust the SUS fee giving three months' notice to the beginning of the service year. In this case, the Customer shall have the right to terminate the SUS giving one month's notice to the beginning of the new SUS year, should the fee increase be more than 5 %.

- 7.7 The Customer may set off or retain payment for defects only to the extent that Customer is actually entitled to claims for payment. The Customer may retain payment for other defect claims only in an amount which is reasonable taking into account the defect. If his warranty claim is time-barred, the Customer shall not have any right of retention. Incidentally, the Customer shall be authorized to set off payment or exercise rights of retention only against such receivables that are undisputed or that have been declared final by a court of law.
- 7.8 In the event that the Customer should be in default of not insignificant amounts of payment, DSC shall have the right to temporarily withhold the provision of further performances under the same legal relationship to which DSC has committed itself and to make all remaining pending balances out of same legal relationship due for payment immediately. In this case, any agreed upon deadlines respectively times allotted for the execution of pending products and services by DSC shall be null and void without requiring DSC to issue a special notification to that effect.
- 7.9 In the event that services are not being rendered or only partially rendered for reasons the Customer is responsible for, DSC shall have the right to bill for such services, however less any ancillary costs not expended, such as travel expenses.

8. Retention of Title and Rights

- 8.1 The Customer shall have the right to utilize the products and services provided by DSC for the contractually agreed upon purpose. DSC shall be permitted to utilize said services for other purposes, as long as such use does not breach the confidentiality obligations. The aforementioned shall apply in particular to all documents and other materials prepared by DSC in conjunction with the rendering of services for the Customer.
- 8.2 In the event that work result of any kind eligible of being protected by industrial property rights, such as patents or utility models, is developed in the course of providing products and services, DSC shall be entitled to such work result if it is the result of work performed exclusively by DSC employees. In this case, DSC shall grant the Customer a perpetual license which is non-exclusive and assignable only with DSC's consent, at no additional cost to Customer.
- 8.3 Until all present and future payables of an ongoing business relationship are satisfied, DSC shall retain all rights in products respectively services provided. This shall in particular apply to the title in deliveries of objects as well as to other rights, such as licensing rights for contractual software.
- 8.4 Prior to the Customer having made complete payment for all secured receivables, products respectively services provided by DSC may not be pawned to third parties, nor assigned to third parties as collateral. In the event of attachments or other impediments imposed by third parties, the Customer shall be required to immediately advise said party of DSC's title in such products respectively services. Moreover, the Customer shall immediately notify DSC via phone or in electronic form and subsequently submit a written notification.

- 8.5 In the event that the Customer's behavior should be in breach of contract, in particular in the event of non-payment of the remuneration due, DSC shall, in compliance with statutory provisions, have the right to rescind from the contract and, if applicable, revoke other rights possibly awarded to the Customer, such as rights of use in contractual software.
- 8.6 In its relationship with the Customer, all rights in the contractual software – in particular the copyright, the inventor rights as well as technical property rights – shall be awarded solely to DSC, even if such contractual software was developed based on Customer stipulations or with the assistance of the Customer. The Customer shall have no rights in the contractual software other than those stipulated below.
- a) In the case of a software license purchase, DSC shall grant the Customer the perpetual, non-exclusive and, subject to subclause 8.9 below, non-transferable license to utilize the contractual software pursuant to the provisions of these GTC. This right of use shall be subject to complete payment for the contractual software and shall also apply to new program versions provided to the Customer in the scope of the SUS.
 - b) In the event that the Customer should receive contractual software that replaces the previously provided contractual software, for example within the scope of a rectification of defects or of the SUS, the Customer's license for the previously provided and now substituted contractual software shall expire within two weeks after the Customer having started to use the new contractual software productively.
- 8.7 The licensing model in compliance with the data sheet enclosed with DSC's offer shall apply.
- 8.8 The Customer shall have the right to copy the contractual software to the extent that the respective copying is required for the contractual use. In addition to this, the Customer shall have the right to produce backup copies in compliance with the acknowledged rules of technology and to the extent required, these backup copies shall be marked as such. They shall only be used for archiving purposes and shall not be shared with third parties. Any further copying of the contractual software by the Customer shall only be permitted with the express approval of DSC.
- 8.9 In case of a software license purchase, the Customer shall have the right to pass on the contractual software in its original condition and as a whole to a third party, provided that said third party agrees to accept these GTC as well as any pertinent individual contract terms. Upon the transfer of the contractual software, the license shall transfer to said third party, which shall then, excluding the Customer, be solely authorized to utilize the contractual software pursuant to these GTC. In this case, the Customer shall immediately delete or in any other way destroy all copies and partial copies of the contractual software as well as modified or edited versions and copies and partial copies made thereof. This shall also apply to backup copies. The Customer shall immediately notify DSC of the transfer of the contractual software. In other respects, subclause 8.10 below shall apply accordingly.

- 8.10 The above provision shall also apply in case of an only temporary transfer of the contractual software from the Customer to the third party. The Customer shall, however, not be entitled to lease the contractual software or parts thereof for commercial purposes.
- 8.11 If DSC provides the contractual software to the Customer only on a temporary basis (software subscription), the term of such provision of the contractual software and the amount of subscription fee to be paid for such provision by the Customer to DSC will be specified in DSC's offer respectively DSC's order confirmation. Unless otherwise defined for below, the contractually agreed upon services shall be provided initially for the duration of a minimum term. The minimum term of the software subscription and provisions regarding the extension periods following the end of the minimum term shall be subject to the respective agreement with the Customer. A termination for convenience during the minimum or any extension term shall be excluded. This shall be without prejudice to the right to terminate the contract without notice for good cause. The Customer shall not pass on to a third party the contractual software provided for use to Customer in the scope of software subscription, in particular not sell, lease or lend such software to third parties without the prior written consent of DSC.
- 8.12 The Customer shall not be authorized to edit the contractual software beyond the contract-compliant utilization, unless this is imperative for the purpose of remedying errors and DSC is in default with eliminating the error. In this case, the Customer shall commission only such third party with the elimination of the error that is not a direct competitor of DSC, if there is any impending risk that the error elimination would disclose important program functions and program processes.
- 8.13 The Customer shall also not be authorized to analyze the software, to reassemble it or to process or modify it in any other way. Subject to the following provisions, the Customer shall not be permitted to perform any re-translation into other forms of code – i.e. decompilation – or any other type of retracing of the various production stages of the contractual software – i.e. reverse engineering. The Customer shall be permitted to decompile the object code only to the extent necessary for inter-operability with other software, if the information required to do so has not yet been made available to the Customer and if said decompilation work is restricted to the portions of the original software.
- 8.14 The Customer shall be prohibited from deleting respectively removing, modifying or making illegible any property or copyright notices and brands of DSC or other manufacturers contained in the contractual software, the product description respectively any other documentation.

9. Obligation to Examine and Give Notice of Defects, Acceptance

- 9.1 For all products and services provided by DSC, the Customer shall assume an obligation to examine and give notice of defects pursuant to § 377 HGB [German Commercial Code].

- 9.2 Above subclause 7.7 shall apply accordingly with respect to the Customer's right of retention based on any defects. If the defects have been adjudged finally or accepted by DSC, the scope of the rights of retention executed must be reasonable in comparison to the existing deficiencies. In the event that notifications of defect should be baseless, DSC shall have the right to claim reimbursement of any damage from the Customer.
- 9.3 The Customer shall immediately notify DSC in writing of any defects in a verifiable and detailed way, providing all information required for the identification and analysis of defects. In other respects, subclause 10.4 below shall apply.
- 9.4 In case of performances provided by DSC in the scope of a contract for work and services, said performances shall be accepted in writing, based on an acceptance log prepared by DSC within 14 calendar days of the contractually agreed upon provision of such log, unless deviating provisions have been agreed upon between the contracting parties within the scope of the project. The acceptance date shall be the date on which both contracting parties signed the acceptance log. In other respects, the following shall apply:
- a) In the event that the Customer does not meet its obligation to accept despite a written request granting a grace period of a minimum of ten workdays, by either not at all commenting DSC's acceptance request or by refusing the acceptance without naming any defects, acceptance shall be deemed granted. The acceptance shall also be deemed granted, if the Customer uses productively DSC's products and services, i.e. not merely for test purposes, unless a test operation under productive conditions was expressly agreed upon between the contracting parties as an element of the acceptance. In the event that the performances to be provided by DSC in compliance with the contract for work and services can be split into self-contained parts ready for acceptance, the Customer shall be obligated to accept such parts accordingly as soon as they are ready for acceptance.
 - b) Should the Customer identify defects in the contractual software respectively the performances provided, such defects shall be documented by the Customer in the acceptance document provided by DSC. Insignificant defects or defects that DSC is not responsible for shall not entitle the Customer to refuse acceptance.
 - c) The above provisions shall apply accordingly for a renewed acceptance of the items notified as defective by the Customer.
- 9.5 The Customer is aware of the fact that electronic and unencrypted communication (e.g. via e-mail) is subject to safety risks. In the case of this type of communication, the Customer will therefore not make any claims established on the lack of encryption, unless encryption has explicitly previously been agreed upon.

10. Warranty, Period of Limitation

- 10.1 DSC warrants the properties of the products and services owed under the contract and shall provide said products and deliveries for the Customer free from defects in compliance with the provisions stipulated below.

- 10.2 When delivering contractual software, DSC warrants that this contractual software, if utilized in a contract-compliant manner, will comply with its performance description and will not contain any defects that adversely impact the suitability of the contractual software for the contractually agreed upon use in a more than insignificant way. Insignificant deviations from the performance description shall not be deemed defects. The Customer is aware of the fact that based on the latest state of technology, software as complex as the kind on hand cannot be developed without it containing any errors.
- 10.3 DSC shall not be obligated to provide a warranty for errors in products and services that occur after changes in the utilization and operational conditions, after installation and operational errors, after manipulations of the contractual software, such as changes, adaptations, connections with other programs and/or after utilization in breach of contract, unless the Customer verifies that said error already existed at the time of handover of the contractual software or that it is not causally connected to the above events.
- 10.4 The Customer shall notify DSC of any errors incurred immediately and in writing, and in doing so shall stipulate and describe how the defect manifests itself, what its effects are and the circumstances in which it occurs and also describe the work steps having resulted in the defect. Unless otherwise agreed upon, this notification shall be made by using the respective forms and processes of DSC. The Customer shall only be entitled to warranty claims if the reported defect can be reproduced or shown with the assistance of machine produced output.
- 10.5 DSC shall eliminate defects properly reported by the Customer by way of rectification, i.e. by repairing the software or providing a replacement. Initially, the right to choose the appropriate rectification of defects shall be with DSC. This shall be without prejudice to DSC's right to refuse performance of the selected type of rectification of defects under statutory provisions. To the extent that this can reasonably be expected by the Customer, DSC shall have the right to eliminate the defect by providing the Customer with a new version of the contractual software, such as an "update", "service release/patch" that does no longer include the defect respectively eliminates the latter.
- 10.6 In the event that the rectification of defects should have failed or should not be reasonably acceptable for the Customer, if such rectification is impossible, or if DSC has refused to perform such rectification – with or without justification – or if the reasonable deadline to be set by the Customer for the performance of a rectification has expired to no avail, or if such deadline is dispensable according to statutory provisions, the Customer shall have the option to rescind from the contract or to reduce the purchase price. A right to rescind shall, however, not be available in the event of insignificant defects. Upon declaring the rescission respectively reduction, the Customer shall no longer be entitled to the delivery of defect-free software.
- 10.7 DSC's processing of a notice of defect given by the Customer shall suspend the period of limitation only to the extent that the statutory requirements for such suspension exist. It shall not result in a recommencement of the period of limitation. The only part of the performance that may be affected by a rectification of defects (new delivery or repair) with regard to the period of limitation is the defect causing such rectification.

10.8 DSC shall be entitled to a remuneration for its expenses, if

- a) DSC acts based on a notification without there being a defect, unless the Customer was not in a position to recognize with reasonable effort that no defect existed, or
- b) a reported failure cannot be reproduced or verified otherwise to be a defect by the Customer, or
- c) additional costs arise from the Customer's failure to properly perform its obligations.

10.9 In the event of deficiencies in title, DSC shall assume liability only to the extent that this performance is used without any changes in a contract-compliant way and, in particular, in the contractually agreed upon operational environment, otherwise in the intended operational environment. DSC shall assume liability for an infringement of third-party rights only within the European Union and the European Economic Area as well as at the place of the contract-compliant utilization of the performance.

10.10 The Customer shall immediately inform DSC in the event that a third party asserts claims against the Customer for an infringement of such party's rights by a performance provided by DSC. To the extent permitted, DSC and, if applicable, its upstream suppliers shall be entitled but not obligated to defend against such asserted claims at their own expense. The Customer shall not be entitled to acknowledge third party claims before having granted DSC reasonable opportunity to defend against third party rights by other means.

10.11 In the event that a performance provided by DSC infringes third party rights, DSC shall at its own discretion and at its own expense

- a) Obtain for the Customer the right to use such performance, or
- b) Provide the performance without infringing any rights, or
- c) Withdraw the performance and reimburse the remuneration paid by the Customer for such performance (minus a reasonable compensation for use), if DSC is unable to take any other remedial action at reasonable expenditure.

10.12 In this process, the Customer's interests shall be taken into due account.

10.13 In compliance with this subclause 10, the period of limitation for Customer's claims is one year from the commencement of the statutory period of limitation. However, the statutory warranty period shall apply, if DSC has deceitfully not disclosed a defect or has provided a guaranty for the quality of the contractual software.

10.14 Warranty claims by the Customer shall be excluded in case of performances provided by DSC in the scope of a contract for service.

11.Liability

- 11.1 DSC's liability shall be based on statutory requirements unless otherwise agreed upon below.
- 11.2 DSC shall always be liable to the Customer
- a) For any damage caused by intent or gross negligence by DSC and its legal representatives or servants and agents,
 - b) In compliance with the German Product Liability Act, and
 - c) For damage from an injury to life, body or health for which DSC, its legal representatives or servants and agents may be held responsible.
- 11.3 In terms of services rendered, DSC shall be liable for the timeliness and proper execution of the services, however DSC shall not be liable for the economic or any other success of the service intended by the Customer.
- 11.4 DSC shall not be liable in case of slight negligence, unless a material contractual obligation was infringed, the fulfillment of which the proper performance of the contract is contingent upon or the infringement of which jeopardizes the attainment of the purpose of the contract and the fulfillment of which the Customer can regularly rely upon (material contractual obligation). In the case of material and financial damage, this liability shall be limited to damage typical for this type of contract and to foreseeable damage. This shall also apply to loss of profits and non-achievement of savings. Liability for other indirect consequential damage shall be excluded.
- 11.5 DSC shall not be liable for the loss of data if the damage would not have occurred had data been backed up properly within the Customer's scope of responsibility. The performance of proper data backups shall be assumed if the Customer has verifiably backed up Customer's data in a reasonable manner and has therefore ensured that said data can be recovered at a reasonable expense.
- 11.6 Liability for an individual damage event shall be limited to the contract value, in case of current remuneration to the amount of remuneration per contract year, however not less than EUR 50,000.00. Subclause 10.13 shall apply accordingly to the period of limitation. At the time of the conclusion of the contract, the contracting parties may agree in writing on an extended liability, the individually agreed upon liability coverage shall have priority in such case. This paragraph shall not affect the liability in compliance with subclause 11.2.
- 11.7 DSC shall only be liable for compensation from a guarantee, if such guarantee was explicitly furnished in the guarantee statement. In case of slight negligence, such liability shall be subject to the limitations pursuant to subclause 11.4.
- 11.8 In the event that the recovery of data or components (such as hardware, software) is required, DSC shall only be liable for the expenditure which would be required for such recovery in case of Customer's adequate data backups and precautions against data loss and component failure. In the case of slight negligence by DSC, such liability shall only come into effect if the Customer has performed adequate data backups and taken

precautions against data loss and component failure appropriate for this type of data and components before the incident. This shall not apply if such performance has been agreed upon as a DSC performance.

- 11.9 Subclauses 11.1-11.8 shall apply accordingly to Customer's claims for expenses and other liability claims vis-a-vis DSC.

12. Setting of Deadlines, Claims for Damages, Rescission, and Termination

- 12.1 In the event that the Customer is entitled to the statutory right to claim damages in lieu of performance or reimbursement of expenses after a reasonable deadline set by the Customer has expired to no avail, such a notice setting a deadline shall additionally contain Customer's express warning that the Customer will enforce these legal remedies upon expiration of the deadline.
- 12.2 The above subclause shall apply accordingly if by statute the Customer is entitled to rescind from the contractual relationship with DSC or to terminate said contract for good cause without notice after a reasonable deadline set by the Customer has expired to no avail.
- 12.3 DSC reserves the right to terminate for good cause the respective contractual relationship with the Customer concerning the provision of contractual software, if necessary without notice. It shall in particular be deemed a good cause if the Customer breaches any of the above utilization restrictions and does not remedy such breach upon having been put on notice with a reasonable deadline.
- 12.4 Upon termination of the contractual relationship, the Customer shall within 10 days permanently delete respectively destroy in Customer's system all existing versions of the contractual software, copies and documentation thereof, unless this contradicts statutory retention periods to be adhered to. The Customer shall confirm the complete deletion and destruction of said items to DSC in writing.
- 12.5 The Customer's right to use the granted license shall end upon termination of the contractual relationship. Any further use of the contractual software shall be an infringement of DSC's rights.

13. Secrecy, Confidentiality

- 13.1 In the event that the contracting parties share confidential information of a commercial or technical nature or details usually considered business secrets, such as customer data, become known to one of the parties from within the sources of the other party, the parties shall treat such information as strictly confidential and not make such information accessible to any third parties without the consent of the other party and not use such information in any form beyond the execution of this contract. This joint confidentiality obligation shall not pertain to such information, which verifiably

- a) Is generally known or becomes generally known without the involvement of a contracting party;
 - b) Becomes known to one of the contracting parties from another source not obligated to the other party to maintain confidentiality;
 - c) Is required to be disclosed by one of the contracting parties due to statutory provisions – in particular to courts, criminal investigators and government agencies.
- 13.2 Each of the contracting parties shall return any physically transferred confidential information to the other party at any time upon pertinent request or destroy it at said party's discretion, without retaining copies or records.
- 13.3 Own records, compilations and analyses containing confidential information shall be immediately destroyed upon request of the other contracting party; electronically transmitted and/or stored confidential information shall be deleted.
- 13.4 The performance of the destruction/deletion shall be confirmed to the other contracting party in writing upon request. The aforementioned provisions stipulated in this section shall, however, not pertain to copies retained in confidential files for verification purposes by one of the contracting parties.
- 13.5 The term of this confidentiality obligation shall survive the contractual relationship between the parties by a period of 5 years.
- 13.6 To solve Customer's questions and problems in connection with the software provided by DSC, DSC shall, however, remain entitled to provide research files that may contain trade secrets, such as customer data, to third parties involved in this process. In this case DSC shall commit the involved third party to confidentiality, too.

14. Data Privacy

- 14.1 DSC shall be entitled to collect, process and store Customer's personal data taking into account and respecting the applicable data protection acts, directives and other rules.
- 14.2 Should DSC perform any Customer data analysis, DSC shall perform such analysis only to the extent permissible under data protection law.
- 14.3 DSC warrants that all DSC employees have been committed in writing to maintain data secrecy and particular confidentiality regarding applicable data protection, telecommunication and other pertinent laws and rules.
- 14.4 The Customer shall further enter into agreements with DSC for the handling of personal data, as required by data protection law.

15. Miscellaneous

- 15.1 Taking into account the Customer's justified interest, DSC may at its own discretion award performances to subcontractors selected by DSC. DSC shall be responsible for such subcontractors' performances in the same way as for its own performances.
- 15.2 The Customer shall at its own responsibility comply with the import and export regulations applicable for products or services, this shall, in particular, apply to the US regulations. In the case of a cross-border provision of products or services, the Customer shall pay any customs duties, fees and other levies incurred. Unless expressly agreed otherwise between the contracting parties, the Customer shall at its own responsibility handle any legal or government proceedings in connection with any cross-border provision of products or services.
- 15.3 Any changes and additions to these GTC and/or to the respective contract shall be made in writing (including telefax and email) and shall be expressly identified as such. This shall also apply to any modification of this clause. Verbal ancillary agreements have not been made.
- 15.4 The legal relationships between DSC and the Customer shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts on the International Sale of Goods - CISG - and international civil law as well as its choice of law clauses or conflict of law rules.
- 15.5 The domicile of DSC, Karlsruhe, Germany shall be the exclusive place of jurisdiction for all litigation arising directly or indirectly from the contractual relationship. DSC shall, however, also have the right to file suit at the Customer's domicile.
- 15.6 In the event that one of the provisions of these General Terms and Conditions should be ineffective or become ineffective, this shall not affect the effectiveness of the remaining provisions. Ineffective provisions shall be replaced by such effective provisions that meet the intended economic purpose as closely as possible.